

STATE OF NEW YORK

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SPECIAL REPORT

OF THE

STATE TAX COMMISSION

No. 13

THE FISCAL ASPECTS OF STATE AND LOCAL
RELATIONSHIPS IN NEW YORK

By

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“To inquire into the best form of government in the abstract (as it is called) is not a chimerical, but a highly practical employment of scientific intellect; and to introduce into any country the best institutions which, in the existing state of that country, are capable of in any tolerable degree fulfilling the conditions, is one of the most rational objects to which practical effort can address itself.”—JOHN STUART MILL.

PREFACE

One of the most plaguing problems confronting students of government and legislative bodies is determining the line of fiscal relationships that should exist between State and local governments. What shall be the attitude of a State toward the fiscal burdens resting so heavily on many of its political subdivisions? Should an attempt be made to relieve local budgets through transferring centrally collected revenues to cities, counties, towns, villages and *ad hoc* districts? If there is to be an intergovernmental transfer of funds on what basis shall the exchange be made? Which of the three methods—subventions, grants-in-aid, or sharing—appears to provide the most expeditious method for getting revenues into the hands of the localities? Or, are there other better methods? How much attention should be given to the re-allocation of functions between the State and its local units as a solution of the fiscal problem? Upon what basis should decisions be made as to whether an activity is suitable for central or local administration? Should the problem of allocating functions or funds be contemplated in terms of existing units, or is there an urgent need for redefining the bounds and reconstructing the administrative organization of local government?

The purpose of this study has been to consider the nexus between State and local revenue problems in a comprehensive rather than a restricted manner. This has necessitated inclusion of the related problems of area, functional allocation, and administrative organization.

The scope of the treatise has, perforce, limited the field of primary research. If it were not for the fact that much sod-turning has already been done in New York, preparation of a study of this character in a conscionable amount of time would have been impossible. Many of the topics here considered have been exhaustively treated in able special reports. No attempt has been made to re-do the work of these investigators; rather, their findings have been used as a basis for determining the nature and scope of central-local relationships under a modern type of local government.

Acknowledgement is here made to all those who have assisted in any way in the preparation of this book. To Professor Simon E. Leland, under whose direction the manuscript was prepared, the debt of the author is heavy. Not only has his aid as adviser been invaluable, but from his lectures delivered at the University of Chicago many of the points of view presented throughout the work had their genesis. The New York Tax Commission has borne the entire cost of publication and provided

other financial assistance. Improvement in theoretical consistency, factual accuracy, and topical organization has been made possible through suggestions offered by Professor Marshall Dimmock of the University of Chicago, Professor M. Slade Kendrick of Cornell University, and Senator Seabury C. Mastick of Pleasantville, N. Y., all of whom have read the manuscript. Because these gentlemen have read and criticized the book, it does not follow that they are wholly in accord with the thesis. Of no small value has been the advice offered by my colleagues, I. M. Labovitz, G. W. Mitchell, and Eugene Maynard, members of the research staff of the Illinois State Tax Commission. Special acknowledgement is given to Mr. Labovitz for suggesting the use of techniques developed by him in connection with a study of the finances of Illinois. Recognition is also due Mrs. Beulah Bailey Thull, a member of the research staff of the New York Tax Commission, for preparing a major portion of the index. The tedium of gathering data, checking citations, preparing tables and charts, and reading proof, has been greatly lightened by the indefatigable and capable assistance of my wife, Irene M. Malone.

For such errors as may be found in the work the author assumes full responsibility.

PAUL E. MALONE

Chicago, Illinois, June, 1937

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INTRODUCTION

1. Scope of the Inquiry

Before launching upon an extended discussion of the fiscal aspects of State and local relationships, it may be desirable to examine the proper compass of such an investigation. The qualifying words "fiscal aspects" narrow the field considerably, but at the same time introduce the embarrassing situation of requiring one to choose between those governmental acts which have fiscal and non-fiscal significance. Instances where the State grants aid to its civil divisions for general or specific purposes, or where the State collects certain taxes and shares the revenue with the locality, are clearly of fiscal significance. All requirements made by the State upon the localities as to minimum levies that shall be laid for the support of certain functions, minimum salaries paid to public servants, mandatory provision of certain services—all these come easily within the purview of this study. Also certain devices of administrative control are unmistakably fiscal in their characteristics. The power to withhold State aid, outline standards of performance, require the preparation of budgets, determine accounting procedure, approve plans of public works, and to call for regular fiscal reports, should be included without question in the category of "fiscal aspects."

On the other hand, when the bureau head of a division of State government has power only to advise with local officials as to how their work can best be performed, the fiscal relationships are more remote. There is, however, substantial support for the position that advice issued by functional divisions of government in accordance with definite objectives worked out in advance, should be included in a study of State and local fiscal relationships. Advice by the department of health as to how a sewage disposal plant should be constructed, or suggestions from the department of education as to how a school building should be arranged, probably are potent forces influencing the amount of outlay which the locality will make.

Cases lying without the scope of this study are those functions performed traditionally by the central government. Examples are the establishment of standards of weights and measures; regulatory acts with respect to utilities, business, and financial institutions; and military defense. It is true that there is a fiscal relationship between the State and the locality growing out of these activities. If the State did not perform the service, then presumably the burden would fall on the smaller units. To admit of this approach to the problem, however, is to make the subject as broad as the whole category of governmental action and lies beyond the intended limits of the present study.

2. New York State as a Subject of Investigation

As a subject of investigation there is probably no other commonwealth in the Union presenting so fertile a field for the study of the central government and its relations with the minor divisions as the State of New York. In the first place, it was one of the thirteen original colonies. Its institutions are not newly made, but have come to their present stage of development through an evolutionary process extending through three and one-quarter centuries. Throughout the whole of this period the conflict of tradition with changing social and economic conditions has been continuously evident.

Second, the need for the adjustment of State dealings with its localities as between the metropolitan regions and the semi-urban areas is particularly significant in New York because of the large percentage of the population and wealth concentrated in relatively small areas. Certainly, too, adjustments need to be made taking into account those sparsely settled and generally decadent sections of the State.

Third, the fiscal aspects of State and local relationships are almost as old as the history of the State itself. In 1795 the first State appropriations were made for aid to education,¹ and by 1812 grants for common schools were permanently established.² Observation of the experiences growing out of 140 years of State aid and the resulting administrative controls, should yield a pattern of action valuable for determining future policies.

Fourth, within the last few years, the State has participated in fiscal connections with the localities in carrying out virtually every major function of government. Subventions are now available for highways, education, health, reforestation, emergency relief, and old-age pensions.³ In the matter of revenue collection, the State collects and shares with the localities the motor vehicle license fees, personal and corporate income tax, financial institutions tax, tax on billiard parlors, tax on real estate brokers, income tax on national banks, motor fuel tax, liquor licenses, and gallonage taxes. Since 1919 State subventions and State-collected, locally shared taxes have amounted to more than 10 per cent of all local taxes locally collected, exclusive of fees, licenses, and earnings of public service enterprises. In 1934 these two classes of State revenue amounted to 25.4 per cent.⁴

Fifth, New York offers a stimulating field of investigation because of the almost unbounded potentialities growing out of its vast aggregations of wealth and generally enlightened citizenry. A State possessing the first city in the United States and ranking first in population, manufacturing, and commerce, should

¹ Cf. *infra*, p. 167.

² The first allotments from the common school fund were made in 1814. Cf. *infra*, p. 181.

³ See Table 44, p. 249. ⁴ See Table 7, p. 32.

develop governmental institutions commensurate with its economic and social potentialities.

3. Maladjustments Growing Out of Present Governmental Structure

There are many urgent reasons why the basic structure of government in the State of New York, designed to serve the needs of a century ago, should be subjected to radical revision. In the first place, the political boundaries of government no longer correspond to the spheres of economic and social interests. The original circumscriptions may have been settled by any number of causes—geographical surveys, exigencies of the day, topographical features of the terrain, tradition, or nothing more than political gerrymandering. Whatever may have been the determining factor, economic development has overrun these political bounds. Cities have grown until they embrace one or more towns, counties, states, and in some instances even extend into foreign territory.⁵ In New York there are fifty-four villages lying in more than one township; eight lie in two counties; and Saranac Lake village lies in two counties and three towns.⁶ A sphere of economic and social interests has not been defined, but if these villages do not in some sense represent a unified community then there is little hope of designating an area with common social interests.

The present structure also fails to render the maximum return in social welfare on account of the excessive amount of effort required to influence governmental action. The number of elective officials is so large that it is almost impossible for any voter to know the technical qualifications of an office seeker or his attitude toward economic and social problems. For example, a resident of Albany county may live under a complexity of government making it necessary for him to elect no less than sixty-two officers.⁷ In the State, excluding city and State officials, there is

⁵ Paul Studenski et al., *The Government of Metropolitan Areas in the United States* (New York, 1930), pp. 26, 27.

⁶ Cf. Table 22, pp. 140-41.

⁷ If a resident of Albany county were so located as to come under the jurisdiction of a village, union free high school district, fire district and improvement district, he would find it necessary to choose the following officials by ballot: State officers (8)—governor, lieutenant-governor, comptroller, attorney general, senator and 3 assemblymen; county officials (11)—treasurer, 4 coroners, sheriff, district attorney, clerk, surrogate, judge, and judge of children's court; town officials (11)—supervisor, 4 justices of the peace, town clerk, collector, superintendent of highways, and 3 assessors (the two latter types of officers may be appointed); school officials (15)—town trustees, 5 common school officials, and 9 (maximum) trustees for union free high-school district; special district officials (11)—5 fire district commissioners, treasurer, and 5 improvement district commissioners; village officials (6)—mayor, 4 trustees, and a receiver of taxes and assessments.

an army of over 59,000 persons filling elective positions.⁸ Again, the multiplicity of decentralized boards, commissions, officials, and councilmen makes it difficult to register effectively public opinion through the pressure of individual or citizen groups. The points of watch are as numerous as the independent agencies and attacks must of necessity be divided.

^aNumber of elected officials in New York (exclusive of city officials):

County officials other than supervisors (57).....	675 ^a
Town officials, first-class towns (139) ^b	1,251 ^c
Town officials, second-class towns (793).....	7,930 ^d
Town supervisors (57 counties).....	1,425 ^e
Village officers (554).....	3,324 ^f
Common-school officials (7,585 districts).....	37,925 ^g
Union free-school district officials (509 high school; 147 elementary)	3,936 ^h
Central rural district officials (132 high school; 11 elementary)...	715 ⁱ
Village school officials (93 superintendencies).....	558 ^j
City school officials (59 cities).....	354 ^k
School directors (932 towns).....	932 ^l
Total	59,025

^a Twenty judges of children's courts, 76 county judges, 14 special county judges, 63 surrogates, 12 special surrogates, 62 sheriffs, 62 county clerks, 5 registers of deeds, 62 district attorneys, 4 comptrollers, 58 county treasurers, 51 (elected) commissioners of public welfare, and 186 coroners (compiled from *Manual for the Use of the Legislature of the State of New York*, 1930, pp. 678 ff.).

^b There are 44 first-class towns; 95 are eligible to change from second to first class (not including those adjoining a city of 300,000 population).

^c Each first-class town elects 4 councilmen, 2 justices of the peace, town clerk, superintendent of highways and receiver of taxes and assessments. (The superintendent of highways and clerk may be appointed.)

^d Each second-class town elects 4 justices of the peace, town clerk, collector, superintendent of highways, and 3 assessors. (The latter two types of officers may be appointed.) (Cf. Figure 6, p. 58.)

^e Twenty-five supervisors per county taken as an average in arriving at a total number for the State.

^f Each village elects a mayor, 4 trustees, and a receiver of taxes and assessments. (On action of the board the number of trustees may be increased to 6 in first- and second-class villages or reduced to 2 in third- and fourth-class villages.)

^g Each common-school district elects 1 to 3 trustees, clerk, and tax collector. (The latter office is abolished in all towns of the first class.) Treasurers must be elected in first-class towns.

^h Union free-school districts are required to elect from 3 to 9 trustees.

ⁱ Five elected officials constitute the board for a central rural district.

^j Cities may have from 3 to 9 members on the board of education.

^k Each town within a supervisory district must elect a school director.

Revision is needed in order that the unit cost of government may be reduced and the service improved. Duplication of equipment and services is apparent at every turn. Each of the different levels of government renders parallel services in almost every field of governmental action. The result is duplication of personnel—legal, technical, and administrative; purchase of equipment which can be utilized only in part; construction and maintenance costs unnecessarily incurred through the duplication of public buildings; and competitive bidding against one another in the market for supplies and materials.

Under a plan of government administered by various civil and *ad hoc* agencies, there is no means whereby the apportionment of funds between the different functions of government can be made on any rational basis. Maximum welfare calls for an apportionment so that the net marginal social welfare derived from a dollar expended for education is equal to that derived from a dollar spent for sanitation, recreation, police, or fire control.⁹ When the net marginal social utilities are equal, then welfare is at a maximum. If all functions of government could be concentrated in one policy-determining body, the needs of the community could be viewed more nearly as a whole and expenditure policies shaped accordingly.

The arrangement is furthermore unsatisfactory in that it does not permit social planning in keeping with the tenor of the day. Our whole philosophy as to the rôle of business and the place of government in social life has been changing from that of *laissez faire* to planned direction and control. The attacks of the newer schools of economic thought launched against the *laissez faire* policy of the classicists have been contemporaneous with changing notions in political thinking. This trend is reflected in the writings of Willoughby, Woolsey, Burgess, Wilson, and others.

To these thinkers it appears that the duty of the state is not and cannot be limited to the protection of individual interests, but must be regarded as extending to acts for the advancement of the general welfare in all cases where it can safely act, and that the only limitations on governmental action are those dictated by experience or the needs of the time.¹⁰

The need for planning is evident in the budgeting of expenditures and also in respect to financial and community programs. As a result of numerous small borrowing units, lending risks are increased and investigational costs augmented, both of which are reflected in higher interest rates. Overlapping units pile up

⁹ Cf. Hugh Dalton, *Principles of Public Finance*, 7th ed. (London, 1932), chap. iii.

¹⁰ Charles E. Merriam, *A History of American Political Theories* (New York, 1903), p. 316.

unwieldy debt structures causing embarrassment in periods of declining prices and business recession. It is certainly true, also, that a controlled monetary system is quite impossible of achievement so long as public borrowings are not treated as an integral part of the whole fisco-monetary system. Community planning with respect to water supply, sewage disposal, street layout, zoning, and recreational facilities is no more possible of realization under the present system of overlapping governments than is fiscal control.

4. Method of the Study

An examination of the fiscal aspects of State and local relationships calls for a two-fold treatment of the subject—structural and functional. The structural treatment will deal with the agencies of government including the State, town, county, village, city, and *ad hoc* units—how each came into existence originally, the growth of powers through constitutional provision or statutory enactment, variations in administrative organization, changing characteristics of functions rendered, relative fiscal importance of the several levels, and the inter-relations between the units. At the close of this section dealing with the historical aspects, the structure will then be reviewed in the light of the elements determining an area of government, and the sort of machinery best designed to carry out the common ends of society.

The functional treatment will also, in part, be historical. It is essential that one should know when a particular service passed from the realm of private enterprise into the hands of the public, the unit of government which first took the function over in whole or in part, its fiscal importance at various stages, when the State first began to exhibit an interest, and the kind of fiscal and/or administrative control exercised.

A study of State and local relationships must be, of necessity, largely a study of government and its functions. These fiscal relationships, such as, grants-in-aid, sharing of centrally collected revenues, and limiting fiscal devices, are all results of the State placing on the locality the responsibility for certain functions of government which for various reasons it has not been able to finance or administer satisfactorily. At the time these functions were allocated to the local units, conditions may have been propitious for a certain unit to have the responsibility shouldered upon it. A splendid illustration of such a situation is found in the educational problem. Starting with colonial days, education was largely a local matter. Most of the funds came from rate bills and public support was a minor feature. As the system developed, it became a matter of full public responsibility and costs increased to the point of major importance in the public budget. So great have the local burdens become that the State has found it necessary to assume responsibility for developing new sources

of revenue and sharing the proceeds with the unit made responsible for the function. So it is with every State and local fiscal relationship. If the functions locally performed were redistributed, the problem of relationships as existing would be materially different. Accordingly, in a study of fiscal relationships, one is confronted with the problem of proper allocation of functions as well as adjustment of the fiscal burden under the existing division of responsibility. In fact, it appears that the real crux of the problem lies in this aspect—the proper allocation of functional duties. Changing methods and processes—economic, social, and technical—have been so radically altered during the last twenty-five years that the inherent characteristics of functions demanded require that the responsibility for these services should be placed in the hands of governmental units possessing the instrumentalities for the realization of maximum social ends.

In approaching the problems suggested in this study, it is proposed to view them primarily from the long-run point of view; that is, not from the standpoint of the existing structure, but rather in the light of a new order of government built to administer according to "need" and lay burdens according to "capacity" to pay. One must know first the direction in which it is desired to move before even the slightest of short-run objectives can be developed with certainty. Proposals set forth with respect to the problem existing in New York have as yet failed to go far enough in their suggestions for reform. Attention has been directed to governmental problems in decadent areas, zoning of town government, classification of towns, simplification of county government, reorganization of local assessing and tax collecting machinery, and county-city consolidations. Even as immediate programs these well-intentioned proposals fall far short of coping with present difficulties and *a fortiori* of providing an organization capable of adapting itself to future conditions.

PART I

**THE DEVELOPMENT OF THE VARIOUS
GOVERNMENTAL UNITS AND THE
EVOLUTION OF THEIR
FUNCTIONS**

CHAPTER I

THE GOVERNMENTS OF NEW YORK

1. Number of Units and Character of Functions Performed

The result of a laissez faire philosophy with respect to government is physically exemplified in New York by the existence in 1930 of some 13,355 governmental units ranging from cities down through counties, towns, and villages to school and other *ad hoc* districts¹—one government for every 942 men, women, and children of the Empire State. Excluding New York City with a population of 6,930,466, the average number of persons served per governmental unit is reduced to 423. This multiplicity of governments might be countenanced if each were providing a particular service in an economical manner. An examination of the statutes and fiscal reports indicates that they are not providing separate and distinct services, but frequently identical and competing ones. For example, in various extents, 10 types of units carry on the function of general government, 6 provide protection, 9 care for health, 4 administer poor relief, 9 engage in educational activities, 9 provide recreational facilities, 5 construct highways and streets, 3 provide public service, and 5 engage in economic development.²

2. Growth in Numbers

Beginning in 1788 when provision was made for the first civil units under the Constitution, the structure of government was indeed simple. The State of New York was divided into 16 counties and 120 towns. At this time only three cities had received charters, and it was not until 1790 that the first village was incorporated. Provision was made for the school district in 1795.³

Examination of Figure 1 reveals that the institutions of rural government reached practically complete development in the decade of 1830 to 1840. In 1840 there were 824 towns—94 years later (1934) there were only 932. Counties numbered 58 in 1840, and since that time only four have been added. School districts, dating from 1795, grew in a period of three years to 1,352 units; by 1830 the number had grown to proportions commensurate with those prevailing today. It is evident from these data that the structure of the above units, so far as numbers is concerned, was completed approximately one hundred years ago. As new needs became evident this original structure was not modified, but rather allowed to fossilize as a monument to a passing era, and new units were created or variants superimposed upon the decadent formation.

¹ See Table 2, p. 13. ² See Table 1, p. 12.

³ See Table 2.

TABLE 1
SUMMARY OF FUNCTIONS PERFORMED BY THE SEVERAL LEVELS OF GOVERNMENT IN NEW YORK *

CLASS OF GOVERNMENT	General Government	Protection	Health	Economic Development	Highways	Public Service	Charities	Education	Recreation
1. State.....	X	XXXXXXXX	XXXXXX	XXXXXX	XXXXXX	.....	XXXX	XXXXXX	XXXXXX
2. County.....	X	XXXXXX	XXXXXX	XXXXXX	XXXXXX	.....	XXXX	XXXXXX	XXXXXX
3. Town.....	X	XXXXXX	XXXXXX	XXXXXX	XXXXXX	XXXX	XXXX	XXXXXX	XXXXXX
4. City.....	X	XXXXXX	XXXXXX	XXXXXX	XXXXXX	XXXX	XXXX	XXXXXX	XXXXXX
5. Village.....	X	XXXXXX	XXXXXX	XXXXXX	XXXXXX	XXXX	.....	XXXXXX	XXXXXX
6. Fire district *.....	X	.....	.....	.....	.....	.....	.....	.....	.....
7. Common-school district *.....	X	.....	XXXX	.....	.....	.....	.....	XXXXXX	XXXXXX
8. Union free-school district *.....	X	.....	XXXX	.....	.....	.....	.....	XXXXXX	XXXXXX
9. Central high-school district *.....	X	.....	XXXX	.....	.....	.....	.....	XXXXXX	XXXXXX
10. Central rural school district /.....	X	.....	XXXX	.....	.....	.....	.....	XXXXXX	XXXXXX
Total.....	10	8	9	5	5	8	4	9	9

* Other districts, such as police, garbage, water, sewer, etc., are not included either because of limited fiscal independence or complete denial of the right to lay general taxes. For a full discussion of the reason for excluding these districts, see *infra*, pp. 134-35

† Cahill's Supplement, 1935, 63:170-180.

‡ Cahill's Consolidated Laws of New York, 1930, 15:121, 130, 220, 227, 270-75.

§ *Ibid.*, 15:130, 141, 220, 227, 270-75.

¶ *Ibid.*, 15:187-80i.

‖ *Ibid.*, 15:180-84.

TABLE 2
GROWTH IN NUMBER OF THE VARIOUS GOVERNMENTAL UNITS IN NEW YORK, 1665-1934

UNIT	1665-1686	1785-1800	1801-1820	1830	1840	1850	1880	1900*	1920*	1930*	1934*
Towns.....	17 ^a	120 ^d	285 ^f	753 ^g	824 ^g	926 ^g	945 ^g	930	932	933	932
Counties.....	12 ^b	16 ^c	20 ^c	56 ^c	60 ^c	60 ^c	60 ^c	61	62	62	62
Cities.....	2 ^e	4 ^e	5 ^e	5	9 ^e	13 ^e	24 ^e	42	59	60	60
Villages.....	.....	7 ^e	63 ^f	102 ^f	156 ^f	204 ^f	276 ^f	419	505	535	554
School districts.....	.....	1,352 ^h	6,332 ^h	9,063 ^h	10,769 ^h	11,382 ^h	11,363 ^h	10,791 ⁱ	10,137 ^j	9,398 ^j	8,434 ^k
Other special districts ^m.....	.....	.....	.....	.....	.....	.....	.....	.....	1,331 ⁿ	2,368 ⁿ	2,564 ⁿ
Total.....	31	1,499	6,715	9,979	11,816	12,585	12,568	12,243	13,026	13,355	12,606

^a 1665, "Duke of York's Laws, 1665-1675," *Colonial Laws of New York* (Albany, 1904), I, 71.
^b *Colonial Laws of New York*, 1683, c. 4. See *Reorganization of Local Government in New York State*, Sixth Report of the New York State Commission for the Revision of the Tax Laws, Legislative Document No. 63 (1935), pp. 621-22, for a list of counties and dates of erection.
^c New York City, Governor Nicoll's Charter, June 12, 1665 (*The Documentary History of the State of New York*, art. by E. B. O'Callaghan [Albany, 1849], I, 603), Dongan Charter, 1686 (*Colonial Laws of New York*, I, 181); Albany, Dongan Charter, 1686 (*ibid.*, p. 195).
^d *New York Laws*, 1788, s. 64.
^e *ibid.*, s. 62.
^f Hudson, 1785 (*ibid.*, s. 83); Schenectady, 1798 (*ibid.*, s. 50).
^g Lansingburgh, 1790 (*ibid.*, s. 49); Waterford, 1794 (*ibid.*, s. 36); Colonia, 1795 (*ibid.*, s. 40); Troy and Utica, 1798 (*ibid.*, chaps. 14, 79); Poughkeepsie, 1799 (*ibid.*, s. 52); Newburgh, 1800 (*ibid.*, s. 48).
^h School districts established in 1798 (*ibid.*, s. 75). In 1798 there were 1,352 schools (*Annual Report of the State Superintendent of Public Instruction*, 1904, p. 18). The number of districts is not reported, but the discrepancy between the number of districts and schools would not be great at this date.
ⁱ *Laws*, 1801, chaps. 17, 19, 163.
^j *ibid.*, s. 123.
^k Troy, 1816 (*ibid.*, s. 131).
^l Compiled from T. S. Gillett, *General Index of the Laws of the State of New York, 1777-1857* (Albany, 1859), pp. 720-723 (1820, 63 villages).
^m *Annual Report of the Superintendent of Common Schools*, 1846, p. 157 (1820, 6,332 districts).
ⁿ *Legislative Manual*, 1843, pp. 63-63.
^o *ibid.*, 1902, pp. 197-247.
^p *ibid.*, 1881, pp. 132-165.
^q *Tenth Census of the United States*, 1830, I, 263-73 (1870, 204 villages).
^r *Annual Report of the State Superintendent of Public Instruction*, 1861, p. 43. Exclusive of cities.
^s *ibid.*, 1846, p. 102.
^t *ibid.*, 1901, p. 203.
^u *Legislative Manual*, 1920, pp. 705-750.
^v *Thirty-First Annual Report of the State Education Department* (1935), II, 44.
^w Special road districts were provided in all counties as early as 1797 (*Laws*, c. 43). No enumeration of special districts is available, however, until 1926 (1,331 districts, *Annual Report of the State Tax Commission*, 1926, p. 457). Subsequent data are obtained from the reports of corresponding years.
^x *Special Report of the Comptroller on Municipal Accounts*, 1934.

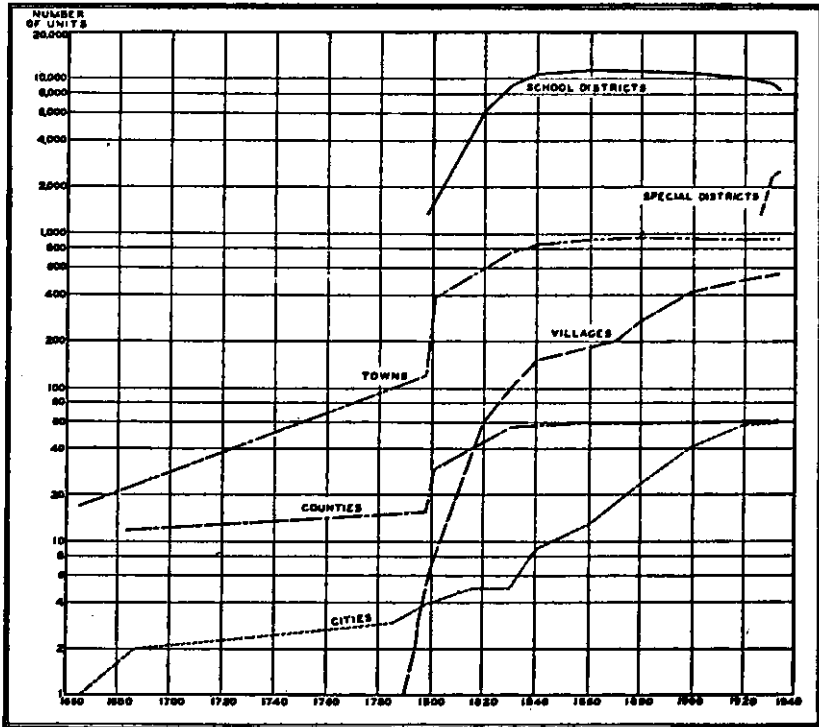


FIG. 1.—GROWTH IN NUMBER OF THE VARIOUS GOVERNMENTAL UNITS IN NEW YORK

The new agencies that developed in the years after 1840 were the cities, villages and special districts. In 1840 there were only 9 cities, but in 1930 there were 60. Villages which numbered 7 in 1800 increased to 156 in 1840 and to 553 in 1933. The first special districts were organized in 1797 for road construction. In 1926 there were 1,331 and seven years later 2,540 districts organized for a great variety of purposes.

3. Governmental Cost Payments, 1918-1934

This array of governments cost the people of New York \$1,368,741,000 (including outlays) for the year 1934.⁴ From a fiscal point of view the cities are by far the most important group. The portion of Table 3 showing the distribution of total expenditures between the State, counties, towns, cities, villages and school districts indicates that throughout the period of sixteen years (1918 to 1934) the cities have accounted for more than one-half of all governmental cost payments. The State, excluding its payments to local subdivisions in the form of grants, ranks second and accounts for 13 to 17 per cent of the total. A net expenditure of

⁴ See Table 3.

TABLE 3
NET EXPENDITURES OF ALL GOVERNMENTAL UNITS IN NEW YORK, 1918-1934
(Thousands)

UNIT	1918	1919	1920	1921	1922	1923	1924	1925	1926
State ^a	\$84,951	\$90,378	\$97,803	\$126,067	\$141,871	\$142,430	\$162,157	\$214,765	\$185,602
Towns ^b	14,477	18,560	23,063	28,339	29,174	35,506	42,361	45,720	50,825
Counties ^c	20,240	22,533	27,618	26,956	30,203	42,940	54,951	58,509	79,106
Cities ^d	296,712	\$15,648	\$75,611	437,903	806,125	559,511	629,965	663,123	688,241
Villages ^e	8,318	7,606	10,076	11,856	14,071	17,109	19,758	22,894	24,117
School districts ^f	18,872	18,722	24,315	32,067	34,212	37,881	42,275	46,765	50,054
Total	\$442,670	\$472,457	\$558,498	\$683,086	\$764,656	\$835,437	\$951,467	\$1,051,786	\$1,077,445
Less State aid ^g	9,033	9,850	15,196	27,490	41,827	43,284	45,149	46,630	48,883
Net expenditures	\$434,646	\$463,607	\$543,292	\$655,596	\$722,829	\$792,153	\$906,318	\$1,005,156	\$1,028,562
<i>Percentage Distribution</i>									
State ^h	17.5	17.4	15.2	15.3	13.9	12.5	12.9	16.7	18.8
Towns.....	3.3	4.0	4.2	4.4	4.0	4.5	4.7	4.5	4.9
Counties.....	4.7	4.9	5.1	5.7	5.4	5.4	6.1	5.8	7.7
Cities.....	68.3	68.1	69.1	67.8	70.0	70.6	69.5	68.0	68.9
Villages.....	1.9	1.6	1.9	1.8	2.0	2.2	2.2	2.3	2.3
School districts.....	4.3	4.0	4.5	5.0	4.7	4.8	4.6	4.7	4.9
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

^a United States Bureau of the Census, *Financial Statistics of States*, exclusive of public service enterprises. Data for 1920 and 1921 compiled from *Annual Report of the Comptroller*, 1921, p. 7 (total expenditures out of treasury, less expenditures from special funds and trust funds, for sinking fund investments and debt retirement); 1923 and 1924 from *ibid.*, 1924, p. 11 (computed same as above; advances for Federal Rural Post Roads excluded).

^b Cf. Table 8, pp. 44-45.

^c Cf. Table 14, pp. 84-85.

^d Cf. Table 17, pp. 106-7.

^e Cf. Table 19, pp. 124-25.

^f Expenditures outside of cities. Data from 1918 to 1923 taken from *Annual Reports of the State Education Department*; 1924 to 1934 taken from *Annual Reports of the State Tax Commission*, Table 3.

^g Cf. Table 44, p. 249.

^h State aid deducted before computing percentages.

TABLE 3—Concluded

UNIT	1927	1928	1929	1930	1931	1932	1933	1934
State ^a	\$205,364	\$236,758	\$253,447	\$291,876	\$331,621	\$362,163	\$348,624	\$356,358
Towns ^b	60,288	56,850	60,381	64,442	55,821	46,042	44,970	46,738
Counties ^c	74,670	83,843	94,913	107,934	120,053	116,302	110,226	112,561
Cities ^d	773,279	811,307	895,291	955,999	1,002,777	933,689	847,579	909,461
Villages ^e	26,354	29,397	34,527	36,684	35,952	31,353	25,465	21,915
School districts ^f	54,557	60,692	62,281	63,576	68,007	66,451	63,881	62,171
Total.....	\$1,194,512	\$1,278,755	\$1,400,839	\$1,510,511	\$1,614,231	\$1,555,900	\$1,485,754	\$1,509,204
Less State aid ^g	61,738	77,954	85,236	95,322	106,166	130,444	141,527	140,463
Net expenditures.....	\$1,132,774	\$1,200,801	\$1,315,603	\$1,415,189	\$1,508,065	\$1,425,456	\$1,394,227	\$1,368,741
<i>Percentage Distribution</i>								
State ^a	19.7	13.2	12.8	13.9	16.0	16.3	15.6	15.8
Towns.....	5.3	4.7	4.6	3.8	3.7	3.3	3.5	3.4
Counties.....	6.6	7.0	7.2	7.6	8.0	8.1	8.5	8.2
Cities.....	68.3	67.6	68.1	67.6	66.5	65.5	65.5	66.5
Villages.....	2.3	2.4	2.6	2.6	2.3	2.2	2.0	1.6
School districts.....	4.8	5.1	4.7	4.5	4.5	4.6	4.9	4.5
Total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

^a United States Bureau of the Census, *Financial Statistics of States*, exclusive of public service enterprises. Data for 1920 and 1921 compiled from *Annual Report of the Comptroller*, 1921, p. 7 (total expenditures out of treasury, less expenditures from special funds and trust funds, for sinking fund investments and debt retirement); 1933 and 1934 from *ibid.*, 1934, p. 11 (computed same as above; advances for Federal Rural Post Roads excluded).

^b Cf. Table 4, pp. 44-45.

^c Cf. Table 14, pp. 84-85.

^d Cf. Table 17, pp. 106-7.

^e Cf. Table 19, pp. 124-25.

^f Expenditures outside of cities. Data from 1918 to 1923 taken from *Annual Reports of the State Education Department*; 1924 to 1934 taken from *Annual Reports of the State Tax Commission*, Table 3.

^g Cf. Table 44, p. 249.

^h State aid deducted before computing percentages.

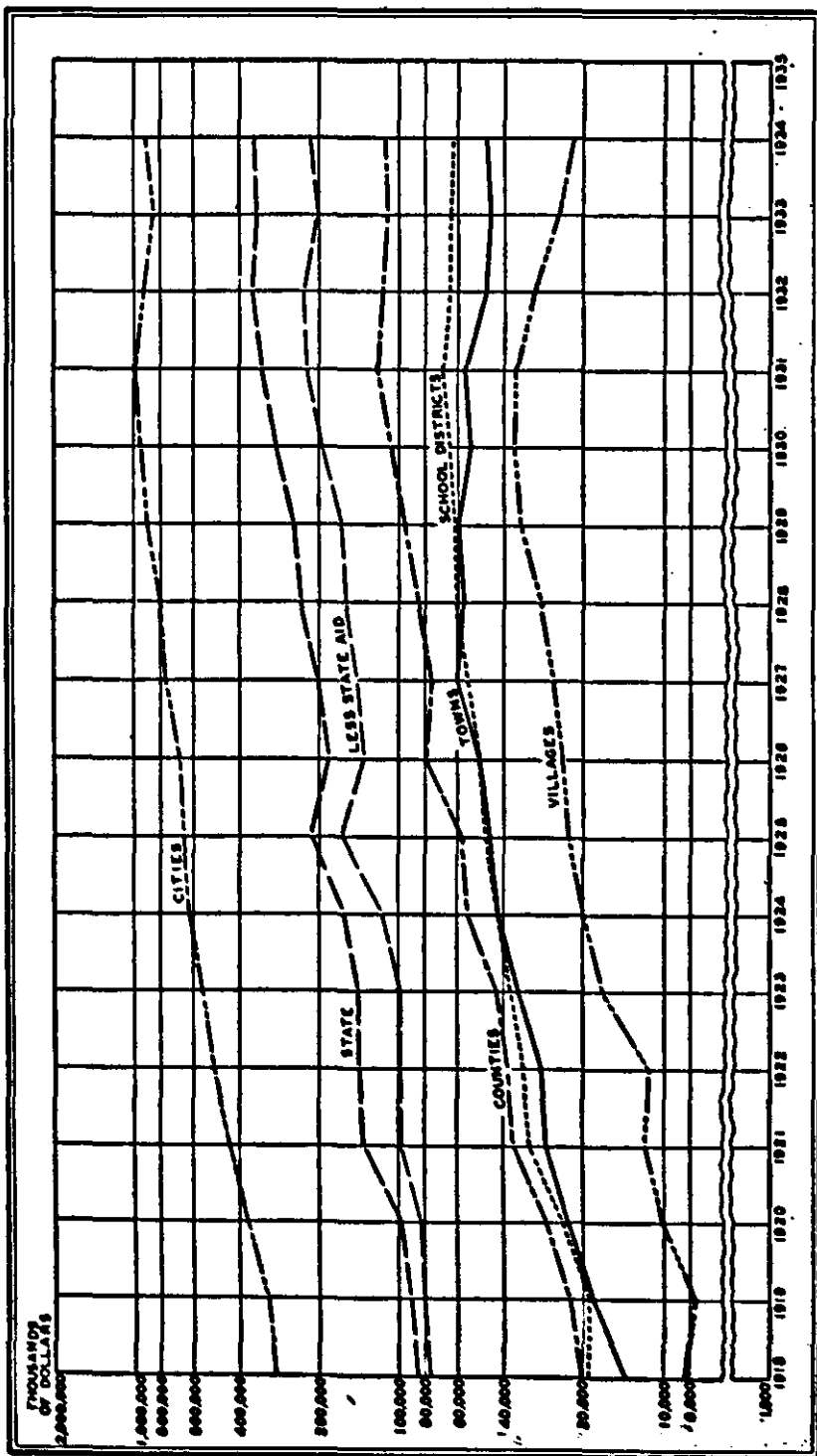


FIG. 2.—NET EXPENDITURES OF ALL GOVERNMENTAL UNITS IN NEW YORK

\$112,561,000 by county governments for the year 1934 clearly places this unit third in rank. Following the county are the school districts (outside of cities), towns and villages, each ranking fiscally according to the order named.

The rate of growth or decline of governmental expenditures experienced by the various governments in New York during the past seventeen years is set forth graphically in Figure 2. For the first ten years of the period under consideration the trend was upward and the rate of increase for local governments and the State was singularly uniform. The plotted lines for the years subsequent to 1927 break away from the course established during the preceding decade. Town expenditures decreased sufficiently to give the line a clearly negative slope.⁶ It may also be observed that school expenditures began to level off in 1928. The effects of curtailments due to the depression are reflected in the curves for all units except the State. The increased burden thrust on this unit in caring for the unemployed and needy has tended to offset savings otherwise made. Too, a large portion of the State budget is composed of fixed obligations. During 1932 and 1933 school expenditures turned down least, largely because State contributions making up a sizable portion of local school revenues were not materially curtailed. The decline experienced by village government is the most precipitous, continuing through 1934. Excepting the villages, school districts, and the State, all types of government have had definite increases in 1934 over 1933.

4. Expenditure Trend Compared with Population Growth and Income Produced

In Figure 3 a comparison is made of governmental expenditures, population, and the national income. The net expenditures of all governments in New York in 1918 were \$435,000,000;⁶ in 1934 this figure had been increased by 215 per cent. Population for the same period had increased 31.8 per cent.⁷ Regardless of the growth both in governmental expenditures and population, the national income was not so large in 1934 as it was in 1918.⁸ Until the depression years following 1930 readjustments necessary to finance the growing activities of government were being made without serious dislocations. For example, governmental costs increased 176 per cent between the years 1918 to 1928. During this same period, however, the national income increased only 48.3 per cent. Expenditures of 1934 were virtually the same as in 1929, but during this period the national income was approximately halved.

⁶ This is largely due to the declining importance of the town as a unit for purposes of highway administration. Cf. *infra*, pp. 287 ff.

⁶ Cf. Table 3, pp. 15-16.

⁷ Cf. Table 4.

⁸ There are no data dealing with the national income from 1918 to 1934 that are compiled in precisely the same manner. (It has been assumed that the variations of the income attributable to New York State are not materially different from that experienced by the Nation as a whole.)

TABLE 4
POPULATION AND GOVERNMENTAL EXPENDITURES OF NEW YORK COMPARED WITH
THE NATIONAL INCOME, 1918-1934

YEAR	Population * (000)	NET GOVERNMENTAL EXPENDITURES †		National Income ‡ (000,000)
		State * (000)	Local (000)	
1918.....	10,327	\$75,918	\$358,728	\$56,658
1919.....	10,839	80,528	383,070	61,628
1920.....	10,497	82,607	460,683	68,442
1921.....	10,720	98,578	547,021	58,271
1922.....	10,946	100,044	622,785	61,187
1923.....	11,170	99,146	693,007	69,295
1924.....	11,394	117,008	798,310	71,905
1925.....	11,618	168,135	837,021	76,561
1926.....	11,823	136,719	891,843	80,284
1927.....	12,027	143,626	989,148	82,921
1928.....	12,231	158,804	1,041,997	84,119
1929.....	12,435	168,211	1,147,392	81,034
1930.....	12,640	196,554	1,218,635	67,917
1931.....	12,850	235,455	1,283,610	53,584
1932.....	13,061	231,719	1,193,737	39,545
1933.....	13,273	203,097	1,092,130	41,889
1934.....	13,484	215,895	1,152,846	48,561

* Annual Report of the State Tax Commission, 1934, p. 88.

† Cf. Table 3, p.p. 15-16

‡ State expenditures less State aid.

§ Data from 1918 to 1928 inclusive are from W. I. King, *The National Income and Its Purchasing Power* (New York, 1930), Table VIII, p. 74, imputed income excluded; for 1929 to 1934 inclusive from R. E. Nathan, "The National Income Produced, 1929-34," reprint from *Survey of Current Business*, November, 1935, p. 2.

5. Retrenchment versus Economy

Retrenchment is not feasible nor may it be desirable, yet certainly economy and efficiency are sorely needed. A structural reorganization of government should provide a nucleus for evolving a workable program directed toward this end. It is not the objective of this report to present a program designed for emergency situations growing out of business recessions, but periods such as have been experienced in the years from 1930 to 1933 bring into sharp focus the archaic features of governmental organization and the need for machinery designed to cope with the sundry problems arising in a complex social order.

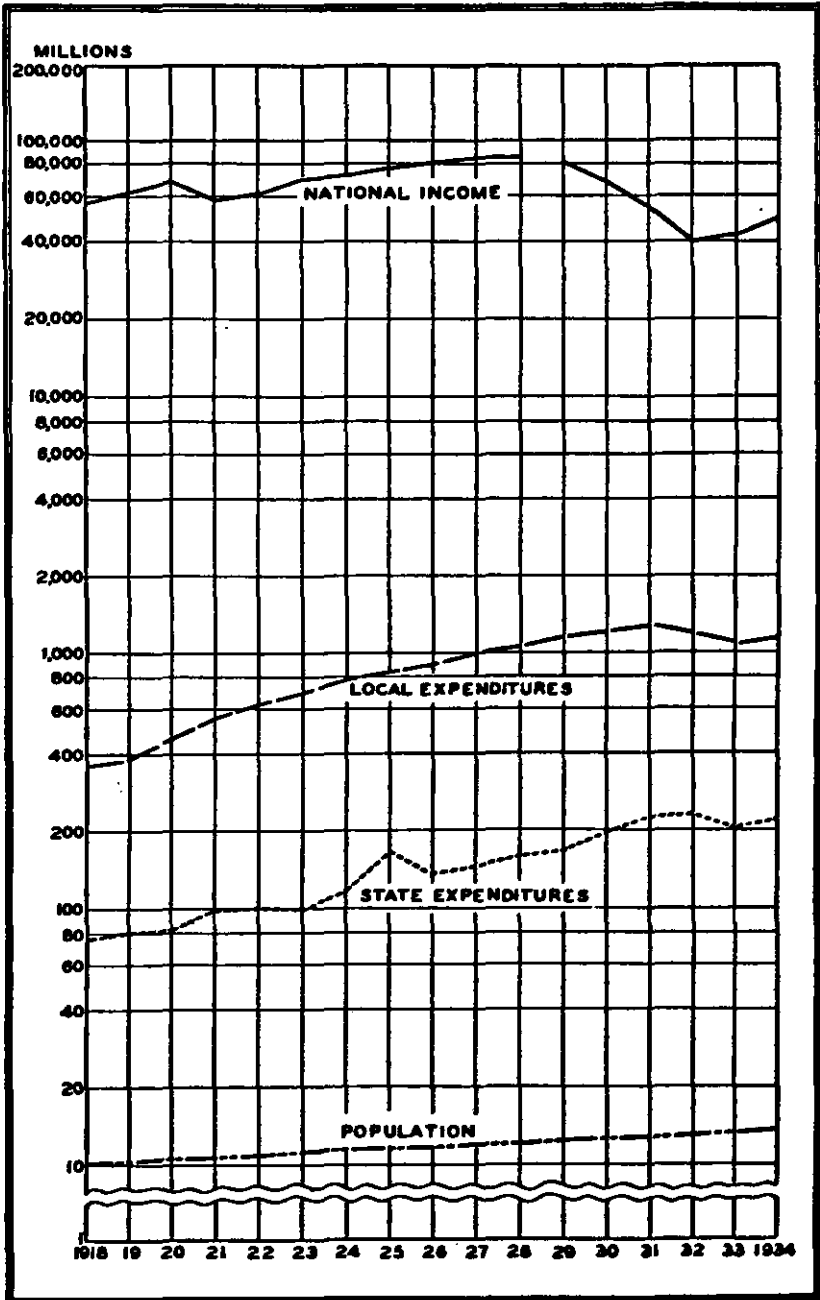


FIG. 3.—POPULATION AND GOVERNMENTAL EXPENDITURES OF NEW YORK COMPARED WITH THE NATIONAL INCOME

CHAPTER II

THE STATE

Of the many units of government now existent in the State of New York the central government, as exemplified in the governor and council of the Dutch period, the governor, council, and assembly of the English colonial period, and the tripartite system of today warrants first consideration. It came first in point of time relative to the other governments, and from it authority has emanated for the organization of the numerous minor civil divisions and *ad hoc* districts. The most important single function now performed by the State is the assessment and collection of revenue to be distributed to the localities either in the form of shared taxes or as subventions. In 1933, 73 per cent of all tax revenues collected by the State was disbursed in this manner for the benefit of local governments. The history of this development is depicted graphically in Figure 4.

This agency, now playing such a sustaining rôle in the life of local government, has passed through three distinct periods: first, the Dutch rule extending from 1623 to 1664; second, the English colonial period from 1664 to 1776; and finally, government under the Constitution extending from 1777 to the present. In general, each of these stages represents a change in the adjustment of State and local relationships. Under the Dutch the general affairs of the community rested in the hands of the central government composed of a director general, a council appointed by the company, and a secretary and prosecuting officer. Local government was directly tied up with the central government through appointment by the central authorities of the local magistrates in the case of the Dutch towns, and, in the English towns, the nomination of local officials subject to the approval of the governor.

The English period is one of mixed good and evil as far as the development of local self-government is concerned. At times it appeared that the localities would be allowed considerable influence in shaping governmental policies; at others, these hoped-for liberties disappeared. In general it can be said that local governmental privileges were more generally extended under the English than the Dutch. The body corresponding to the Dutch council became elective, and representative assemblages were generally recognized after 1691. The towns were allowed to choose their own officers and more freedom was given in the matter of making laws essential to the welfare of the local communities.

The constitutional period represents an accentuation of the movement started under the English. Sovereignty passed from the Crown to the people, and by a series of constitutional revisions local government became more fully decentralized and entrenched.

TABLE 5

RATIO OF SUBVENTIONS AND STATE-COLLECTED, LOCALLY SHARED TAXES TO GROSS REVENUE OF NEW YORK STATE GOVERNMENT, 1900-1934

YEAR	Receipts of the State from Taxes * (000)	State-collected, Locally Shared Taxes * (000)	Gross State Revenue (000)	Subventions and Locally Shared Taxes * (000)	Ratio of Apportionments to Gross Revenue
1900.....	\$20,402	\$8,400	\$28,802	\$12,440	43.2
1901.....	20,441	8,200	28,641	12,293	42.9
1902.....	16,436	8,400	24,836	12,562	50.6
1903.....	21,071	8,815	29,886	13,389	44.8
1904.....	22,142	9,000	31,142	13,677	43.9
1905.....	23,566	9,100	32,666	14,217	43.5
1906.....	31,446	9,400	40,846	14,694	36.0
1907.....	32,851	9,600	42,451	15,203	35.8
1908.....	31,645	9,300	40,945	15,491	37.8
1909.....	29,000	5,100	34,100	11,845	34.7
1910.....	35,565	9,500	45,065	16,473	36.6
1911.....	32,464	8,897	41,361	16,075	38.9
1912.....	47,137	8,793	55,930	16,170	28.9
1913.....	52,202	8,771	60,973	16,315	26.8
1914.....	46,517	8,740	55,257	16,574	30.0
1915.....	38,658	8,594	47,252	16,707	35.4
1916.....	54,831	8,571	63,402	17,045	26.9
1917.....	57,331	10,309	67,640	20,045	29.6
1918.....	70,891	18,328	89,217	27,359	30.7
1919.....	74,998	25,035	100,033	34,885	34.9
1920.....	109,885	33,765	143,650	48,961	34.1
1921.....	139,518	34,881	174,399	72,370	41.5
1922.....	116,111	28,967	145,078	70,794	48.8
1923.....	121,605	31,403	152,908	74,687	48.8
1924.....	138,585	34,774	173,359	79,923	46.1
1925.....	151,339	41,879	193,218	88,509	45.8
1926.....	165,868	46,621	211,989	95,504	45.1
1927.....	184,695	50,034	234,629	111,772	47.6
1928.....	206,260	62,218	268,478	140,172	52.2
1929.....	236,178	74,521	310,699	159,757	51.4
1930.....	261,735	84,160	345,895	179,482	51.9
1931.....	227,363	70,308	297,671	176,474	59.3
1932.....	204,712	49,390	254,102	179,834	70.8
1933.....	210,510	39,156	249,666	180,683	72.4
1934.....	248,806	49,988	298,794	190,451	63.7

* See Table 43, pp. 244-45

* See Table 6, p. 31.

1. The Central Government during the Colonial Era

The central government of colonial days was a different type of agency from that of organized government of today. Its chief interests were in maximizing the exploitive possibilities of the colony for the benefit of the mother country. Action was not based on social policy, but rather on questions of economic advantage with respect to supplies of raw material for export, or population increases in order that the home merchants might have a market for their manufactured wares. Today, social planning with respect to conservation of natural resources, the elimination of illiteracy, equalization of opportunity, suppressing the unscrupulous, and beautifying the country-side and city through community planning is the tenor of governmental action. Accordingly, the colonial central government left to the localities very largely the problems growing out of satisfying their everyday needs. Interest on the part of the central government was exhibited by passing

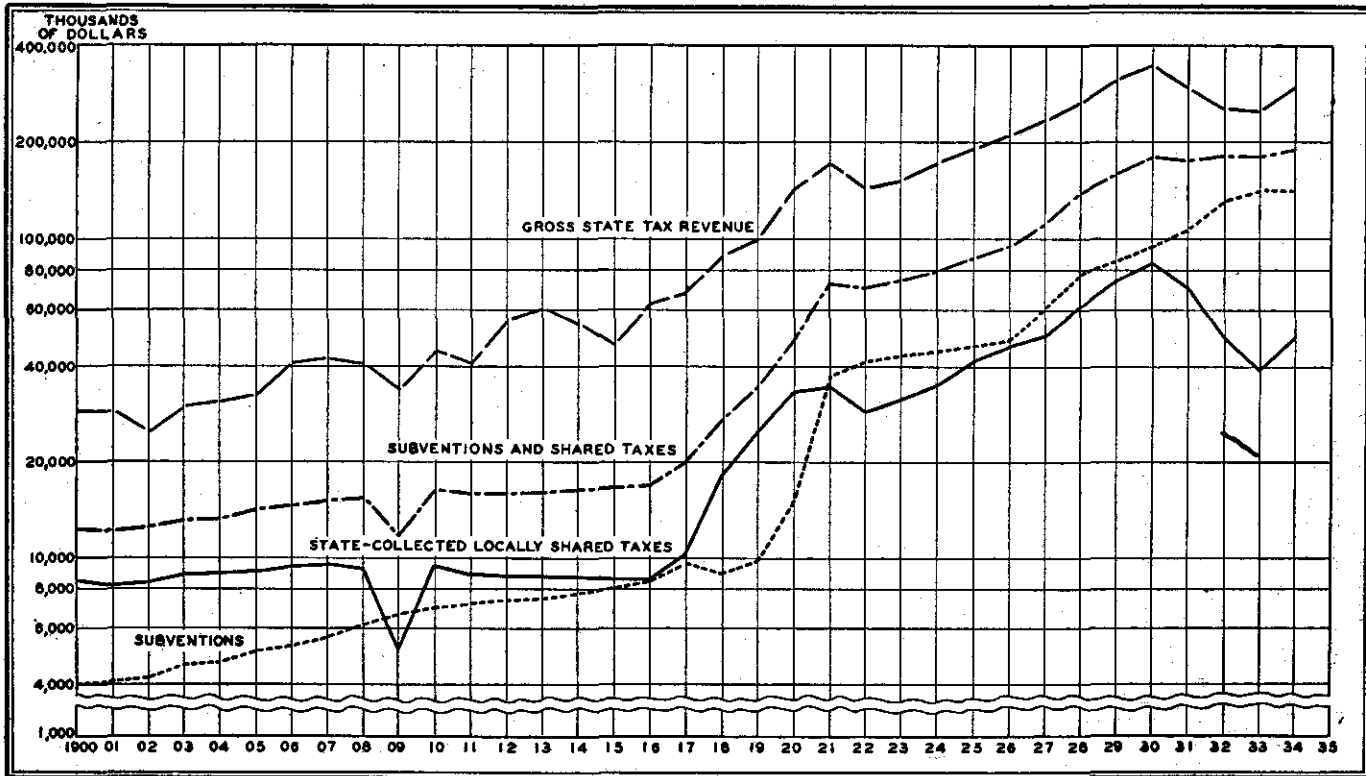


FIG. 4.—SUBVENTIONS, STATE-COLLECTED LOCALLY SHARED TAXES, AND GROSS STATE TAX REVENUE OF NEW YORK STATE

ordinances requiring specific performance of certain tasks considered to be of general import to the colony.¹

State and local relationships of this character existed virtually from the beginning of organized government in New York. Though it may be impossible to measure the outlays in dollars owing to the fact that the major contributions to local government were in the form of personal services, yet they were real, and the central government did exercise considerable influence in directing the way these efforts were expended.

Under the rule of the English Crown the situation just discussed with respect to State and local relationships was not materially altered. The central government still continued to pass acts enabling the localities to provide those services demanded for the common good.²

2. State and Local Relationships under the Constitution

It is not within the scope of this report to review minutely the historical development of State functions since 1798,³ but to point out the significant trends in State policy with respect to local relationships. Throughout the 158 years since the first constitution was adopted the following developments may be noted: first, early efforts on the part of the State to stimulate business activity by directly becoming a shareholder and creditor in private, quasi-public, and public activities and the subsequent repudiation of this policy by constitutional amendment in 1846; second, the emphasis placed on internal improvements beginning early in the nineteenth century and declining, relative to other expenditures, about 1850; third, the assumption of full financial responsibility by the State of certain functions traditionally cared for by the localities; fourth, an early adoption of the policy of dividing with the locality

¹ Through enactment of the colonial government each inhabitant living in Midwout and Amesfoort was made responsible for a portion of the pallisade (*Laws and Ordinances of New Netherland, 1638-1674* [Albany, 1868], p. 373). In New Utrecht plantations were to be properly enclosed, village lots fenced, stray cattle impounded, block houses erected, wells dug, and the roads cleared and leveled (*ibid.*, pp. 370 ff.). An ordinance was passed in 1661 requiring the localities under penalty to collect alms each Sunday from the congregation for the care of the poor (*ibid.*, p. 412). One year later the citizens of Bergen were to appear on an appointed day to dig a well for watering the local herds of cattle (*ibid.*, p. 424).

² The nature of these provisions can well be illustrated by citing the titles of a few of the acts pertaining to the city of New York. The city was given permission in 1691 to nominate or appoint a superintendent of streets, to regulate the structure of new buildings, and to provide sewers for removal of waste from the streets (*Colonial Laws*, c. 18); 1706, to conscript labor on the city fort as ordered by the council (*ibid.*, c. 158); 1717, to raise £500 for altering the sewer on Broad Street (*ibid.*, c. 327); 1730, to buy fire engines (*ibid.*, c. 550); 1739, to prevent swine running at large (*ibid.*, c. 673); 1741, to repair the public pump (*ibid.*, c. 719); 1743, to provide the garrison with firewood and candles (*ibid.*, c. 739); 1746, to provide fortifications through funds raised by lotteries (*ibid.*, c. 817); 1751, to repair the Bowery road (*ibid.*, c. 910); 1754, to remove nuisances and repair the streets (*ibid.*, c. 956).

³ For a full treatment of this subject, see *State Expenditures, Tax Burden, and Wealth*, Report of the Special Joint Committee on Taxation and Retrenchment, Legislative Document No. 68 (1926).

the responsibility for certain functions, the division usually coming about through the State bearing part of the financial burden and assuming the major part of the administrative responsibility; fifth, an era of legislative interference by the State in the affairs of the cities beginning in the fifties and continuing down until the last quarter of the nineteenth century; sixth, the increasing importance of the administrative branch of the State government as an instrumentality through which the State deals with its various local units; and seventh, the tendency on the part of the central government to withdraw its authority from the urban centers and to concentrate its efforts on the solution of regional problems and the raising of standards in the less wealthy sections by lending financial assistance.

In 1777, the date marking the introduction of constitutional government, State and local relationships were much as they were in the colonial days. The local governments were, in general, left with responsibility of providing for their own schools and highways, and passing those regulatory measures necessary for maintaining harmonious business and social relationships. It was not long, however, before the State had broken the traditional limitations characteristic of the colonial governments and entered upon fields of action destined to become the major interests of government a century later.

STIMULATION OF ECONOMIC ACTIVITY

One of the first efforts of the State outside of the traditional sphere of government was to encourage citizens to exploit the potential resources of the State. In 1785 the Legislature provided for a bounty of eight shillings per hundred for all hemp delivered in New York City.⁴ Bounties were also offered on wool, silk, coal, lead, gypsum, and salt.⁵ Payments for this purpose ranged from \$390 in 1789 to \$80,627 in 1845.⁶ Not only were these bounties offered, but also the apparently great need for capital by enterprising agriculturalists and business men was supplied by the State out of revenues derived from the sale of public lands. Recipients of these loans ranged from private individuals to quasi-public and public agencies.⁷ Prior to the constitutional convention of 1846, the State had made loans to thirty-three corporations engaged in all kinds of business ventures including mining, constructing bridges and canals, supporting charities and institutions of learning, navigation projects and turnpike companies.⁸ The State also lent its credit to aid in the construction of railroads and canals. Beginning with an issue of \$800,000 in 1827, the aggregate grew until it amounted to \$5,235,700 by 1842.⁹ Loans to businesses and pur-

⁴ *Laws*, 1785, c. 68. Bounties were also provided in 1788 (*ibid.*, c. 54) and in 1793 (*ibid.*, c. 64), the latter act extending to 1795.

⁵ Don C. Sowers, *The Financial History of New York State* (New York, 1914), p. 300.

⁶ *Ibid.*, pp. 302 ff.

⁷ Cf. *ibid.*, p. 259.

⁸ F. D. Bidwell, *Faction in New York State* (Albany, 1916), p. 27.

⁹ Sowers, *op. cit.*, pp. 82-84.

chases of equity came to an end, as far as the State was concerned, in 1846 when the Constitution of that date provided that "the credit of the State shall not, in any manner, be given or loaned to, or in aid of any individual, association or corporation."¹⁰

INTERNAL IMPROVEMENTS

Closely akin to the stimulation offered to business through bounties and loans was the policy of the State to make available transport facilities to farmers and merchants by directly engaging in canal construction. Private capital was relatively scarce and, at least for this type of venture, business men were willing to let the State take the risks. In 1817 the beginning of an extensive canal construction program was laid.¹¹ Viewed fiscally the canals were the first venture of importance undertaken by the State. In 1830, 41.3 per cent of all State payments for maintenance and operation was expended on canals, 41.7 per cent in 1840, 43.0 per cent in 1850 and from that time on the relative significance of the canals declined though the absolute amount expended continued to increase.¹²

FUNCTIONS ASSUMED BY THE STATE

The instances where the State has taken over in entirety the functions usually performed by a local unit or units are indeed few. The first example that may be cited is the assumption by the State of the care of felons in 1796.¹³ The most outstanding case, and one of considerable fiscal importance, was the transfer of the care of insane from the county to the State. The inadequacy of the facilities provided by local governments for segregating the insane from other classes of dependents led the State to open its first asylum in 1843.¹⁴ Twenty-two years later additional facilities were provided and the care of all chronic insane was transferred from the county to the State. Under this arrangement, however, the counties were severally responsible for the maintenance of their own commitments.¹⁵ In 1890 the State assumed full financial, as well as administrative, responsibility.¹⁶ Caring for the insane had never been done adequately by the localities; therefore, it is difficult to say just how much of a fiscal burden was transferred. If the counties were now caring for the insane and maintaining State standards, their budgets would be increased approximately 25 per cent.¹⁷ Certainly the establishment of the first asylum in

¹⁰ Art. VII, § 9.

¹¹ Cf. Sowers, *op cit.*, chaps. v and vi.

¹² *State Expenditures, Tax Burden, and Wealth*, pp. 138 ff.

¹³ *Ibid.*, p. 27.

¹⁴ Initial action relative to establishing the asylum at Utica occurred in 1836 (*Leas*, c. 82).

¹⁵ All pauper insane in the custody of county poor houses were transferred to the State institution. Each county was responsible for financing its own commitments (*ibid.*, 1865, c. 242).

¹⁶ *Leas*, 1890, c. 126.

¹⁷ County expenditures in 1934, \$112,561,000 (cf. Table 3, pp. 15-16); State expenditures for mental defectives, \$25,611,876 (*Annual Report of the Comptroller*, 1934, p. 213).

1843 set in motion a train of events responsible for a sizable proportion of the modern State budget. In 1900 the cost of maintaining and operating the asylum system accounted for 21.08 per cent of the total operating costs of the State.¹⁸ Today, the State spends more for the care of the insane than the total operating costs of the government were in 1900.¹⁹

FUNCTIONS SHARED BY THE STATE AND LOCALITIES

More important fiscally, and certainly more significant so far as State policies affect the character of local operations, are those phases of governmental activity jointly undertaken by the central government, counties, towns, villages, cities, and *ad hoc* districts. Functions falling within this category are education, conserving public health, revenue administration, providing transport facilities, caring for dependent persons, and encouraging economic development. In 1934 the State subsidized the localities in carrying on the above services of government to the extent of \$190,451,000.²⁰ For the right to participate in these funds the central government has established an elaborate set of regulatory rules including the selection, reimbursement, and retirement of personnel; custody, use, and accounting of funds; and the extent and character of the various services rendered.

Education.—Of the \$190,451,000 allocated to the localities in 1934, \$103,456,000 or 54.3 per cent was devoted to the support of the public school system.²¹ This phase of financial aid now so important both from the standpoint of the State and the local governments also stands first in point of time. As early as 1786 the State made provision for the establishment of a literature fund²² and in 1795 grants to extend over a period of five years were apportioned among the localities maintaining schools. At the expiration of the period the annual appropriation of £20,000 was not renewed and such aid as the State gave until the establishment of the district system came from lottery revenues.²³ A common school fund was authorized in 1805 to be built up out of proceeds from the sale of 500,000 acres of public lands.²⁴ As soon as the fund was adequate to produce a revenue of \$50,000 the proceeds were to be distributed among the counties of the State. No apportionment was made until 1814. In accordance with the act of 1812 establishing the common school system, this fund was to be distributed among the districts according to the population between the ages of five and fifteen years.²⁵ The proceeds from this fund, the literature fund, and the United States deposit fund provided

¹⁸ *State Expenditures, Tax Burden, and Wealth*, p. 140.

¹⁹ Expenditures for mental hygiene were \$25,611,376 in 1934 (*Annual Report of the Comptroller*, p. 213). The gross disbursements of the State in 1900 were \$25,162,297 (*ibid.*, 1933, p. 373).

²⁰ Cf. Table 6, p. 31.

²¹ Cf. Tables 6 and 44, pp. 31, 249.

²² *Laws*, c. 67.

²³ Cf. *infra*, pp. 167-68.

²⁴ Cf. *infra*, p. 181.

²⁵ *Laws*, c. 242, § 15.

practically the whole of State aid to local schools until 1851. The contributions of the State were small relative to the amount supplied today, but they were significant compared with the total of the State budget at the time. In 1850 State aid for schools represented 20.38 per cent of the total expenditures of the State for maintenance and operation.²⁶ Viewed from the standpoint of the total tax receipts for public schools, the contributions of the State were equally significant. They amounted to 15.3 per cent of the total receipts for a similar year.²⁷ The second major development in State aid to local schools came in 1851 when a State levy was made to induce localities to offer free schools.²⁸ The culmination of this effort was realized in 1867 when tuition charges were prohibited and free schools became a reality.²⁹

In 1854 the department of education was organized to be followed two years later by provision for a corps of local school commissioners who were to provide the administrative tie-up between the State department and the local school boards.³⁰ In 1904 the department of public instruction, responsible for the elementary school system, and the board of regents, who had charge of the secondary schools and colleges, were consolidated and the superintendent of instruction made the administrative officer of the division.³¹ This change made possible the realization of a coordinated school system from elementary grades through the university.

From 1885 to 1915 the relative importance of State aid as a source of school revenue continued to decline. In 1919 and 1920, however, the State declared as a new objective the readjustment of teachers' salaries. In 1926 still another objective was set up, namely, the equalization of educational opportunity in the State. To meet these new obligations the portion of school revenue supplied by the State was increased even beyond its former proportions of the total. By 1934 the expenditure of the State devoted to the local school system represented 34.2 per cent of all school revenues.³²

The State entered upon the field of vocational and technical training in 1844 when the State Normal School was opened at Albany.³³ Since that time the range of professional schools has been expanded to include agriculture, home economics, navigation, forestry, and ceramics.³⁴

²⁶ *State Expenditures, Tax Burden, and Wealth*, p. 142.

²⁷ Cf. Table 31, p. 184.

²⁸ Cf. *infra*, p. 178.

²⁹ *Laws*, c. 406.

³⁰ Cf. *infra*, p. 199.

³¹ Cf. *infra*, pp. 170-71.

³² Cf. *infra*, pp. 184-85.

³³ *Laws*, c. 311.

³⁴ The State schools and the years of their establishment are as follows: College for Teachers, Albany (*Laws*, 1844, c. 311); Normal School, Oswego (*ibid.*, 1863, c. 418); College for Teachers, Buffalo (*ibid.*, 1867, c. 593); Normal School, Brockport (*ibid.*, c. 21), Cortland (*ibid.*, c. 199), Fredonia (*ibid.*, c. 223), Genesee (*ibid.*, c. 185), Potsdam (*ibid.*, c. 6), Plattsburgh (*ibid.*, 1869, c. 690); Agricultural Experiment Station, Geneva (*ibid.*, 1880, c. 592); Normal School, New Paltz (*ibid.*, 1885, c. 287), Oneonta (*ibid.*, 1887,

Health.—Not in an important way, but at a very early date, the State exhibited some interest in problems of health. Beginning in 1792 an appropriation of £2,000 was made to the Hospital of New York.³⁵ Prior to federal assumption of health duties common to a port of entry, the State placed limited funds at the disposal of the governor to combat contagious diseases and made an appropriation for the construction of a detention station on Bedloe's Island.³⁶ In 1880 the State board of health was created whose function it was to stimulate the organization of local boards and to assume responsibility for coordination of their work. The responsibility for the assembling of vital statistics as reported by the local health officers was also placed on this group.³⁷ The State began to branch out in the development of institutional care in 1898 when funds were provided to assist in establishing a pathological laboratory at the University of Buffalo for the study of cancer treatment. Shortly after the turn of the century, institutions were created in rapid succession. In 1900 two hospitals were established, one for the care of crippled and deformed children and another for the study of incipient pulmonary tuberculosis.³⁸ In 1913 the public health council was created and it is since that time that the work of the State has become effective through the establishment of district sanitary supervisors who oversee the work of the local health officers.³⁹ State aid for health work has been allocated to counties carrying on approved health projects, to county and city laboratories, to handicapped children, to farmers for indemnities resulting from the destruction of tuberculin cattle, to county home-demonstration agents, and to schools for the employment of hygiene district supervisors, nurses and physical training teachers.⁴⁰

The State also actively participates in problems of social hygiene. During 1933 assistance was given to eighty-three clinics located in thirty-four counties and serving sixty-five communities.⁴¹ In 1932 courses dealing with problems of social hygiene were offered and some 1,200 local health nurses enrolled.⁴² Besides the assistance

c. 374); Veterinary College, Cornell University (*ibid.*, 1894, c. 153); School of Clay Working and Ceramics, Alfred University (*ibid.*, 1900, c. 383); College of Agriculture, Cornell University (*ibid.*, 1904, c. 655); School of Agriculture, St. Lawrence University (*ibid.*, 1906, c. 682), at Alfred University (*ibid.*, 1908, c. 201), Morrisville (*ibid.*), Cobleskill (*ibid.*, 1911, c. 852); College of Forestry, Syracuse University (*ibid.*, c. 651); Institute of Applied Agriculture on Long Island (*ibid.*, 1912, c. 319); School of Agriculture, Delhi (*ibid.*, 1913, c. 675); Merchant Marine Academy, New York City (*ibid.*, c. 322); College of Home Economics, Cornell University (*ibid.*, 1925, c. 43); and School for the Blind, Batavia (*ibid.*, 1927, c. 153).

³⁵ *Ibid.*, 1792, c. 67. These grants were discontinued in 1829.

³⁶ Sowers, *op. cit.*, p. 192.

³⁷ *Cf. infra*, p. 357.

³⁸ *Cf. infra*, p. 358.

³⁹ *Cf. infra*, pp. 358-59.

⁴⁰ *Cf. infra*, pp. 359-60.

⁴¹ *Fifty-fourth Annual Report of the Department of Health, 1933, Legislative Document No. 28 (1934), p. 270.*

⁴² *Ibid.*, p. 280.

given to clinics and public nursing, the State during the past ten years has solicited the aid of practicing physicians. There are now 569 physicians receiving supplies from the State for the treatment of infected persons unable to pay the regular fees.⁴³

Other services of the State rendered indirectly to the localities and affecting problems of health control are: the licensing of physicians; establishing regulations under the sanitary code; collection, interpretation, and dissemination of information concerning preventable disease; inspection of public water supplies; control of stream pollution; enforcement of minimum standards with respect to sanitation in the milk supply; establishment of minimum qualifications for certain public health personnel; and determination of administrative standards to be maintained in all cases where State aid is rendered.

Tax administration.—In 1799 the State first took a hand in the problem of local tax administration through the appointment by the governor of three commissioners of taxes in each county of the State who were to equalize assessments as between the various towns.⁴⁴ As the State came to rely more heavily on the general property tax it was necessary to have some agency with authority to equalize assessments as between the various counties of the State. Out of this need grew the office of State assessor.⁴⁵ The displacement of this board in 1896 by the tax commission with a broader grant of power has facilitated control over local assessments. The commission has power to investigate the methods of assessment employed, assist and direct the local assessors, provide the assessors with instructions and information, enforce compliance in cases where it is necessary, and to prepare the necessary forms and place them in the hands of assessors. It is also the duty of the commission to compile statistics on State and local taxation, hold conferences with the assessors, and to make official county visits.⁴⁶

The abuses arising in connection with local collection of the liquor tax led the State in 1896 to take over the administration of this tax—the first State-administered, locally shared tax in New York. The first year the State operated the collections, the amounts received by the localities were nearly three times larger than they had been under local supervision. Table 6 indicates the taxes now administered by the State, the time each was initiated, and the amounts returned to the localities in the form of shared taxes and subventions. The importance of taxes of this character relative to those locally collected since 1900 is set forth in Table 7. In 1934 the revenue made available to the localities by the State through subventions and locally shared taxes amounted to 25.4 per cent of the local taxes locally collected.

⁴³ *Ibid.*, p. 276.

⁴⁴ *Laws*, 1799, c. 72. This policy was discontinued in 1801 and the responsibility returned to the county supervisors in 1816 (*ibid.*, c. 204).

⁴⁵ Three men were appointed with power to gather information necessary for carrying out their function and instructed to visit each county in the State at least once in two years (*ibid.*, 1859, c. 312).

⁴⁶ *The Tax Law of the State of New York*, 1935, §§ 171, 171-d, 173.

TABLE 6
STATE FUNDS APPORTIONED TO THE LOCALITIES, 1900-1934*
 (Thousands)

YEAR	STATE-ADMINISTERED TAXES									Subven- tions*	Total
	Liquor Excise ^b	Motor Vehicles	INCOME		Licenses, Billiard Parlors	Licenses, Real Estate Brokers	Income of Financial Corpora- tions	Motor Fuel	Total		
			Business Corpora- tions	Personal							
1900	\$5,400								\$5,400	\$4,040	\$12,440
1901	5,200								5,200	4,083	12,283
1902	5,400								5,400	4,162	12,562
1903	5,815								5,815	4,574	13,389
1904	9,000								9,000	4,677	13,677
1905	9,100								9,100	5,117	14,217
1906	9,400								9,400	5,294	14,694
1907	9,600								9,600	5,603	15,203
1908	9,300								9,300	6,191	15,491
1909	5,100								5,100	6,745	11,845
1910	9,500								9,500	6,973	16,473
1911	8,997								8,997	7,178	16,175
1912	8,793								8,793	7,377	16,170
1913	8,771								8,771	7,644	16,415
1914	8,740								8,740	7,834	16,574
1915	8,594								8,594	8,113	16,707
1916	8,211	8,360							8,571	8,474	17,045
1917	8,247	2,082							10,309	9,736	20,045
1918	11,027	2,282	\$4,917						18,326	9,033	27,359
1919	15,501	2,852	5,682						25,035	9,850	34,885
1920	8,818	2,142	10,457	\$17,321					33,765	15,196	48,961
1921		2,563	14,100	18,218					34,881	37,489	72,370
1922		3,147	10,985	14,835					28,967	41,827	70,794
1923		4,802	7,531	18,896	\$15	\$168			31,403	42,284	74,687
1924		5,646	10,283	18,615	15	215			34,774	45,149	79,923
1925		6,489	12,634	22,511	15	230			41,879	46,830	88,509
1926		6,964	11,853	27,452	15	337			46,621	48,853	95,504
1927		7,761	14,971	26,976	16	810			50,034	61,738	111,772
1928		8,421	14,885	31,803	17	299	\$6,803		62,215	77,954	140,172
1929		9,529	14,954	41,509	16	279	8,234		74,521	85,236	159,757
1930		10,023	18,530	40,136	16	264	8,922	\$6,289	84,160	95,322	179,482
1931		10,161	19,919	19,859	16	241	12,522	7,590	70,308	106,166	176,474
1932		10,023	13,889	10,951	15	214	7,364	7,934	49,390	130,444	179,834
1933		9,444	9,882	4,948	13	184	8,606	11,080	39,156	141,627	180,683
1934	10,097	10,156	7,093	8,320	11	173	8,311	10,827	49,988	140,463	190,451

STATE AND LOCAL RELATIONSHIPS IN NEW YORK 31

* From Annual Report of the State Tax Commission, 1934, Table 5, pp. 82-87. ^b See Table 45, p. 251. ^c For details, see Table 44, p. 249

TABLE 7

RATIO OF SUBVENTIONS AND STATE-ADMINISTERED, LOCALLY SHARED TAXES TO LOCAL TAXES LOCALLY COLLECTED, 1900-1934^a

YEAR	Local Taxes Locally Collected (000)	Sub- ventions (000)	Ratio of Sub- ventions to Local Taxes	State- Admin- istered Locally Shared Taxes (000)	Ratio of Shared to Local Taxes	Ratio of Total Apportion- ments ^c to Local Taxes
1900.....	\$110,016	\$4,040	3.7	\$9,400	7.6	11.3
1901.....	118,750	4,093	3.4	8,200	6.9	10.3
1902.....	140,893	4,162	3.0	8,400	6.0	9.0
1903.....	148,975	4,574	3.1	8,815	6.0	9.1
1904.....	160,566	4,677	2.9	9,000	5.6	8.5
1905.....	169,388	5,117	3.0	9,100	5.4	8.4
1906.....	185,374	5,294	2.9	9,400	5.1	8.0
1907.....	209,639	5,603	2.7	9,600	4.6	7.2
1908.....	236,229	6,191	2.6	9,200	3.9	6.5
1909.....	.....	6,745	.....	5,100	.....	.....
1910.....	204,834	6,973	3.4	9,500	4.6	8.0
1911.....	243,767	7,178	2.9	8,997	3.6	6.5
1912.....	220,367	7,377	3.3	8,793	4.0	7.3
1913.....	274,538	7,544	2.7	8,771	3.2	5.9
1914.....	230,773	7,834	3.4	8,740	3.8	7.2
1915.....	248,093	8,113	3.3	8,594	3.5	6.8
1916.....	256,636	8,474	3.3	8,571	3.3	6.6
1917.....	281,177	9,736	3.5	10,309	3.7	7.2
1918.....	305,297	9,033	3.0	18,326	6.0	9.0
1919.....	321,187	9,850	3.1	25,035	7.8	10.9
1920.....	355,010	15,196	4.3	33,765	9.5	13.8
1921.....	417,067	27,489	9.0	24,881	5.4	17.4
1922.....	439,633	41,827	9.5	28,967	6.6	16.1
1923.....	470,030	43,284	9.2	31,403	6.7	15.9
1924.....	500,283	45,149	9.0	34,774	7.0	16.0
1925.....	534,906	46,630	8.7	41,879	7.8	16.5
1926.....	582,985	48,883	8.4	46,621	8.0	16.4
1927.....	639,673	61,738	9.7	50,634	7.8	17.5
1928.....	702,140	77,954	11.1	62,218	8.9	20.0
1929.....	745,798	85,236	11.4	74,521	10.0	21.4
1930.....	799,562	95,322	11.9	84,160	10.5	22.4
1931.....	824,302	106,166	12.9	70,308	8.5	21.4
1932.....	830,855	130,444	15.7	49,390	5.9	21.6
1933.....	735,124	141,527	19.3	39,156	5.3	24.6
1934.....	751,375	140,463	18.7	49,988	6.7	25.4

^a Compiled from Tables 6 and 45, pp. 31, 251. Local taxes include general property, poll, bank stock, mortgage, and moneyed capital.

^b Figures on property tax not available for this year.

^c Subventions and State-administered, locally shared taxes.

Highways.—Compared with the grants to education, participation by New York in the local highway program is, as in other states, a relatively recent venture. The first high point in the local road-building program participated in by the State arose out of the attempt to discourage the towns from using the "labor system" and to assist the counties in constructing improved highways. Following this move of 1898 was the authorization by constitutional amendment (1905) of a \$50,000,000 bond issue for highway purposes. The program called for the construction of 8,388 miles of improved roads to be developed as a joint project of the State and county. Plans were laid for a State highway system in 1908. The committee reporting on the subject suggested the construction of some 3,000 miles of trunk lines connecting the chief cities in the State.⁴⁷ This system has grown until it now represents almost

⁴⁷ Cf. *infra*, pp. 293-95.

17 per cent of the total mileage of all types of roads. In the same year the "labor system" was prohibited and State aid was increased to supply the new revenues needed in town budgets. The highway department was also created in 1908 to administer the new system and to supervise the work of town highway commissioners. Through the Lowman Act, passed in 1920, the State recognized the importance of encouraging the construction of roads by the counties. More recently, State funds traditionally apportioned to the towns for highway purposes are to be expended under county supervision.⁴⁸ In 1929 the State abandoned the policy of joint maintenance of the State and county system prevalent in 1905 and accepted full responsibility for the construction and maintenance of State and county highways.⁴⁹ The last major move on the part of the State occurred in 1930 when grants to towns were revised in accordance with the principle of equalization.⁵⁰

Welfare.—With the exception of providing institutional care for special classes of dependents⁵¹ and reimbursing the localities for the care of persons without an established residence,⁵² the State, until very recently, has followed the policy of making welfare activities local functions. The emphasis on local responsibility has been especially pronounced so far as matters of finance are concerned. On the other hand, the State has not hesitated to establish obligatory standards and to hold the localities to account for the resources employed. In 1867 a board of commissioners of public charities was created and clothed with authority to investigate the fiscal practices prevailing in all city and county almshouses.⁵³ The Constitution of 1894⁵⁴ made it mandatory on the Legislature to provide for visitation of all county and municipal charitable institutions by the State board of charities.⁵⁵ The duties mandated to the board under this provision were drawn so as to include the collection of information relative to receipts and expenditures, approval of fiscal policies, and the checking of all proposed building plans.⁵⁶ The policy of local support, so rigorously observed over a period of 270 years, was materially altered when the State undertook to reimburse the localities to the extent of one-half of the amount expended for the relief of the aged.⁵⁷

⁴⁸ Cf. *infra*, p. 297.

⁴⁹ *Laws*, c. 459.

tion.⁵⁰

⁵¹ Cf. *infra*, p. 296.

⁵² The institutions now under the department of social welfare are: State Training School for Girls, State Agricultural and Industrial School, Thomas Indian School, State Women's Relief Corps Home, Hospital for Treatment of Incipient Pulmonary Tuberculosis, New York Reconstruction Home, and the House of Refuge.

⁵³ Provision was first made for persons in this category in 1873 (*Laws*, c. 661).

⁵⁴ *Laws*, 1867, c. 951.

⁵⁵ Art. VIII, § 11.

⁵⁶ Created in 1867 (*Laws*, c. 951).

⁵⁷ *Ibid.*, 1896, c. 255, §§ 115-18.

⁵⁸ *Ibid.*, 1930, c. 387.

Over \$6,000,000 was appropriated for this purpose in 1934⁵⁸—an item larger than the grants for highway purposes in that same year. Further State participation in the financing of local welfare work may be expected as a result of the fiscal policies of the Federal government. For example, if New York is to participate in the Federal subsidies for aged persons, it must lower its age limit from 70 to 65 years—a move which would probably increase the State's contribution by \$1,000,000.⁵⁹ In order to take advantage of other grants made available by the Social Security Act, the governor in his message to the 1936 Legislature recommended that the State contribute one-sixth of the funds for grants to dependent children. The Federal government will also grant funds for assistance to the blind, and for maternal and child welfare activities, provided the State makes contributions and exercises the required amount of supervision. Executive recommendation including these two items has been presented for legislative action.⁶⁰

The special joint committee in its 1926 report pointed out how untoward events have frequently brought about important changes in governmental policy.⁶¹ The depression years 1930-34 might well be added to the list of contributing incidents. Prior to November 1, 1933, the State had never undertaken to assist those unable to find employment. Today the contributions made to the localities for this purpose (including Federal funds) amount to \$230,000,000.⁶² Some persons contend that the condition requiring these huge appropriations is only temporary and so it may be. It is, however, improbable that henceforth both State and local governments will be oblivious even to what is known as a normal labor reserve.

Protection and economic development.—Two of the most recent services participated in by the State and localities are protection and economic development. By legislative enactment in 1917 the department of State police was created to serve the governor, as well as other departments of State, and to cooperate with the localities.⁶³ In the same year an attempt was made to promote economic welfare through State assistance for approved farm bureau projects. This line of activity was further developed in 1929 when provision was made for the State to grant aid to counties engaging in approved reforestation ventures to the extent allowed by the conservation commissioner.⁶⁴ During the year 1930, \$48,832 was appropriated for this work.⁶⁵

⁵⁸ Cf. Table 44, p. 249.

⁵⁹ Governor Lehman's Message to the Legislature (*New York Times*, January 2, 1936). Since this paragraph was written the age limit has been lowered to 65 years (*Laws*, 1936, c. 693).

⁶⁰ Governor Lehman's Message, *loc. cit.*

⁶¹ *State Expenditures, Tax Burden, and Wealth*, p. 51.

⁶² Federal government, \$178,000,000; State, \$51,800,000; localities, \$83,000,000 (Governor's Message to the Legislature, January 1, 1936, *loc. cit.*).

⁶³ *Laws*, c. 161.

⁶⁴ *Ibid.*, c. 194.

⁶⁵ *Annual Report of the Comptroller*, 1930, p. 107.

STATE INTERFERENCE IN MUNICIPAL AFFAIRS

While it is the primary purpose of this report to deal with the fiscal aspects of State and local relationships, it is impossible to separate sharply fiscal problems from political antecedents. Certain trends in political action may well have repercussions on the fiscal system or may offer the only satisfactory explanation as to how the present system came into being. A period of twenty-five years following 1855 is marked by extensive legislative interference on the part of the State government in local affairs of municipalities, especially New York City. The fiscal significance of these acts grew out of the fact that appropriations were frequently determined by the Legislature quite independent of the wishes of the localities affected. Expenditures were made by those in no way responsible to the people whose funds were being appropriated. The extent of legislative interference associated with the period may readily be appreciated from a report on municipal government prepared by the Fassett Committee.

This [report] shows that within six years (1884-1889, inclusive) the legislature of New York passed 1284 acts relative to the thirty cities in the state. Of these, 390 acts affected the city of New York. In one year, viz., 1886, 280 of the 681 acts passed by the legislature, i.e., between one-third and one-half of its entire work, interfered directly with the affairs of some particular county, city, village, or town, specifically and expressly named.⁶⁶

It is difficult to lay to any particular cause or set of causes the responsibility for this period of interference. It seemed to grow out of the transitional stage through which the State was passing after 1850. During this period the urban population began to take precedence over those living in rural areas, and the value of manufactured articles surpassed the value of farm products. The general distrust held by the people of the rural region for those living in the city is probably not without weight as a contributing factor. City standards may have been very low,⁶⁷ thus making State intervention imperative; or again, it may have been that local interference was part of a political scheme to build up an organization designed to yield the maximum amount of patronage.

INCREASING IMPORTANCE OF ADMINISTRATIVE BRANCH OF STATE GOVERNMENT

Controls now exercised over the localities are gradually passing from the legislative to the executive branch of government. The power of the governor—so thoroughly curtailed under the Constitution of 1777—has again been restored to a position of major importance. A large portion of the funds of the government is

⁶⁶ Frank J. Goodnow, *Municipal Home Rule* (New York, 1895), pp. 23-24.

⁶⁷ For example, the Tweed Ring was active in the period 1860-71.

now expended, or the policy of expenditure is determined, by bureau and/or division heads who hold their positions through an appointment by the governor with the consent of the senate. Directness of control in some cases is even more remote than that; for instance, the head of the highway department holds office at the pleasure of the commissioner of public works, who receives his appointment from the hands of the governor and the senate. Two of the eighteen departments of State government had charge of the disbursement of \$152,985,000 in 1933—a sum representing 40.0 per cent of all net State expenditures. Of these two departments, one, the department of education, allocated 90.3 per cent of its expenditures to the localities for the support of common schools; the other, the department of public works, devoted 10.2 per cent to towns and counties for the maintenance of rural highways.⁶⁸ Out of the allocation of these funds has come the necessity of giving authority to these divisions to see that minimum requirements of the State are met before aid is granted. Power is given to determine eligibility requirements, the kinds of projects on which aid is to be expended, how the records are to be kept, the kinds of officers placed in charge of operations, and the type of reports submitted.⁶⁹ Similar grants of power to State health and welfare officials differ only as to degree of inclusiveness.⁷⁰

GROWTH OF STATE INTEREST IN RURAL AFFAIRS

The course of action set upon by the State in dealing with problems common to local governments indicates rather clearly a waning concern for the urban community. In lieu of this policy, problems associated with equalization of the tax burden, equalization of opportunity, and conservation of natural resources, have come to the fore. State administration of taxes and sharing of the proceeds with local subdivisions have altered materially the distribution of the tax burden. Equalization of educational opportunity became one of the chief objectives of the school program in 1926. In 1930 formulae grants were introduced in highway apportionments. The development of a comprehensive system of State parks, coupled with an aggressive policy of reforestation, has not been considered apart from its relation to the use of submarginal land for agricultural purposes. Evidences of withdrawal from minute regulation of municipal affairs are as equally clear as positive action relative to rural problems. Constitutional revisions have given the cities a relatively large measure of home rule.⁷¹

⁶⁸ Expenditures for Education, \$115,503,000 (*Annual Report of the Comptroller, 1933*, pp. 186-87); Public Works, \$37,482,000 (*ibid.*, pp. 230-31); total net expenditures of State government, \$343,624,000 (Table 3, pp. 15-16); State aid for schools, \$104,271,000 (Table 44, p. 249); State aid for highways, \$3,926,000 (*ibid.*).

⁶⁹ See *infra*, pp. 299-300.

⁷⁰ See *infra*, pp. 330-33, 359-61.

⁷¹ See *infra*, pp. 111-12.

New York City has been exempted generally from State health laws;⁷² New York City, Rochester, and Buffalo are excluded from the mandatory provision of municipal reporting;⁷³ and New York City's share of the gasoline tax is not earmarked for highway purposes but becomes a part of the general fund.⁷⁴ The approval by the appeals court of the emergency taxing power granted to New York City extends definitely the scope of municipal power to include the laying of excise levies.⁷⁵

Finally, recognition should be made of the growing affinity between the cities and the Federal government. Recent developments bringing out clearly these new bonds appeared when cities were seeking relief from excessive debt burdens through the Wagner Bill, the President's dependence on the mayors to aid in putting into operation the codes under the National Industrial Recovery Act, and the granting of loans and gifts for the development of emergency works projects. Also, Federal services and information with respect to airport administration, municipal finances, crime detection, fire control, public health, milk control, parks, specifications for purchasing, smoke abatement, library service, and water supply are becoming increasingly important factors in city operations.⁷⁶

3. Summary

Synthesizing these various periods into broad trends, one observes the passing of the State as an institution only remotely interested in local governmental affairs to one whose chief fiscal interest lies in problems traditionally of local concern. In 1934, 63.7 per cent of all State tax receipts were returned to the localities either as shared taxes or as subventions.⁷⁷ A broadening of the grants-in-aid program to include education, highways, health, welfare, conservation, and relief for the aged definitely marks the passing of the early apathetic attitude of the State toward the character of the service rendered by the minor divisions of government. In the fulfillment of its obligation to the local units, the State has been directing its chief interests to regions unable to provide the necessary governmental services without undue burden. At the same time through the extension of "home rule" prerogatives the urban community is given a wide measure of freedom in working out its own destiny.

⁷² Exempt from provisions of sanitary code (*Public Health Law, 1933, § 2-b*). The commissioner of health exercises no control over New York City (*ibid.*, § 4). Law relating to local boards of health is not applicable to New York City (*ibid.*, § 38).

⁷³ Cf. *Special Report of the Comptroller, 1933, p. ix*.

⁷⁴ *Tax Law, 1935, § 289-d (5)*.

⁷⁵ *New York Steam Corporation v. City of New York, 268 N. Y. 137 (1935)*.

⁷⁶ See Paul Bettera, *Federal Services to Municipal Governments* (New York, 1931).

⁷⁷ See Table 5, p. 22.

CHAPTER III

THE TOWN

Local government of the township-county type is indigenous to the Empire State. In fact the beginnings of town government antedate the emergence of the State by more than 150 years. Breucklyn (Brooklyn) was founded in 1623, the English established 5 towns between 1642 and 1656,¹ the Duke's Laws of 1665 mentioned 17 towns,² and when the State was redivided into counties in 1788, 120 towns were enumerated.³ Today there are 932⁴ all classified as municipal corporations, maintaining a roster of ten to fifteen thousand officials plus employees, and spending 3.4 per cent of the total disbursements made by all units of government including the State and city of New York.⁵

I. Colonial Town Government

The persistency of an established pattern coupled with the need for a governmental unit adapted to the exigencies of pioneer life caused town government to be well received in colonial America. It served the colonists well as a unit for the organization of common action. Protection from the Indians, a matter of first importance to the early settlers, was best provided by the formation of closely settled communities. Again, a rudimentary form of government was entirely adequate to meet the needs current in that day. They amounted to little more than registering the number and owners of the livestock turned over to the care of the "kew-keeper," accounting for the number of day's work due on the pasture fence, impounding and disposing of stray animals, and setting and enforcing the penalty for leaving the town gate open. In addition to these duties town government assumed responsibility for recording bills of sale, lands given out to allotment, town receipts and expenditures, provision for collection of the tithe promised the governor, regulations covering dealings with the Indians, holding sessions of court, awarding bounties, apportionment of labor on the roads, erection of houses for the entertainment of the young, contracts with the town drummer, and provision for the repair of the church.⁶

¹ Mespath (Newtown) 1642, Heemstede (Hempstead) 1644, Vlissingen (Flushing) 1645, Gravensande (Gravensend) 1645, and Rustdrop (Jamaica) 1656 (William C. Morey, *The Government of New York* [New York, 1902], p. 12).

² "Duke's Laws," *op. cit.*, p. 71.

³ *Laws*, 1788, c. 64.

⁴ The *Special Report of the Comptroller on Municipal Accounts* first shows 932 towns in 1918.

⁵ Cf. Table 3, pp. 15-16.

⁶ *Records of the Towns of North and South Hempstead, Long Island, New York* (Jamaica, N. Y., 1896), Vol. I, 1654-1685.

In the Dutch towns, administration of these enumerated responsibilities was divided between the towns and the district court. The latter agency, however, was more important since all matters relating to regulation of roads, construction of churches and establishment of schools were handled in a joint assemblage of all towns in the district. Local autonomy was further restricted in that all laws were subject to approval by the provincial government.⁷ The English towns, however, had more freedom. The local magistrates, together with the constables and clerk had authority to conduct their own affairs through the town meeting.

The fiscal aspects of local government and the relation between the central government and its subdivisions were indeed very elementary. Paying one's obligations to the local taxing unit amounted chiefly to working so many days per year on the roads, helping to repair the fence enclosing the common pasture, or hewing timbers for the construction of a bridge or school house. As late as 1710 the cash outlays made by the city of New York were only slightly in excess of \$1,300.⁸ It should be recalled that the Dutch colony derived the major part of its revenue from two sources—duties and excises. The localities, thus generally relieved of supporting the central government, were left free to work out their own fiscal problems.

With the capitulation of the Dutch in 1664 the English did not make any radical change in local government, but on the contrary took steps to fortify the position of the town. The functions remained about the same in that the inhabitants were to make the rates for the local church, maintain the minister, and support the poor. The number and names of the elected officials were changed—the magistrates of the English towns and the schout and schepens of the Dutch towns giving way to the constable and overseers.⁹

The inauguration of the Duke's Laws in 1665 marks the beginning of the town as an assessment unit. The constables and eight overseers were to assess the persons of each parish on a proportionate basis. The completed rolls were to be certified to the sessions and abatements made by the justices for those who could show that they had been overcharged.¹⁰ Besides the assessment of property, other characteristic features associated with town government of today were similarly established. Justice courts were set up to dispose of small civil cases;¹¹ the poor were to be looked after by two of the eight overseers;¹² bounties on wolves were offered;¹³ fence viewers were to be named by the constables and

⁷ John R. Brodhead, *History of the State of New York, First Period, 1609-1664* (New York, 1853), I, 580.

⁸ Edward D. Durand, *The Finances of New York City* (New York, 1898), p. 22.

⁹ "Duke's Laws," *op. cit.*, p. 55.

¹⁰ *Ibid.*, p. 14.

¹¹ *Ibid.*, pp. 7 and 88.

¹² *Ibid.*, p. 24.

¹³ *Ibid.*, p. 65.

overseers;¹⁴ and corrals were to be established for the impounding of stray animals.¹⁵

So far as supervision over the acts of the localities was concerned, the English period was one of relaxation and development of decentralization. The practices followed by the Dutch—central appointment of local officials, review of ordinances applicable to their own towns, and review of elected officials in the case of the English towns—were definitely abandoned. The localities were free to choose their own officials and to pass those ordinances deemed essential for the common good. The central government, however, reserved the right to remove any official from office who was guilty of neglecting his duties, or of committing a major misdemeanor.¹⁶

It was in 1691 that town government was established in a manner characteristic of the present day, namely, the township-county type of organization. This act provided

that there be elected and Chosen annually and once a Yeare in each respective Towne within this province; two freeholders who are hereby impowered to assess and establish a certain Rate upon each of the ffreeholders and inhabitants within their respective Townes which assessment or certaine rate shall upon a certaine day as the Inhabitants of the respective Townes shall appoint be delivered to a certaine freeholder which shall be likewise Chosen in each respective Town aforesaid to supervise and examine the publike and necessary charge of each respective County . . .¹⁷

This was a significant move toward autonomy for the local units. The work formerly performed by the justices of the peace (an officer of the central government), now began to pass over into the hands of functional officers locally elected.¹⁸

The town continued to carry on under the elected supervisors in about the same manner as under the overseers. New acts were passed giving legal clarity to practices followed by the town since early colonial days. The first was an act enabling the towns to regulate fences and highways. The electors were empowered to choose three surveyors of highways, whose orders with respect to local roads became binding when approved by the court of ses-

¹⁴ *Ibid.*, p. 21.

¹⁵ *Ibid.*, p. 59.

¹⁶ *Ibid.*, p. 55.

¹⁷ *Colonial Laws*, 1691, c. 6; cf. *ibid.*, 1703, c. 133, passed with the specific purpose of clarifying the legislative intent of 1691. A supervisor, two assessors, and one collector were specified to be chosen by the electors of the towns.

¹⁸ Justices of the peace under special acts of the Legislature continued to levy money for the repair and construction of jails and court houses until after 1750. The preamble to such an act in 1705 (*ibid.*, c. 129), superseded the provisions of the act of 1691 by stating that "notwithstanding the provision made for the defraying the respective Charge of each County . . ." the justices were to make the levy and order the collection of the tax.

sions.¹⁹ The elected freeholders in each town were to make provision for the maintenance and support of their respective poor.²⁰ While the justices of the peace of this time could not be strictly considered town officers, they were given the jurisdiction of town courts with authority to hear petty cases of debt and trespass.²¹ Questions arose about the authority of the towns to acquire real property for carrying out public purposes. Accordingly, in 1699 the trustees of each town were empowered to make a levy for church, town house, or jail, to be collected in the same manner as other public charges.²²

The adoption of the Constitution in 1777 made no attempt to alter the existing local governmental organization, but rather encouraged the continuance of the town and county, by providing that "the town clerks, supervisors, assessors, constables and collectors, and all other officers, heretofore eligible by the people, shall always continue to be so eligible, in the manner directed by present or future acts of the legislature."²³

2. Early Expansion of Town Government under the Constitution, 1788-1880

Social and economic conditions prevailing subsequent to 1788 were propitious for the expansion of town functions. This is evidenced both by an increase in numbers of towns and in the extent of governmental responsibility delegated to this unit by the central authorities.

In an act of 1788 dividing the counties into towns—a part of the reorganization procedure following the Revolutionary War—the citizens, when assembled in the capacity of a town meeting, were given authority to make rules and orders for improving the common lands, maintaining the fences, preventing animals from running at large, impounding stray animals, and to raise bounties for the destruction of predatory animals.²⁴ This legislative act did not involve any new duties in particular, but was merely a legal gesture carrying the old order over into a new era.

A significant responsibility was added, however, in 1795 when the town was designated as the unit to administer the funds set apart by the State for the support of common schools.²⁵ The major part of this duty was removed in 1812 by the creation of the district system.²⁶ After that time, with the exception of 1917, the towns have participated in the educational program only in an ancilliary fashion.²⁷

¹⁹ *Ibid.*, 1691, c. 3.

²⁰ *Ibid.*, c. 6.

²¹ *Ibid.*, c. 4.

²² *Ibid.*, 1699, c. 83.

²³ Constitution, XXIX.

²⁴ Laws, c. 64.

²⁵ *Ibid.*, 1795, c. 75.

²⁶ *Ibid.*, 1812, c. 242.

²⁷ Cf. *infra*, pp. 171-73.

After 1800, town authority was extended in several respects. The raising of funds for the prosecution of suits by the town was authorized in 1820;²⁸ lands could be accepted for cemetery purposes, and in certain instances quasi-public burial plots became the property of the town;²⁹ the \$250 per town allowed by law for roads and bridges might be increased to \$500 on action of the town meeting;³⁰ fire companies could be formed, each company being authorized to choose a captain and clerk and to draw up by-laws;³¹ boards of health were to be established in each town consisting of the supervisor, overseer of the poor, and the justices of the peace, with power to appoint a health officer and make rules indicating his duties and the scope of his authority.³² In 1869 towns were authorized to raise funds for the erection of public monuments,³³ and three years later authorization was given to levy taxes for building and maintaining a lock-up.³⁴

These authorizations just reviewed constituted the chief developments in town government during the period from 1691 to approximately 1880. The town had been empowered to assess taxes, acquire property, care for the poor, administer justice, build highways, and care for the public health. Its field of responsibility had been extended to cover virtually all functions characteristic of governmental action current at that time.

3. Recent Developments in Town Government

Fiscal data, legislative enactments, and general historical developments all shed some light on the place the town may eventually fill as a governmental unit. Some of these indices are definitely of a regressive character, others are indicative of an attempt to revise the administrative organization and enlarge the prerogatives of town government in such a way that it may meet problems associated with urban and semi-urban conditions. Among the factors indicative of decadence are: the change in the rate of growth of the town as compared with the newer units of government such as the city, village, and special district; and the transfer to other units of government, either in whole or in part, of numerous functions belonging traditionally to the town. This latter trend is clearly evident upon an examination of the legislation enacted in the nineties and the early part of the twentieth century, and fiscal data covering the past few years. Attempts to revitalize town government are reflected in enlargement of the powers of the town to include many services decidedly of a municipal character and a reorganization of the administrative machinery.

²⁸ *Laws* c. 193.

²⁹ *Ibid.*, 1826, c. 67.

³⁰ *Ibid.*, 1832, c. 274.

³¹ *Ibid.*, c. 222.

³² *Ibid.*, c. 333.

³³ *Ibid.*, c. 855.

³⁴ *Ibid.*, 1872, c. 513.

FACTORS INDICATIVE OF DECADENCE

As to the first point, the growth of the number of towns, one may say that this development reached its climax approximately in 1860. The legislative act of 1788 dividing the State into counties and towns made provision for 120 towns. From this relatively small beginning the number grew to 824 in 1840 and increased to 932 by 1918. On the other hand villages and cities have grown rapidly, and the special district for purposes other than educational development has had a phenomenal growth since its inception.⁵⁵

Unfortunately, fiscal data for New York towns are available only for the years subsequent to 1917. Though the period may be a short one, relative to the age of town government, it is important, nevertheless, for within the compass of these years expenditures have increased by more than 200 per cent.⁵⁶ Moreover, significant observations as to the present and future place of the town may be made when these expenditures are classified as to character and function, or compared with similar data for other governmental units.⁵⁷ From the standpoint of functional importance, highways heads the list of town activities,⁵⁸ followed by general government, protection and interest with approximately equal claim to fifth place by health and welfare.⁵⁹ Figure 5 indicates that practically all of the functions of town government have experienced a uniform rate of growth with the exception of a marked decline in outlays beginning in 1927 and an increase in welfare activities since 1930 and 1931.

Since outlays are largely expenditures for highways, an investigation of the causes of decline since 1927 may shed some light on the readjustment of functional responsibilities. Shortcomings of the town, so far as highway administration is concerned, have been felt ever since the adoption of the State Constitution. Towns were not meeting the needs for through means of transportation; accordingly, the State set about to construct certain trunk roads under the supervision of special commissioners. In 1838 the authority of the county board of supervisors was extended giving them power

to appoint special commissioners to lay out public highways in those cases where they shall be satisfied that the road applied for is important, and that the authority now conferred by law upon commissioners of highways, cannot or will not be exercised to accomplish the laying out of such road.⁶⁰

⁵⁵ Cf. Figure 1, p. 14.

⁵⁶ Cf. Table 8, pp. 44-45.

⁵⁷ Cf. Table 3, pp. 15-16.

⁵⁸ Approximately one-half or more of outlays are for highway purposes. Cf. Table 55, p. 288.

⁵⁹ Welfare work became the more important of the two and the second ranking function in 1932.

⁶⁰ Laws, 1838, c. 314.

TABLE 8
NET EXPENDITURES OF NEW YORK TOWNS FOR CURRENT PURPOSES AND OUTLAYS, 1918-1934^a
(Thousands)

PURPOSE	1918 ^b	1919 ^c	1920	1921	1922	1923	1924	1925	1926
General government.....	\$2,333	\$2,903	\$3,249	\$3,615	\$3,579	\$3,845	\$4,099	\$4,556	\$4,740
Protection.....	511	624	712	872	1,353	2,286	1,857	2,416	2,792
Health and sanitation.....	416	513	573	591	1,050	388	1,590	2,685	1,905
Highways.....	6,283	7,953	10,918	11,130	11,104	12,592	13,068	14,983	15,237
Charities.....	736	815	849	925	1,022	983	1,019	1,110	1,220
Education.....	61	68	110	127	145	132	141	144	146
Recreation.....	.....	.....	.....	.....	.....	.....	.....	.....	203
All other.....	328	159	122	200	352	153	358	255	78
Total maintenance.....	\$10,668	\$13,035	\$16,533	\$17,460	\$18,605	\$20,380	\$22,132	\$26,129	\$26,331
Outlays ^d	3,420	5,074	6,024	10,320	9,903	14,457	19,228	19,345	22,379
Interest.....	389	451	506	559	666	729	1,001	1,246	1,625
Total.....	\$14,477	\$18,560	\$23,063	\$28,339	\$29,174	\$35,566	\$42,361	\$45,720	\$50,325
Percentage Distribution									
General government.....	16.1	15.6	14.1	12.8	12.3	10.8	9.7	10.0	9.4
Protection.....	3.5	3.4	3.1	3.1	4.6	6.4	4.4	5.3	5.6
Health and sanitation.....	2.9	2.8	2.5	2.1	3.6	1.1	3.8	5.9	3.8
Highways.....	43.4	42.8	47.3	39.3	38.1	35.4	30.8	32.7	30.3
Charities.....	5.1	4.4	3.7	3.2	3.5	2.8	2.4	2.4	2.4
Education.....	.4	.4	.5	.4	.5	.4	.3	.3	.3
Recreation.....	.....	.....	.....	.....	.....	.....	.....	.....	.4
All other.....	2.3	.9	.5	.7	1.2	.4	.8	.6	.1
Total maintenance.....	73.7	70.3	71.7	61.6	63.8	57.3	52.2	57.2	52.3
Outlays.....	23.6	27.3	26.1	36.4	33.9	40.6	45.4	40.1	44.5
Interest.....	2.7	2.4	2.2	2.0	2.3	2.1	2.4	2.7	3.2
Total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

^a Data from *Special Reports of the Comptroller on Municipal Accounts*. Exclusive of public utilities.

^b 117 towns did not report.

^c 39 towns did not report.

^d Largely for highways.

TABLE 8—*Concluded*

PURPOSE	1927	1928	1929	1930	1931	1932	1933	1934
General government.....	\$5,173	\$5,774	\$6,331	\$6,524	\$6,598	\$6,506	\$6,402	\$6,433
Protection.....	3,312	4,201	4,276	5,403	5,664	3,980	3,559	3,569
Health and sanitation.....	749	832	1,811	2,223	2,662	1,804	1,848	1,592
Highways.....	16,805	17,446	19,606	19,404	21,676	18,633	17,024	17,162
Charities.....	1,377	1,495	1,806	2,186	2,854	4,933	7,817	9,575
Education.....	168	163	196	199	207	193	190	205
Recreation.....	267	268	597	336	616	440	394	438
All other.....	107	179	95	101	123	163	162	139
Total maintenance.....	\$37,937	\$30,358	\$34,718	\$36,376	\$40,430	\$36,642	\$37,396	\$39,113
Outlays ^d	30,271	23,681	22,424	14,643	12,202	6,294	3,292	3,443
Interest.....	2,080	2,920	3,230	3,423	3,189	4,006	4,291	4,182
Total.....	\$60,288	\$56,859	\$60,381	\$54,442	\$55,821	\$46,942	\$44,979	\$46,738
<i>Percentage Distribution</i>								
General government.....	8.6	10.1	10.5	12.0	11.8	13.9	14.2	13.8
Protection.....	5.5	7.4	7.1	9.9	10.2	8.5	7.9	7.7
Health and sanitation.....	1.2	1.5	3.0	4.1	4.8	3.8	4.1	3.4
Highways.....	27.9	30.7	32.5	35.6	38.8	39.7	37.8	36.7
Charities.....	2.2	2.6	3.0	4.0	5.1	10.5	17.4	20.5
Education.....	.3	.3	.3	.4	.4	.4	.4	.4
Recreation.....	.5	.5	1.0	.6	1.1	1.0	.9	.9
All other.....	.2	.3	.2	.2	.2	.3	.4	.3
Total maintenance.....	46.4	53.4	57.6	66.8	72.4	78.1	83.1	83.7
Outlays.....	50.2	41.5	37.1	26.9	21.9	13.4	7.3	7.4
Interest.....	3.4	5.1	5.3	6.3	5.7	8.5	9.6	8.9
Total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

^d Largely for highways.

TABLE 8
NET EXPENDITURES OF NEW YORK TOWNS FOR CURRENT PURPOSES AND OUTLAYS, 1918-1934 *
(Thousands)

PURPOSE	1918 †	1919 †	1920	1921	1922	1923	1924	1925	1926
General government.....	\$2,338	\$2,903	\$3,249	\$3,615	\$3,579	\$3,846	\$4,099	\$4,556	\$4,740
Protection.....	511	624	712	872	1,353	2,286	1,857	2,416	2,792
Health and sanitation.....	416	513	573	591	1,050	388	1,590	2,685	1,905
Highways.....	6,283	7,953	10,918	11,130	11,104	12,592	13,068	14,983	15,237
Charities.....	736	816	849	925	1,022	983	1,019	1,110	1,220
Education.....	61	68	110	127	145	132	141	144	146
Recreation.....	.....	.....	.....	.....	.....	.....	.....	.....	203
All other.....	328	189	122	200	352	163	358	255	73
Total maintenance.....	\$10,688	\$13,035	\$16,533	\$17,460	\$18,605	\$20,380	\$22,132	\$26,129	\$26,321
Outlays ‡.....	3,420	5,074	6,024	10,320	9,908	14,457	19,228	18,345	22,379
Interest.....	369	451	506	659	666	729	1,001	1,246	1,625
Total.....	\$14,477	\$18,560	\$23,068	\$28,339	\$29,174	\$35,566	\$42,361	\$45,720	\$50,325
<i>Percentage Distribution</i> †									
General government.....	16.1	15.6	14.1	12.8	12.3	10.8	9.7	10.0	9.4
Protection.....	3.5	3.4	3.1	3.1	4.6	6.4	4.4	5.3	5.6
Health and sanitation.....	2.9	2.8	2.5	2.1	3.6	1.1	3.8	5.9	3.8
Highways.....	43.4	42.8	47.3	39.3	38.1	35.4	30.8	32.7	30.3
Charities.....	5.1	4.4	3.7	3.2	3.5	2.8	2.4	2.4	2.4
Education.....	.4	.4	.5	.4	.5	.4	.3	.3	.3
Recreation.....	.....	.....	.....	.....	.....	.....	.....	.....	.4
All other.....	2.3	.9	.5	.7	1.2	.4	.8	.6	.1
Total maintenance.....	73.7	70.3	71.7	61.6	63.8	57.3	52.2	57.2	52.3
Outlays.....	23.6	27.3	26.1	36.4	33.9	40.6	45.4	40.1	44.5
Interest.....	2.7	2.4	2.2	2.0	2.3	2.1	2.4	2.7	3.2
Total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

* Data from *Special Reports of the Comptroller on Municipal Accounts*. Exclusive of public utilities.

† 117 towns did not report.

‡ 39 towns did not report.

§ Largely for highways.

TABLE 8—*Concluded*

PURPOSE	1927	1928	1929	1930	1931	1932	1933	1934
General government.....	\$5,173	\$5,774	\$6,331	\$6,524	\$6,598	\$6,506	\$6,402	\$6,433
Protection.....	3,312	4,201	4,276	5,403	5,694	3,980	3,559	3,569
Health and sanitation.....	749	832	1,811	2,223	2,662	1,804	1,848	1,592
Highways.....	16,806	17,446	19,606	19,404	21,676	18,633	17,024	17,162
Charities.....	1,337	1,465	1,806	2,186	2,854	4,933	7,817	9,575
Education.....	168	163	196	190	207	193	190	205
Recreation.....	287	268	597	336	616	440	394	438
All other.....	107	179	95	101	123	153	162	139
Total maintenance.....	\$27,937	\$30,358	\$34,718	\$36,376	\$40,430	\$36,642	\$37,396	\$39,113
Outlays ^a	30,271	23,581	22,424	14,643	12,202	6,294	8,292	3,443
Interest.....	2,080	2,920	3,239	3,423	3,189	4,006	4,291	4,182
Total.....	\$60,288	\$56,859	\$60,381	\$54,442	\$55,821	\$46,942	\$44,979	\$46,738
<i>Percentage Distribution</i>								
General government.....	8.6	10.1	10.5	12.0	11.8	13.9	14.2	13.8
Protection.....	5.5	7.4	7.1	9.9	10.2	8.5	7.9	7.7
Health and sanitation.....	1.2	1.5	3.0	4.1	4.8	3.8	4.1	3.4
Highways.....	27.9	30.7	32.5	35.6	38.8	39.7	37.8	36.7
Charities.....	2.2	2.6	3.0	4.0	5.1	10.5	17.4	20.5
Education.....	.3	.3	.3	.4	.4	.4	.4	.4
Recreation.....	.5	.5	1.0	.6	1.1	1.0	.9	.9
All other.....	.2	.3	.2	.2	.2	.3	.4	.3
Total maintenance.....	45.4	53.4	57.6	66.8	72.4	78.1	83.1	83.7
Outlays.....	50.2	41.5	37.1	26.9	21.9	13.4	7.3	7.4
Interest.....	3.4	5.1	5.3	6.3	5.7	8.5	9.6	8.9
Total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

^a Largely for highways.

years. For example, Table 9 indicates that the three towns of Nassau county spent \$1,506,146 for protection to persons and property. Of this amount only 6.8 per cent passed through the regular channels of town government; the remainder, \$1,403,597, was disbursed by either fire or water districts. Similarly, Suffolk county expended a total of \$859,729 and Westchester, \$1,133,117. In these two cases the amounts disbursed through the special districts were 81.7 and 69.2 per cent respectively.

TABLE 9
EXPENDITURES FOR PROTECTION BY SPECIAL DISTRICTS AND TOWNS IN THREE NEW YORK COUNTIES, 1930*

COUNTY	FIRE AND WATER DISTRICTS		TOWNS		Total
	Amount	Per Cent of Total	Amount	Per Cent of Total	
Nassau.....	\$1,403,597	93.2	\$102,549	6.8	\$1,506,146
Suffolk.....	702,745	81.7	156,984	18.3	859,729
Westchester.....	782,606	69.2	350,611	30.8	1,133,117
Total.....	\$2,888,948	82.6	\$610,144	17.4	\$3,498,992

* Data from *Special Report of the Comptroller on Municipal Accounts, 1930, Table 25, pp. 141 ff.*

Changes in the economic order making necessary the collection of revenue from sources other than tangible property are tending to diminish the importance of the town. Corporation taxes, personal income tax, mortgage tax, financial institutions tax and the license and tax on beer and wine are all State-administered taxes, a portion of which is returned for the support of town government. Viewed either from the standpoint of a disburser of public funds, or as a collector of revenue for itself and other units of government, all indications point to the declining significance of town government.

The most recent handwriting on the wall relative to the future of the town in New York State arises out of a constitutional amendment. Article III has been so modified that the two bulwarks of town government, namely, the elected supervisors and the prohibition on the transfer of functions implied from Article X, have been completely swept aside.

Any such form of government may provide for the appointment of any county officers or their selection by any method of nomination and election, or the abolition of their offices, and may also provide for the exercise by the board of supervisors or other elective body of powers of local legislation and administration and the transfer of any or all of the functions and duties of the county and the cities, towns, villages, districts and other units of government contained in such county

to each other or to the state, and for the abolition of offices, departments, agencies or units of government when all of their functions are so transferred without regard to the provisions of article ten or any other provisions of this constitution inconsistent herewith.⁴⁸

Not only have the traditional barriers to the reorganization of local governmental machinery been broken down, but the alternative forms of county government offered by the Legislature are of a character to enable this unit to become one of the most modern and efficient agencies for rendering governmental services. Should the opportunities now provided for reorganization be fully exploited, the shifting of functions from the town to the county should be greatly accelerated.

STEPS TAKEN TOWARD MODERNIZATION

Offsetting these numerous indices of decadence are the attempts to revitalize sufficiently the structure and organization of town government to enable it to serve the needs of urban areas lying outside incorporated places. The first authorization typical of this trend occurred in 1892 when the town board was permitted to establish lighting districts outside incorporated villages.⁴⁹ Inspection of Table 10 indicates that town functions are now sufficiently extended to embrace virtually every municipal function.

In addition to adding to the list of town prerogatives some effort has been made to improve its operating mechanisms. The Kirkland Law enacted in 1932, designating the supervisor and councilmen in towns of the first class, and the supervisor and justices of the peace in towns of the second class as members of the town board,⁵⁰ was an attempt to strengthen the extremely decentralized administrative organization of town government. The general tendency since its inception has been to increase the number of functional offices and to select the incumbents by ballot. The law of 1703 stipulated that the elected town officers were to consist of one supervisor, two assessors, and one collector.⁵¹ By 1801 the number had increased to one supervisor, one clerk, three to five assessors, one or more collectors, two overseers of the poor, three highway commissioners, as many constables, fence viewers, and pound masters as thought necessary and as many overseers of highways as there were road districts in the town.⁵² The additions that have been made since that time are the justices of the peace, made elective in 1829,⁵³ and the board of town auditors, in 1875.⁵⁴ The new

⁴⁸ Sec. 26 as amended November 5, 1935.

⁴⁹ *Laws*, c. 255.

⁵⁰ *Cahill's Supplement*, 1932, 63:60.

⁵¹ *Col. Laws*, c. 133.

⁵² *Laws*, c. 78.

⁵³ *Ibid.*, c. 356.

⁵⁴ *Ibid.*, c. 180. (Repealed in 1932, *ibid.*, c. 634.)

TABLE 10
THE HISTORICAL DEVELOPMENT OF TOWN FUNCTIONS, 1629-1936

YEAR	Assessment and Collection of Revenue	General Government	Protection to Persons and Property	Health and Sanitation
1647.....			Public pound provided. <i>L. of N. N.</i> , Jul. 1.	
1664.....			Fence viewers provided. <i>Ibid.</i> , Jan. 3.	
1665.....	Assessments to be made by constable and eight overseers. "Duke's Laws," p. 14. Abatements made by justices of the peace. <i>Ibid.</i> Collection of rates made by constable. <i>Ibid.</i> , p. 61.	Fees established for various town officers. "Duke's Laws," pp. 32-35.	Town courts allotted to each town. "Duke's Laws," pp. 7, 88. Bounty offered for wolves. <i>Ibid.</i> , p. 65. Minister or town clerk to record births, deaths and marriages. <i>Ibid.</i> , p. 19. Warehouse and arsenal to be maintained. <i>Ibid.</i> , p. 49.	
1683.....			Justice courts to meet once a month. <i>Col. L.</i> , c. 7.	
1691.....	Town collectors to be elected. <i>Col. L.</i> , c. 6. Two assessors to be elected in each town. <i>Ibid.</i> ; cf. 1703, c. 133.	Township-county type of organization established. <i>Col. L.</i> , c. 6.	Town to regulate fences. <i>Ibid.</i> , c. 3. Justice courts authorized to hear petty cases of debt and trespass. <i>Ibid.</i> , c. 4.	
1699.....		Authorized to acquire buildings for church, town house, and jail. <i>Ibid.</i> , c. 83.		
1778.....	Three to nine assessors to be elected. <i>Laws</i> , c. 8.			
1783.....			May regulate fences, impound animals, and provide bounties for predatory animals. C. 64.	
1801.....	Assessments to be reviewed by the assessors. C. 179.			
1820.....		Towns given power to institute suits. C. 193.		
1826.....				Authorized to hold title to burying grounds. C. 67.

Chapter references subsequent to 1778 are to *New York Laws*.

TABLE 10—Continued

YEAR	Assessment and Collection of Revenue	General Government	Protection to Persons and Property	Health and Sanitation
1820		Justices of the peace to be elected. C. 266.		
1832			Authorized to organize fire companies. C. 223.	Supervisor, overseer of poor and justices of peace constituted board of health in certain counties. C. 323.
1840		Supervisor, clerk and justices of peace constituted board of town auditors. C. 306.		
1847		Authorized to insure public buildings. C. 294. Permitted to vote sum for town house site and building. C. 197.		
1875		Three town auditors to be elected. C. 180.		
1885			Fire districts organized in certain towns. C. 283, §20.	Boards of health mandatory in all towns. C. 270.
1890		Town designated as municipal corporation. C. 569		
1892			Authorized to establish lighting districts outside of incorporated villages. C. 255.	May establish free public bath. C. 473.
1894				Certain towns may provide for destruction of garbage. C. 666. May contract for the purification of water and sewerage. C. 667. May construct sewer systems. C. 545.
1895				
1896			Water supply districts established. C. 678.	
1898			Authorized to purchase water works. C. 554.	
1901				Authorized to establish sewer districts. C. 348.
1910				May establish public general hospital. C. 558, § 126.
1911		Annual reports to Comptroller required of all towns. C. 544.		

TABLE 10 — *Continued*

YEAR	Assessment and Collection of Revenue	General Government	Protection to Persons and Property	Health and Sanitation
1918.....			May borrow money for expenses to suppress forest fires. C. 571.	
1916.....				May employ a town physician. C. 413.
1917.....			May provide arms for military organizations. C. 285.	
1919.....	May employ appraisal experts to assist assessors. C. 450, 49.			
1920.....			Certain town boards given power to adopt a building code. C. 263, § 141-a. May establish police districts. C. 233.	
1921.....				May appropriate money for prenatal care. C. 420.
1922.....			May provide lighting for highways and bridges. C. 65. May make appropriations to construct coping towers. C. 141.	
1923.....				May employ a veterinarian. C. 652. May regulate slaughter houses. C. 554. Authorized to purchase site for erection of State or U. S. hospital. C. 537. May establish public rest and comfort stations. C. 193.
1925.....				Certain towns may establish ashes and garbage removal districts. C. 476.
1926.....		May employ an auditor to audit the accounts. C. 451.	May establish fire alarm districts. C. 275.	May regulate height of buildings. C. 715.
1928.....			May establish and maintain a police force. C. 501. May raise money for expenses of policemen in attendance at training school. C. 538.	

Chapter references are to *New York Laws*

TABLE 10 — Continued

YEAR	Assessment and Collection of Revenue	General Government	Protection to Persons and Property	Health and Sanitation
1920.....				May regulate restaurants. C. 496. May adopt a sanitary code. C. 632. May adopt a plumbing code. C. 375. May establish incinerator districts in certain towns. C. 222.
1921.....				All towns may establish ash and garbage removal districts. C. 686.
1927.....		Towns classified. Board composed of supervisor and councilmen in first class towns. C. 624, §§ 10, 60.	Fire protection districts authorized. C. 624.	
1933.....		Certain towns authorized to support the association of towns to promote greater economy and efficiency in government. C. 412.		
1935.....			May raise money to defray expense of firemen in attendance at training school. C. 821	

TABLE 10—Continued

YEAR	Economic Development	Transport Facilities	Charities and Corrections	Education and Recreation
1620				Colonists required by some means to support a minister and schoolmaster. <i>L. of N. N.</i> , June 7, Art. 27.
1661			Magistrates to name two persons to go among congregation on Sunday and collect alms for poor. <i>L. of N. N.</i> , Oct. 23.	
1665			Provision for support of poor, church and minister to be looked after by two of the overseers. "Duke's Laws," p. 24.	
1673		Sheriff and schepens authorized to lay out highways. <i>L. of N. N.</i> , Oct. 1, Art. 9.		Authorized sheriff and schepens to erect school houses. <i>Ibid.</i> , Oct. 1, Art. 9.
1683			Provision for direct levy for support of poor. <i>Cal. L.</i> , c. 8.	
1691		Towns to regulate fences and highways. <i>Cal. L.</i> , c. 3. Authorized to elect three surveyors of highways. All acts to be approved by court. <i>Ibid.</i> , c. 3.	Each town, precinct, and parish to make provision for care of its own poor. <i>Ibid.</i> , c. 6.	
1785				Eighty acres out of each township set aside for benefit of schools. C. 66.
1788	Power to make rules for improving common lands. C. 64.	Each town empowered to choose three highway commissioners. C. 64, p. 762.	Two overseers of poor to be elected in all towns. C. 64, p. 762. Each town to support and maintain its own poor. C. 62.	
1795				Town designated as unit to administer common school fund. C. 75.
1801		Established as unit of highway administration, C. 78. Commissioners instructed to have milestones erected on post roads. C. 186, § 24.	Overseer of poor authorized to construct house of industry. C. 184, § 27.	

Chapter references subsequent to 1778 are to *New York Laws*.

TABLE 10—Continued

YEAR	Economic Development	Transport Facilities	Charities and Corrections	Education and Recreation
1806.....	Special taxes assessed to aid in purchase of Merino sheep. C. 187.			
1812.....				Town commissioners to examine teachers and divide town into school districts. C. 242, §§ 9, 10.
1822.....		Maximum expenditure of \$250 for town roads could be increased to \$500 by referendum. C. 274.		
1843.....			Certain counties permitted to restore distinction between town and county poor. C. 208.	Town superintendent to handle school moneys, examine candidates, and inspect schools. C. 133.
1849.....		Authorized to borrow money on approval of county board for roads and bridges. C. 194.		
1869.....	Certain towns authorized to invest funds in railroad securities. C. 907.			Authorized to raise funds to erect monuments. C. 855.
1872.....				Towns permitted to establish and maintain free public libraries. C. 458.
1880.....		Commissioner may authorize expenditures for sidewalks in unincorporated villages. C. 305.		
1890.....		Labor tax abandoned and money system used for repair of highways. C. 568, § 53.		Permitted to raise money for observance of Decoration Day. C. 223.
1895.....		Made responsible for construction and care of bridges. C. 418.	Authorized to pay money to charitable institutions for care, support, and maintenance. C. 754.	
1898.....		State aid received for highways. C. 251. Primary roads constructed at joint expense of town, county and State. C. 115. Town may be divided into three highway commissioner districts. C. 127.		

roster of town officials as provided in the law of 1932 has not materially reduced the number to be selected by popular vote. Towns of the first class are to elect one or more supervisors, four councilmen, the town clerk, two justices of the peace, a superintendent of highways, and a receiver of taxes and assessments. Towns of the second class are to elect one supervisor, four justices of the peace, a clerk, a superintendent of highways, one or three assessors, and one collector.⁵⁵ In addition to the regular town officers all of the commissioners and treasurer of fire districts are to be popularly elected,⁵⁶ and districts established prior to the enactment of the Kirkland Bill may, by referendum, continue to elect three district commissioners.⁵⁷

The law has, however, concentrated responsibility in the hands of the town board as is evidenced by the abolition of all former commissions except those in fire, joint water,⁵⁸ and other districts electing to operate under Article XIII of the Town Law. This tendency is further indicated in that the offices of the clerk, superintendent of highways,⁵⁹ and assessor⁶⁰ may be filled by appointment. Figure 6 sets forth the main features of the administrative organization now provided in first- and second-class towns. The chart also names the principal officers, indicates their method of selection, and whether filing the office is mandatory or optional. All *ex officio* relationships are also designated.

Though there has been a concentration of responsibility in the hands of the town board, as shown in Figure 6, it should also be pointed out that to an increasing extent, final authority has been placed in the hands of the voters. Some of the acts specifically calling for referendum action are the filling of the office of town clerk by appointment,⁶¹ appointment of superintendent of highways,⁶² establishment of general improvements,⁶³ collection and dis-

⁵⁵ *Caill's Supplement*, 1935, 63:20.

⁵⁶ *Ibid.*, 63:174.

⁵⁷ *Ibid.*, 63:341 (10).

⁵⁸ *Ibid.*, 63:61.

⁵⁹ *Ibid.*, 63:20-6a and 6b.

⁶⁰ *Ibid.*, 63:21. The beginning of this type of legislation occurred in 1925 (*Loose*, c. 478) when a singly appointed assessor could serve in place of the three elected officials as provided by law. Similarly, in 1908 (*ibid.*, c. 330, § 41) an act was passed requiring the officers of the town, on petition, to submit to vote the question whether the highway commissioner should be appointed or elected. If the vote was favorable to appointment then the office was to be filled by the town board. In 1921 the office of superintendent of highways could be filled by appointment by unanimous action of the town board (*ibid.*, c. 231). The law of 1932 provided that in any town, on resolution of the town board and referendum of the voters, the town board may appoint the superintendent of highways (*ibid.*, c. 634, § 341 [3]). The most recent change in this direction occurred in 1929 when the office of the overseer of poor was abolished and an appointive welfare officer substituted (*ibid.*, c. 565, § 10).

⁶¹ *Caill's Supplement*, 1935, 63:341 (2).

⁶² *Ibid.*, 63:341 (3).

⁶³ *Ibid.*, 63:220.

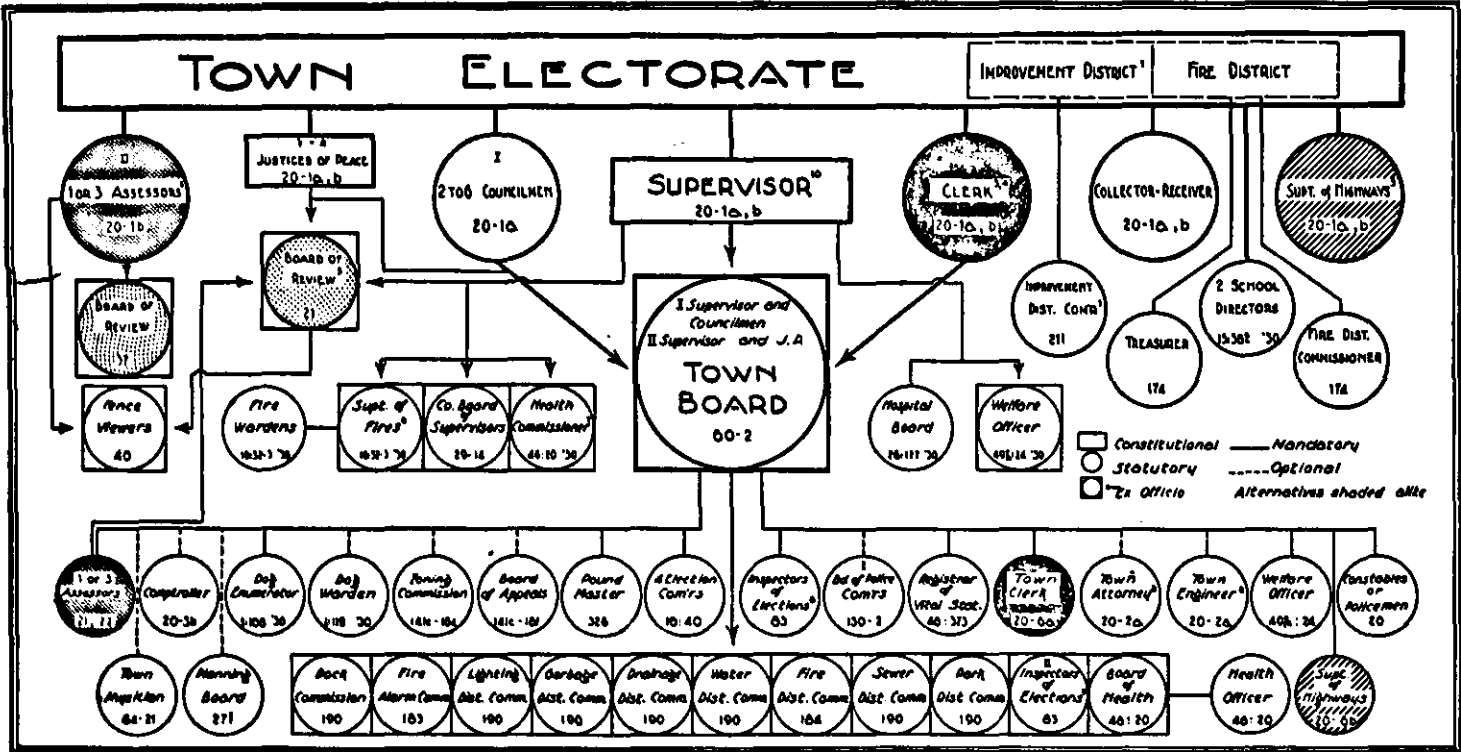


FIG. 6—ADMINISTRATIVE ORGANIZATION OF TOWN GOVERNMENT IN NEW YORK, 1935

Chart applicable to towns of both classes except in cases marked by I or II. Citations refer to sections of *Challin's Supplement*, 1935, c. 63 unless otherwise indicated. ¹ Applicable to districts created pursuant to *Laws*, 1917, c. 428 and *ibid.*, 1926, c. 555, and certain districts which elected prior to June 29, 1933 to operate under *Town Law*, 1932, Art. 13. ² On referendum, assessors in towns of second class may be appointed. ³ May be appointed. ⁴ In towns of second class, clerk may act as receiver of taxes (36). ⁵ In towns having one assessor, the supervisor, one justice of the peace, and assessor constitute the board of review. ⁶ In towns other than fire towns. ⁷ If town is a part of consolidated health district. ⁸ Appointed in certain first-class towns and in second-class towns which have adopted the budget system (2012, 83). ⁹ For special elections in certain towns of second class. ¹⁰ This office may now be abolished under amendment to the Constitution, Art. III, adopted November, 1935.

posal of garbage in certain towns,⁶⁴ zoning and planning in certain towns,⁶⁵ and changing the number and method of selecting assessors.⁶⁶

Without disparaging in any way the attempts that have been made to improve the machinery of town government, the probability of rejuvenating this unit sufficiently to make it serve a dynamic society appears to be very remote. In the first place, its boundaries, in the majority of instances, violate natural communities of interest. Witness the fact that fifty-four villages of the State are cut by township lines.⁶⁷ It is ill-adapted to perform most of the important services mandated to it, regardless of the potential effectiveness of the administrative machinery. The number of miles of road to maintain are too few to support a full complement of highway officers and to utilize fully the necessary mechanical equipment. Community needs for water, light, and sewer services are more conveniently supplied by special districts. Outside urban communities, scarcely any phase of revenue administration can economically be delegated to an area as small as a town. Health and welfare services are State-wide in their implications and in most instances a town could not economically maintain the staff and institutional facilities essential to their execution. Town government is an anachronism. The type of services required at the time of its inception is no longer demanded; the needs of the day call for a different instrumentality.

4. Town Relationships with Other Units

Any description of town government failing to accord some consideration to the fiscal relationship of this unit with other local governments and the State would indeed be incomplete. With the growth of cities and villages it was necessary to devise arrangements whereby problems common to adjacent urban and rural areas could be resolved. Assumption by the county of a growing proportion of the responsibility for public highways, health, education, and welfare has carried with it a greater measure of supervision over town accounts, reports, and personnel. And, in addition to these more recent adjustments, there still remain those inter-relationships evolved when the town was the principal unit of local government. Such functions as the town performs relative to the public school system are characteristic of this era. State limitations on town expenditures have virtually existed since the time of the first Constitution. As the fiscal relationships have become more complex under a system of grants-in-aid and shared revenues, the devices for regulation have likewise been modified and extended.

⁶⁴ *Ibid.*, 63:221.

⁶⁵ *Ibid.*, 63:260.

⁶⁶ *Ibid.*, 63:21-22.

⁶⁷ Cf. Table 22, pp. 140-41.

The first restrictions imposed on the towns by the State dealt with expenditure limits. In 1801 the maximum amount the supervisors were allowed to levy on any one town for highway purposes was \$250.⁶⁸ This provision prevailed until 1832 when the voters of the town were permitted to authorize an expenditure in excess of the stipulated amount.⁶⁹ Also in purchasing of town meeting houses maximum limits were established at \$2.00 per town elector.⁷⁰ The extensive activities of the towns in granting aid to corporations was definitely closed when an amendment to the Constitution was passed in 1874 prohibiting the investment of public funds in the stocks of a private enterprise.⁷¹ By 1880 the State board of health began to make its influence effective in local health administration.⁷² The tax commission was established in 1896 and charged with the responsibility of furnishing local assessors with information, determining whether they were performing their functions in an efficient manner, and making such rules and regulations as might be necessary to achieve uniformity in assessment procedure.⁷³ In 1904 the State engineer was authorized to withhold aid from the towns for highways when the local administrative organization did not conform to requirements of the central government.⁷⁴ Shortly after the establishment of the State highway department in 1909, the State commission could initiate removal action against a town superintendent through the town board.⁷⁵ In 1921 the action could be taken directly by the State.⁷⁶ In 1905, the responsibility for developing a complete system of reporting and standardization of accounts was placed upon the comptroller,⁷⁷ and reports from all towns were made mandatory in 1911.⁷⁸ Further controls have been suggested, such as, the establishment of a local governmental board with power to prescribe budget and accounting systems, provide for audits, approve bond issues, scrutinize overlapping debt structures, and approve tax rates.⁷⁹

The town is more closely associated with the county than any other unit of local government. There is scarcely a type of activity not related to the county or subject in some manner to the scrutiny of this agency. The extent of county participation in town highway matters may be cited as a case in point. The county may take over town bridges, town purchases of tools in excess

⁶⁸ *Laws*, c. 186, § 24.

⁶⁹ An additional \$250 could be raised if deemed necessary (*ibid.*, 1832, c. 274).

⁷⁰ *Ibid.*, 1847, c. 197.

⁷¹ Art. VIII, § 11, as amended November 3, 1874.

⁷² Cf. *infra*, p. 357.

⁷³ *Laws*, 1896, c. 908, §§ 170-71.

⁷⁴ *Ibid.*, c. 609, § 55-d.

⁷⁵ *Laws*, c. 30, § 46; cf. *infra*, p. 300.

⁷⁶ *Laws*, c. 404.

⁷⁷ *Ibid.*, c. 705.

⁷⁸ *Ibid.*, c. 544.

⁷⁹ *Report of the New York State Commission for the Revision of Tax Laws*, Legislative Document No. 77 (1932), pp. 12-13.

of \$500 must be approved by the county superintendent of highways, the town highway commissioner is subject to supervision by the county highway superintendent, and the town and the county may undertake jointly to construct and maintain roads.⁶⁰

In the field of public welfare, relationships similar in character are found to prevail. The county board of health may require local boards to perform their duties, the supervisors may charge back to the towns relief administered by the county; welfare officers must report to the county commissioners, or the county may assume entirely welfare duties normally allocated to the towns.⁶¹ The county board of supervisors, subject to State approval, has authority to establish county health districts to take over town health functions.⁶²

The relationships arising between the town and the county relative to revenue administration are the oldest and also probably the most important. The town has always been the chief administrative agent responsible for the assessment and collection of the property tax—a substantial source of county revenue. More recently the county has been given jurisdiction over the mortgage recording tax, a portion of which is shared with the town.⁶³ When local assessors fail to hear aggrieved taxpayers, the duty devolves upon the county.⁶⁴ The county is also charged with the equalization of valuations between the various towns.⁶⁵ The county collects a large percentage of the property tax levied against utility companies,⁶⁶ and all warrants returned by the town collector as uncollectible are placed in the hands of the county treasurer.⁶⁷ Annual reports on indebtedness as compiled by the town supervisors are to be submitted to the county board.⁶⁸

The fact that the supervisors of towns constitute the personnel of the county board is not without significance in a discussion of town-county relationships. The board may be more accurately described as an assemblage of town representatives rather than a policy-determining body with a county-wide point of view. Plans of highway construction, problems of relief, educational programs, and other matters of legislative concern are generally conceived in the minds of county board members in terms of the towns which they represent. A recent commission in commenting on the administration of county business described the supervisor as "primarily a town official and only secondarily a county official."⁶⁹

⁶⁰ Cf. *infra*, pp. 300 ff. for a more detailed discussion of town and county highway relationships.

⁶¹ Cf. *infra*, p. 354.

⁶² *Cahill's Consolidated Laws*, 1930, 46:20-b.

⁶³ *Tax Law*, 1935, §§ 257, 261.

⁶⁴ *Ibid.*, § 31.

⁶⁵ *Ibid.*, § 50.

⁶⁶ *Ibid.*, § 73.

⁶⁷ *Ibid.*, § 82.

⁶⁸ *Cahill's Supplement*, 1935, 63:29 (5).

⁶⁹ *Reorganization of Local Government in New York State* (1935), p. 69.

A rather extended body of laws evidence the common interests drawing village communities and their environs into joint undertakings.⁹⁰ Town officers also perform a number of duties relative to school matters. The clerk handles certain records; the supervisor disburses school moneys and manages school properties; and the tax received collects school taxes in all first-class towns. The town board appoints an attendance officer, and the electorate chooses two school directors for the purpose of naming a district superintendent.⁹¹

5. Summary

The failure of institutions to keep pace with economic and social developments is nowhere more clearly exemplified than in the history of town government. Save for the minor alterations introduced or made possible by the Kirkland Law,⁹² the same administrative organization established to handle problems pertaining to the impounding of stray animals, enforcing the penalty for leaving the town gate open, or assessing a labor tax for the church or local road is attempting to meet the problems incident to a highly industrialized and preponderantly urbanized society.⁹³

Prior to the approval of the amendment of Article III of the Constitution in November, 1935, the limits within which town government could be modified were indeed narrow. The office of the supervisor was inviolate, not only in that it carried a constitutional status, but that the commonly associated duties could not be abrogated. Functions could be abolished in entirety but any attempt to transfer the work to another unit was almost certain to meet with disapproval by the courts.⁹⁴ However fixed the structural aspects of town government have been, the demands for new and expanded services have been growing continuously. Numerous functions essentially municipal in character have been added—the establishment of incinerator plants, construction of landing fields, provision of parks and recreational facilities, and zoning of semi-urbanized areas. The expansion of the older functions of government has been sufficiently great to create an entirely new set

⁹⁰ See *infra*, p. 127.

⁹¹ Cf. *infra*, pp. 172-73.

⁹² Cf. *supra*, pp. 49, 57 ff.

⁹³ The responsibility for the superficiality of the Kirkland Bill must, in part, be charged to its sponsors. In reviewing its own work the committee pointed out that it "has cautiously avoided drastic changes or unusual innovations in local government. It has sought to amplify the powers of self-government of the towns without imposing additional expenses or increasing the tax burden. It has centralized in the town board powers previously scattered elsewhere and thus fixed the responsibility for local government in those directly responsible to the electorate. It has consistently assumed that local bodies can best govern themselves if given the proper means of self-government. It has preserved the democracy of the oldest form of government in this State and, at all times, aimed to be helpful to it" (*Report of the Joint Legislative Committee to Recodify the Town Law*, Legislative Document No. 91 [1932], p. 40).

⁹⁴ *Reorganization of Local Government in New York State* (1935), pp. 126 ff.

of problems incident to their administration and finance. Consider the construction of highways as a case in point. The demand for highways suitable for motorized traffic has introduced engineering problems relative to structural strength, durability, and suitability for varying types of traffic. Borrowing of capital must be resorted to with its problems of interest rates, margins of safety, and provisions for retirement. Under these conditions the matter of highway construction becomes so vastly different from that associated with clearing a roadway or constructing a few plank culverts that such relationships as exist are indeed remote.

The inappropriateness of the town organization to administer many of these newer functions, coupled with its inability to finance the expansion of highway, health and welfare activities, has resulted in the creation of numerous special-purpose districts and in the partial transfer of many functions to governments with wider jurisdiction and greater taxable resources. Special districts, unknown before 1880 (except road and school districts), numbered 2,564⁶⁶ in 1934. Fire protection districts were formed first, followed by lighting, highway, garbage, water supply, sewage, river improvement, health, sidewalk, river regulation, park, and others.⁶⁷ In the counties of Nassau, Suffolk, and Westchester, 82.6 per cent of all town expenditures for protection in 1930 were made through special districts.⁶⁷

A transfer of traditional town functions to other governments has been progressing steadily during recent years. At one time the town collected a share of the State revenue, estimated property valuations on which the villages, school districts, and other *ad hoc* agencies extended their tax levies, was the sole agency responsible for the construction and maintenance of highways, made provision for care of the needy, and protected the health of the community. This situation has, however, been materially altered. Through revision of the revenue program of the State, the town now does not generally supply the State with revenue, but on the contrary, the State provides the town with approximately one-fourth of all the revenue it expends. Since 1893 the county has actively participated in the building of highways, to be followed in a few years by the State, leaving to the town only the third-class roads. Other functions such as care of the needy and support of the indigent are gradually passing out of the hands of the town to other units possessing instrumentalities commensurate with the requirements of modern needs.

⁶⁶ *Annual Report of the State Tax Commission, 1934, p. 316.*

⁶⁷ *Cf. infra, p. 130.*

⁶⁷ See Table 9, p. 48.

CHAPTER IV

THE COUNTY

1. Its Beginnings and Fiscal Importance

The twelve rudimentary counties established in 1683 were patterned after two old world institutions—the patroon of Holland and the shire of England. After the Norman conquest in England the county sank from the position of a near autonomous unit to that of an administrative subdivision of the central government.¹ It was with this status that it was introduced into America and present day New York. In no sense of the word were counties designed to function as local governmental units, but rather as administrative districts of the State. The Duke of York's Laws, promulgated in 1665, divided the province into three ridings for the purpose of administering justice,² and to provide a unifying element between local governments and the central authority. That the county was originally an administrative district of the central government is furthermore evident from the fact that until 1821 the principal officers held their appointment directly from the governor.³

Through legislative action in 1691 and 1703, the foundation was laid for the development of a governmental structure designed to serve in the satisfaction of local and quasi-private needs, as well as an agency of the State government. Two freeholders were to be elected in each town with power to assess property and establish a rate. These elected officials from the towns, when meeting as a body, were to make the levy and turn their warrants over to the constables for execution. They were also authorized to appoint a treasurer to act as custodian of the county funds.⁴

The plan of government set forth in the first Constitution of the State made provision for the continuation of county units. "It shall be in the power of the future legislatures of this state, . . . to divide the same into such further and other counties and districts, as shall to them appear necessary."⁵ County government, thus recognized by the first Constitution, has been more firmly established as subsequent alterations in the basic law of the State have been made.

Today there are fifty-seven counties (outside Greater New York), each having the status of a municipal corporation and

¹ John A. Fairlie and Charles M. Kneier, *County Government and Administration* (New York, 1930), p. 39.

² "Duke's Laws", *op. cit.*, p. 27.

³ *Ibid.*, pp. 63, 55. Sheriff became elective through provisions of the Constitution of 1821 (Art. IV, § 8), and the justices by an amendment in 1828.

⁴ *Colonial Laws*, 1691, c. 6; cf. *ibid.*, 1703, c. 133.

⁵ *Constitution*, 1777, Art. XII.

carrying its full quota of officials and employees. Not only has this unit grown in numbers but also in the extent of functions performed. The expenditures of county government have increased from approximately five and one-half million dollars in 1870⁶ to one hundred thirteen million dollars in 1934⁷—an increase of 1,920 per cent. Even with expenditures of this proportion the county belongs in the category of lesser governments. The net cost payments of 1934 represent only 8.2 per cent of the total cost payments made by all units.⁸ The county is, however, increasing in importance as is shown by comparing the relative proportion of public funds disbursed through its channels in 1934 with that of a decade ago. In 1920, 5.1 per cent of the total net expenditures made by all units were county items; in 1934, it was 8 per cent.⁹ Excepting for the years 1933 and 1934, this increase has apparently been due to highways and interest charges, both of which have almost doubled in importance in the county budget between 1920 and 1930.¹⁰

2. Development through the Colonial and Constitutional Periods

In order to set forth the development of county government from colonial times to the present it appears desirable to divide the treatment into two parts; first, alterations in the form of administrative organization; second, the changing character of functions added to the list of county prerogatives.

CHANGES IN ADMINISTRATIVE ORGANIZATION

Prior to the enactment of the supervisorial law in 1691 all judicial and administrative functions performed by the county were executed by the justice of the peace and the sheriff, both of whom received their appointment directly from the governor. After the creation of an elective county board approximately ninety years elapsed before the administrative duties formerly performed by the justices were completely transferred to these new officers. This retarded transfer was probably due in part to the fact that the law of 1691 was not well understood, and because the administration of justice and county affairs had traditionally rested in the hands of the justices of the peace. Even after the adoption of the elective board many of the county grants of authority issued during the early part of the eighteenth century specifically named the justices as the officers responsible for the execution of the act. This was particularly true with respect to the construction of

⁶ See Table 12, p. 82.

⁷ See Table 14, pp. 84-85.

⁸ See Table 3, pp. 15-16.

⁹ *Ibid.*

¹⁰ See Table 14, pp. 84-85.

jails, courthouses, and the payment of bounties for the destruction of animal pests.¹¹

From the text of the laws enacted after 1777 it was obvious that the transfer of authority was virtually completed.¹² The panel of county officers was quite modern, consisting of a board of supervisors, sheriff, coroner, county judge, justice of the peace, county treasurer, loan officer and clerk of the board of supervisors.¹³ After 156 years the list of county officials has not been basically changed. The loan officer has been displaced and nine others have been added.¹⁴

A board of supervisors, established originally to audit town accounts and levy a county rate adequate to cover the cost of operating the courts and jail, finds itself in an anomalous situation when county activities come to include the operation of laboratories, hospitals, libraries, water works, and the construction and maintenance of highways. Figure 7, showing the relationship between the supervisors and the special purpose boards and officers, reflects clearly the result of expanding county functions. The inability of a board composed of town representatives, meeting only periodically, to administer a "service" government has led to the creation of numerous *ad hoc* boards and officers. The board of managers for the county hospital, county park commission, board of managers of the county laboratory, library board, county water authority, sanitary sewer commission, and county board of health are all products of this situation. Even the officers named by the boards are sometimes placed under the direction of some quasi-independent policy-determining agency. For example, the county nurse works under the direction of a committee composed of two physicians, two members of the county board, and one or more persons representing some organization interested in public health nursing.¹⁵ Another instance of super-

¹¹ At the time the supervisorial system was instituted the justices of the peace were made responsible for the payment of wolf bounties (*Colonial Laws*, 1691, c. 19). They were also to build and repair jails and courthouses (*ibid.*, 1719, c. 373). At the general sessions they could issue their warrants to the collectors, high constables, or other officer whom they thought could most conveniently make the collections (*ibid.*). As late as 1732, in Ulster county, the justices were authorized to build a courthouse and jail (*ibid.*, c. 589). Other typical acts are *ibid.*, 1701, c. 101; 1704, c. 144; and 1705, c. 147.

¹² Supervisors were named the executive for payment of wolf bounties (*Laws*, 1790, c. 45), acceptance of land conveyance for county purposes (*ibid.*, 1799, c. 18), repair of courthouse and jail to the extent of \$500 (*ibid.*, 1800, c. 9), providing a standard of measure at county expense (*ibid.*, 1808, c. 217), correction of property values as assessed between the various towns (*ibid.*, 1816, c. 204), raising funds for instruction of indigent deaf and dumb not included in State quotas (*ibid.*, 1822, c. 234), and raising money for the improvement of agriculture in the State (*ibid.*, 1822, c. 236).

¹³ *Report of the Special Joint Committee on Taxation and Retrenchment*, Legislative Document No. 55 (1923), p. 13.

¹⁴ Surrogate, judge of children's court, auditor, county clerk, district attorney, county attorney, county commissioner of public welfare, child welfare court and the county superintendent of highways.

¹⁵ *Cahill's Consolidated Laws*, 1930, 11:12 (44a).

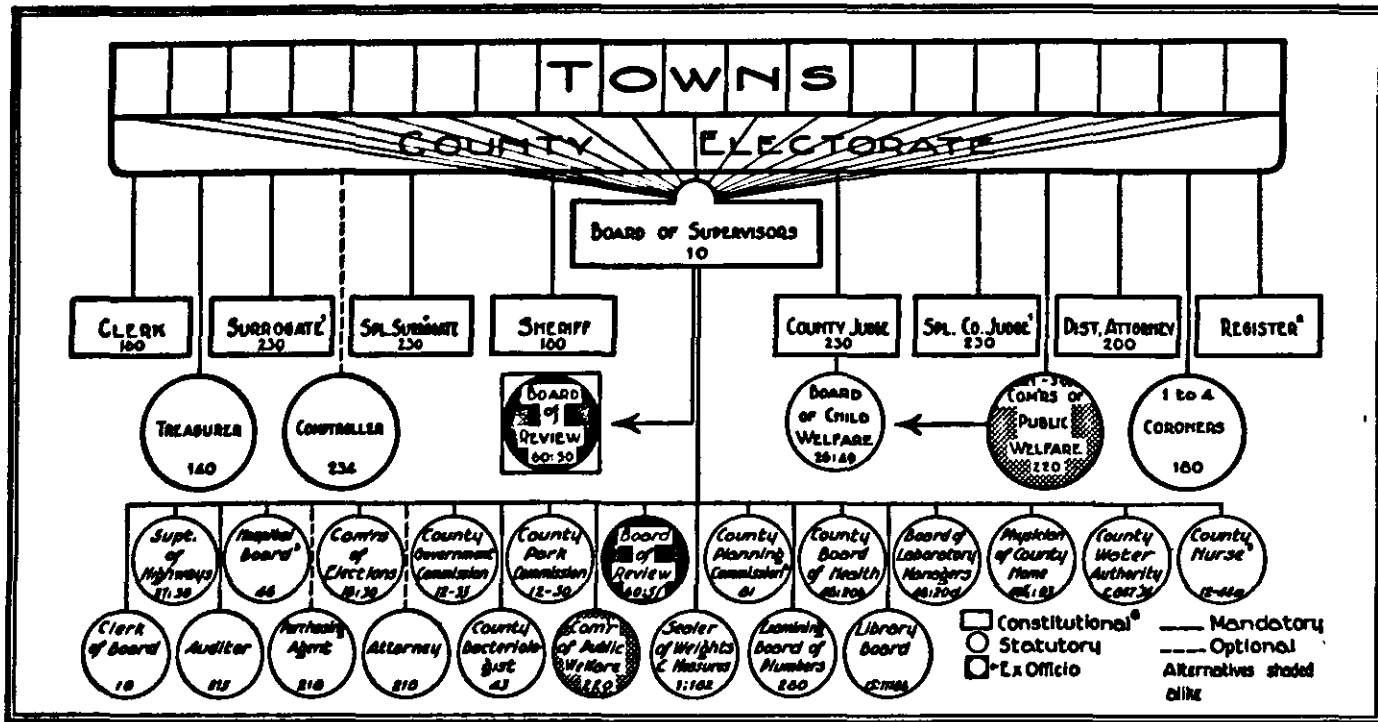


FIG. 7.—ADMINISTRATIVE ORGANIZATION OF COUNTY GOVERNMENT IN NEW YORK, 1935

Citations are to sections of *Govt. of N.Y. Supplement*, 1935, c. 11 unless otherwise indicated. ¹ Wherever established by legislative act. ² In counties having registers. ³ In counties with a population of 85,000 or over. ⁴ If a county has a population of 12,000 and adjoins a county of 400,000 or more. ⁵ Applies only to counties not constituted as general health districts. ⁶ Under amendment to Art. III, adopted November, 1935, the status of these officers and the method of their selection may be modified by legislative action and local referendum.

lative decentralization exists in the plan for setting up a mosquito extermination commission. Here the board of supervisors does not even name the members, but instead the county judge, county clerk, and county comptroller constitute an appointing board. They are directed to name four resident taxpayers who, with the chairman of the county board and one additional member named by the commissioner of health, make up the county mosquito extermination commission.¹⁶

The impropriety of attempting to administer a service government with numerous loosely related boards, with no distinction between the determination of broad policies and the execution of day-to-day affairs of government, has long been recognized. When county budgets called for twenty million dollars per year, the system was tolerable, but not so when activities have expanded so as to require more than one hundred million dollars annually. Difficult as it is to arouse a State-wide interest in a problem of major governmental reform, the incongruities existing in county government were sufficiently obvious to make an appeal to the public mind. On November 5, 1935, the electorate, by a vote of three to one,¹⁷ amended section 26 of Article III thereby removing all obstacles to a complete modernization of county government. It is mandatory for the Legislature to provide and submit to the electorate optional forms of government. The board of supervisors may be supplanted by some other elective body; provision may be made for the appointment of any county officer; and any or all functions now performed by counties, cities, towns, villages, districts, and other units may be transferred to each other or to the State.¹⁸

¹⁶ *Ibid.*, 46:400. Applies only to Nassau and Suffolk counties.

¹⁷ *New York Times*, November 6, 1935.

¹⁸ "Subdivision 1. There shall be in each county, except in a county wholly included in a city, a board of supervisors, or other elective body, to be composed of such members and elected in such manner and for such period as is or may be provided by law.

"2. The legislature shall provide by law for the organization and government of counties and shall provide by law alternative forms of government for counties except counties wholly included in a city and for the submission of one or more such forms of government to the electors residing in such counties. No such form of government shall become operative in any such county unless and until adopted at a general election held in such county by receiving a majority of the total votes cast thereon in (1) the county, (2) every city containing more than twenty-five per centum of the population of the county according to the last preceding federal census, and (3) that part of the county, if any, outside of such cities. Any such form of government shall set forth the structure of the county government and the manner in which it is to function. Any such form of government may provide for the appointment of any county officers or their selection by any method of nomination and election, or the abolition of their offices, and may also provide for the exercise by the board of supervisors or other elective body of powers of local legislation and administration and the transfer of any or all of the functions and duties of the county and the cities, towns, villages, districts and other units of government contained in such county to each other or to the state, and for the abolition of offices, departments, agencies or units of government when all of their functions are so transferred without regard to

Alternative forms of county government have already been established. In 1935 the Legislature provided that on petition of the voters or on action of the county board the question as to the adoption of either the "county president" or "county manager" plan may be submitted to the electorate.¹⁹ Both plans provide for a sharp distinction between policy-determining and administrative duties. The manager or president is charged with the selection of all officers and employees, preparation of the budget, compilation of monthly reports and the coordination of the various county activities. These plans will doubtless provide the nucleus around which enabling legislation required by the new amendment will take form.

the provisions of article ten or any other provisions of this constitution inconsistent herewith. The boards of supervisors or other elective bodies of any two or more such counties may by agreement provide for the discharge within the territorial limits of such counties or parts thereof of one or more governmental functions.

"3. Nothing herein contained shall be deemed to impair or restrict the existing power of the legislature to enact laws relating to the government of a county or the cities, towns, villages, districts or other units of government therein contained until the adoption of a form of government by such county pursuant to subdivision two of this section.

"4. After the adoption of a form of government by a county pursuant to subdivision two of this section, the legislature shall not pass any law relating to the property, affairs or government of such county, which shall be special or local either in its terms or in its effect, but shall act in relation to the property, affairs or government of any such county only by general laws which shall in terms and in effect apply alike to all such counties except on message from the governor declaring that an emergency exists and the concurrent action of two-thirds of the members of each house of the legislature and no law, special or local in its terms or in its effect, which abolishes or creates an elective office or changes the voting or veto power of or the method of removing an elective officer, changes the term of office or reduces the salary of an elective officer during his term of office, abolishes, transfers or curtails any power of an elective officer, changes the form or composition of the elective body of such county, or provides a new form of government for such county, shall become effective without adoption by the electors of such county in the manner prescribed in subdivision two of this section for the adoption of a form of government for such county pursuant thereto. Nothing herein contained shall impair or restrict the power of the legislature to enact laws relating to matters other than the property, affairs or government of such county.

"5. If under a form of government, adopted by a county pursuant to subdivision two of this section, the board of supervisors be abolished, the powers and duties of the board of supervisors, as prescribed by the constitution, or by statute if not provided for by such form of government, shall devolve upon the elective body in such county.

"6. In a city which includes an entire county, or two or more entire counties, the powers and duties of a board of supervisors may be devolved upon the municipal assembly, common council, board of aldermen or other legislative body of the city.

"7. Existing laws applicable to the government of counties and the cities, towns, villages, districts and other units of government therein contained shall continue in force until repealed, amended, modified or superseded by law or by a form of government and nothing contained in this section shall be construed to impair the provisions of article twelve of this constitution" (Constitution, Art. III, § 26).

¹⁹ Laws, 1935, c. 948.

FUNCTIONAL EXPANSION

A summary development of county functions both as to time and as to range of inclusiveness is presented in Table 11. Some of the very earliest laws providing for a system of local government mandated certain responsibilities to the counties. The Duke's Laws of 1665 established a court of sessions and made provision for spreading excessive relief costs among the various towns, thus establishing the functions of "protection" and "charities." In order to integrate the work of the town and provide those services of a more general interest it was necessary to provide a form of government and implement it with powers of taxation. These objectives were realized in the law of 1691. Supervision over matters of transport facilities occurred in 1797 when highway superintendents were to be appointed in each county. The granting of aid to agricultural societies in 1822 opened a line of activities properly classed under "economic development." In 1841 minor educational duties were given to the counties, but it was not until 1915 that the county became an operating unit for special types of schools. The provision of recreational facilities is the last function added to the list of county prerogatives.

Several important events stand out in the evolution of county government; for example, the creation of boards of supervisors in 1691; the complete decentralization of county government realized in 1821 when all remaining appointive officers were made elective; the elevation of county government to the status of a municipal corporation in 1892; the establishment of a county highway system in 1893; the act of 1929 making the county the unit for administration of welfare work; and, more recently, the amendment to the Constitution permitting the transfer of any function from one unit of local government to another or to the State. None of these dates, however, appears entirely appropriate as a landmark of development around which a discussion of the growth of county functions can be built. Since the inauguration of county government in 1691 down to the present time, three periods may be noted each of which has a functional development sufficiently peculiar to warrant special treatment. The first of these periods extends from 1691 to 1825; the second from 1825 to 1890; and the third from 1890 to 1935.

From 1691 to 1825.—The county tribunal organized in 1691 grew directly out of the county court of sessions organized under the Duke of York's Laws in 1665. Preservation of law and order has universally been the chief concern of the founders of new county units. For example, when St. Lawrence county was organized in 1802, the act providing for its legal existence stated:

That until legislative provision be made in the premises, the said courts of common pleas and general sessions of the peace shall be held in the old barracks, so called in the said town of Oswegatchie, which shall be deemed in law the court house and gaol of the said county of St. Lawrence.²⁰

²⁰ *Ibid.*, 1802, c. 16.

TABLE 11
THE HISTORICAL DEVELOPMENT OF COUNTY FUNCTIONS, 1665-1935

YEAR	Assessment and Collection of Revenue	General Government	Protection to Persons and Property	Health and Sanitation
1665			Court of seniors established. "Duke's Laws," p. 27.	
1691	County given power to establish a rate to defray county charges. <i>Col. L., s. 6.</i> County treasurer appointed by the board. <i>Ibid.</i>	County board of supervisors established. <i>Col. L., s. 6.</i>	County courts organized. <i>Col. L., s. 4.</i> Bounties for wolves authorized. <i>Ibid., s. 19.</i>	
1719		Justices authorized to build jails and courthouses. <i>Ibid., s. 37d.</i>		
1722	Supervisors charged with responsibility of apportioning a provincial tax among the towns. <i>Ibid., s. 520.</i>			
1794		Supervisors may audit accounts of town officers. C. 20.		
1795		Designated as agency to distribute State school moneys among the towns. C. 75.		
1796			Provision for the registration of deeds in certain counties. C. 78.	
1799	Three commissioners appointed by the State in each county to review and equalize assessments between towns. C. 72.	Supervisors may convey and hold real estate for county purposes. C. 18.		
1800		Board of supervisors authorized to make levy for repair of courthouse and jail. C. 9.		
1807		Supervisors directed under penalty to raise funds for public buildings. C. 43.		
1808			Provision for a standard of measure. C. 217.	
1816	Supervisors given power of equalization, C. 204.			
1819		Supervisors designated to examine accounts of town school commissioners. C. 161.		

Chapter references subsequent to 1778 are to *New York Laws*.

TABLE 11 — *Continued*

YEAR	Assessment and Collection of Revenue	General Government	Protection to Persons and Property	Health and Sanitation
1911			May appropriate funds to societies for prevention of cruelty to animals. C. 663. May make appropriations to societies for prevention of cruelty to children. C. 545.	
1913		Given power to extend or diminish municipal or district boundary lines. C. 351. Authorized to increase, lower, or establish salaries of local officials. C. 351.		
1914		Boards of supervisors in counties adjoining a city of first class may set up commission for study of county government. C. 324.		
1917			May provide arms for military organizations. C. 235.	Required to establish tuberculosis hospitals in all counties over 35,000 population. C. 469.
1918		May pay expenses of officials attending municipal officers conventions. C. 637.		
1921				Authorized to establish county health districts with full-time health officer. C. 509. May appropriate money for prenatal care. C. 420. May establish tuberculosis clinics in counties without tuberculosis hospitals. C. 263. May employ health nurses. C. 180. May establish public general hospital. C. 265.
1922				
1923		Authorized to provide for workmen's compensation for county employees. C. 567.		
1924				County school hygiene districts may be formed. C. 194.

TABLE 11—Continued

YEAR	Assessment and Collection of Revenue	General Government	Protection to Persons and Property	Health and Sanitation
1926.....	Boards given power to require recording officer to furnish assessor all transfers of property. C. 166.			
1928.....			May raise money to defray expenses of policemen in attendance at training school. C. 533.	May employ dairy and sanitary inspector. C. 432.
1930.....				May make appropriations to eradicate bovine tuberculosis. C. 219.
1931.....				Board of health to provide treatment for venereal disease. C. 481.
1934.....				Authorized to create county water authority. C. 847.
1935.....			Provision made for president and manager form of county government. C. 943.	May raise money to pay expenses of firemen attending training school. C. 821.	May employ dentists. C. 446.

Chapter references are to *New York Laws*.

TABLE 11 — *Continued*

YEAR	Economic Development	Transport Facilities	Charities and Corrections	Education and Recreation
1666			Provision for spreading excessive relief costs among various towns. "Duke's Laws," p. 79.	
1701		Justices authorized to appoint surveyors of highways in each town in Ulster county. <i>Col. L. C. 101.</i>		
1768			County authorized to continue support of certain poor. <i>C. 62, p. 744.</i>	
1797		Three superintendents of highways to be appointed in each county. <i>C. 43.</i> Superintendents authorized to have mile-posts placed on important roads. <i>C. 43.</i>		
1801		Towns relieved from unreasonable burdens arising out of constructing bridges. <i>C. 186.</i>		
1809			County made responsible for all charges not attached to any city or town. <i>C. 90.</i>	
1820			Rensselaer authorized to establish house of industry. <i>C. 51.</i>	
1822	Supervisors authorized to raise money for encouragement of agriculture. <i>C. 236.</i>		May raise money to instruct indigent deaf and dumb not included in State quota. <i>C. 234.</i>	
1824			Authorized to erect poor houses. <i>C. 331.</i>	
1828			Authorized to abolish distinction between town and county poor. <i>C. 158.</i>	
1838		Supervisors given power to appoint special commissioners of highways, raise money for bridges, and prescribe how the money should be expended. <i>C. 314.</i>		

Chapter references subsequent to 1778 are to *New York Laws*.

TABLE 11 — Continued

YEAR	Economic Development	Transport Facilities	Charities and Corrections	Education and Recreation
1841				County superintendent to be appointed by board of supervisors. C. 260.
1843			Certain counties permitted to restore distinction between town and county poor. C. 208.	
1848		May appoint inspectors of turnpikes. C. 45.		
1849		May authorize towns to borrow money to repair highways not exceeding \$4,000. C. 194.		
1856				Supervisors may appoint school commissioners to replace town superintendents. C. 179.
1859		Power to regulate tolls and to provide for the use of abandoned turnpike, plank, or macadamised roads. C. 855. Taxes authorized to retire bonds issued to aid in railroad construction. C. 907.		Authorized to raise funds to erect monuments, upon referendum. C. 855.
1878			May levy taxes for support of children in the Union Home and School. C. 143.	
1875	Provide protection for game animals, birds, and fish. C. 482.	May authorize towns to borrow money for erection and maintenance of bridges; to purchase plank roads; to construct bridges outside boundaries; or cause the town to survey town highways at town expense. C. 482. May authorize the consolidation of two or more town road districts. C. 482. May authorize change of location of bridges. C. 482. Provides for the election or appointment of overseers of highways. C. 482.	May direct the disposition of fines collected by the justices in towns to be used for poor relief. C. 482. Provide property for care of pauper idiots, insane, etc. C. 482.	May authorize union free school districts to sell or exchange real estate. C. 482.

Chapter references are to New York Laws.

TABLE 11 — Continued

YEAR	Economic Development	Transport Facilities	Charities and Corrections	Education and Recreation
1880.....		In certain counties highway districts may be established irrespective of town lines. C. 175.		
1881.....			Superintendent of poor to provide burial for indigent veterans. C. 203.	May divide school commissioner districts. C. 543.
1892.....		May authorize town to alter or discontinue State road. C. 686, § 77. Supervisor authorized to lay out, open, alter, or discontinue a county highway or bridge. C. 686, § 61.		
1893.....		County highway system provided; roads to be a county charge, under the jurisdiction of the county engineer. C. 333. Authorized to borrow money for construction and maintenance of county roads. C. 333.		
1895.....			Authorized to pay money to charitable institutions for care, support, and maintenance. C. 764.	
1896.....				May establish public library. C. 576.
1898.....		Primary roads constructed at joint expense of town, county, and State. C. 115.		
1903.....		May raise funds for sidepaths. C. 640.		
1909.....		Purchase of certain town highway equipment to be approved by county superintendent. C. 30, § 49.		
1912.....	May acquire and hold forest land. C. 74. May raise money to employ persons to give agricultural advice. C. 86.	Primary county highways to be improved at joint expense of State and county. C. 83.		

TABLE 11—Continued

YEAR	Economic Development	Transport Facilities	Charities and Corrections	Education and Recreation
1913.....		On application county may authorize third-class cities, villages, towns, or special districts to issue bonds up to 50 years for roads, streets, or other improvements. C. 351.		
1914.....				To provide for payment of bills of district superintendent of schools. C. 389.
1915.....			Child welfare board established. C. 228. In counties where poor are town charge, soldiers and sailors shall be a county charge. C. 243.	Authorized to set up farm schools for instruction in agriculture, home making, and industrial arts. C. 307.
1917.....	May support county farm and home bureaus and employ county agriculture and home-demonstration agents. C. 281.			
1920.....		State aid placed on definite plan of apportionment under Lowman Act. C. 840.	May grant money to associations for the education and relief of indigent blind. C. 318.	
1922.....			Children's courts established in certain counties. C. 547.	Aid given to colleges training teachers. C. 307. May provide recreational centers and playgrounds. C. 391.
1925.....	Regional planning authorized. C. 339.		Aid provided for war veterans. C. 305.	Essex county authorized to appropriate funds for Junior Achievement Foundation. C. 24.
1926.....				Creation of parks and park commissions. C. 676. Essex county authorized to raise funds for an organization promoting the social betterment of citizens. C. 337.
1928.....	May appropriate funds for agriculture societies. C. 451.	County superintendent given power to condemn any town bridge found unsafe. C. 455.		
1929.....	County planning and development commission established. C. 590.		County public welfare districts established. C. 365.	

Chapter references are to *New York Laws*.

TABLE 11 — *Concluded*

YEAR	Economic Development	Transport Facilities	Charities and Corrections	Education and Recreation
1930.....			May acquire burial grounds for poor. C. 69. Old age relief made joint responsibility of county and State. C. 387.	
1931.....			State and county to provide funds for work relief. C. 798.	Westchester county authorized to set up training classes of specialized nature. C. 677.
1934.....	Upon referendum may lease, own or operate certain public utilities. C. 281. Certain counties authorized to provide market facilities. C. 904.			

One of the first important grants of authority bestowed on Franklin county was the power to levy a tax of \$3,250 in three installments for the purpose of building a courthouse and jail.²¹ Simultaneously with the creation of the county as a unit of government, sufficient power was extended to permit the laying of a rate adequate to defray the county charges, and the appointment by the board of a treasurer.²² From this elemental beginning the prerogatives of county government continued to expand until by the end of the period under consideration the variety of interests approached the present-day compass. The act of 1801 authorizing the counties to relieve towns of undue burdens arising in connection with the construction of bridges constituted the main fiscal highway obligation until the provision for a county highway system in 1898. Welfare activities were added to the responsibility of the county in the latter part of the period under consideration.²³ Economic development was introduced through the enactment of a law in 1822 authorizing the supervisors to raise money for the encouragement of agriculture. Powers of general government were rounded out—in 1799 the supervisors were authorized to convey and hold real estate for county purposes and by an act in the following year boards could make a levy for the repair of courthouses and jails.²⁴ Town affairs were subjected to county supervision to the extent that the supervisors were to audit the accounts of town officers.²⁵

In short, this first period represents the growth of those powers essential to make the county an institution capable of satisfying the usual demands imposed upon local governmental units, namely, levying taxes, care of public funds, protection to persons and property, provision of transport facilities, and care for the dependent.

From 1825 to 1890.—The outstanding characteristic of the second era of county development lies in the growth of supervisory powers delegated by the State. With respect to the assessment and collection of taxes the county was given authority to equalize value estimates in 1816; to correct the assessment roll in 1823;²⁶ to levy taxes necessary to liquidate bond obligations incurred by towns, cities, and villages in aiding railroad construction in 1869; and in 1875 to extend the time for collecting taxes, authorize the election of receivers of taxes in certain places, and designate the number of town assessors. Numerous general governmental powers were also developed. The county was authorized to alter the boundary of a town in 1849, to legalize informal acts of the town meeting in 1869, to authorize the towns in 1875 to borrow money and issue bonds, to call special town meetings, and to authorize towns and

²¹ *Ibid.*, 1808, c. 43.

²² *Colonial Laws*, 1691, c. 8.

²³ *Laws*, 1822, c. 234 and 1824, c. 231.

²⁴ See Table 11, pp. 71, 75.

²⁵ *Laws*, 1794, c. 30.

²⁶ *Ibid.*, c. 262.

villages to erect a town or village hall and maintain the same. Similar extensions of supervisory powers are also apparent with respect to highways. In 1849 the county was permitted to authorize the towns to borrow money for highways not exceeding \$4,000; in 1875, to authorize the change of location of bridges, the consolidation of two or more town road districts, and to authorize the towns to borrow money for bridges, purchase plank roads, and construct bridges outside town boundaries. Some supervision over educational activities was extended to the county in this period in that it was the unit responsible for the division of school commissioner districts and for giving authority to union free-school districts to sell or exchange real estate. Powers of the type just enumerated did not occur to the total exclusion of those of another character, but they did appear to provide the dominant trend of development from 1825 to 1890.²⁷

From 1890 to 1935.—After 1890 the county no longer acted merely as an arbiter and supervisor, but began to participate actively in functions heretofore only supervised. The most important of these activities—one that only recently has come into full development—is that of highways. In 1893 the county was authorized to engage directly in highway construction. Roads were to be a county charge and under the direction of a county engineer. Similarly, in economic development, instead of confining its activity merely to granting funds to agricultural societies, in 1912 the county was authorized to raise money for employing persons to give agricultural advice, and in the same year to engage in reforestation. In health matters the county was empowered to employ a bacteriologist and to establish county laboratories in 1908, to establish tuberculosis hospitals in 1909, to provide nursing service in 1921, to employ dairy and sanitary inspectors in 1928, and to pay out funds for the eradication of bovine tuberculosis in 1930. Although welfare responsibilities had been delegated to the county in 1824, during the succeeding years the function oscillated back and forth between the town and the county. However, in 1929 direct responsibility of the county in this regard was greatly increased. In 1915 the county was first permitted to engage actively in establishing farm schools for instruction in agriculture, home-making, and industrial arts. One of the most recent functions to be associated with the county is that of recreation. Since 1926 counties have been authorized to create park commissions.²⁸

In the period just discussed there were also instances where the supervisory power of the county was increased. In 1913 the county was granted authority to extend or diminish the boundaries of municipalities or districts; and in the same year to increase, lower, or establish the salaries of local officials. However, the trend has been toward increasing the importance of the county as a service agency rather than the granting of permission to another

²⁷ See Table 11, pp. 72, 75 ff.

²⁸ *Ibid.*, pp. 73 ff., 77 ff.

minor division of government to perform certain functions or to validate its actions.

Data relating to county expenditures prior to the opening of the present century are so fragmentary that generalizations as to the fiscal importance of the various county functions is rather hazardous. Data presented in Table 12 do show, however, that the total

TABLE 12
TAKES LEVIED FOR COUNTY PURPOSES IN NEW YORK COUNTIES, 1870 *
(Thousands)

COUNTY	Amount	COUNTY	Amount
Albany	\$499	Orange	\$142
Allegheny	19	Orleans	77
Broome	99	Oswego	150
Cattaraugus	31	Otsego	27
Cayuga	173	Putnam	10
Chautauque	72	Rensselaer	232
Chemung	95	Rockland	22
Chemango	63	Saratoga	31
Clinton	79	Schenectady	38
Columbia	96	Schoharie	51
Cortland	106	Schuyler	70
Delaware	34	Seneca	40
Dutchess	124	Steuben	95
Essex	273	St. Lawrence	189
Franklin	14	Suffolk	27
Fulton	23	Sullivan	77
Genesee	69	Tioga	79
Greene	147	Tompkins	22
Hamilton	76	Ulster	219
Herkimer	7	Warren	19
Jefferson	42	Washington	45
Lewis	202	Wayne	49
Livingston	23	Westchester	244
Madison	41	Wyoming	18
Monroe	50	Yates	27
Montgomery	305		
Niagara	94	Total	\$5,571
Oneida	144	Greater New York	9,532
Oneonta	80		
Ontario	291	Total	\$15,103
	148		

* United States Department of Interior, *Ninth Census of the United States*, June 1, 1870, p. 670.

expenditures made for all county purposes did not exceed fifteen million dollars in 1870. A comparison, however, of a percentage distribution of expenditures for the years 1902 and 1930 tends to substantiate the position that only in recent years has the county become a service government. Table 13 indicates that of the 8.9 millions expended in 1902, 33.8 per cent was devoted to general governmental purposes. On the other hand, only 13.6 per cent, out of a total expenditure of 107.9 million dollars was used for similar purposes in 1930.²⁹ Expenditures for protection accounted

²⁹ See Table 14, pp. 84-85.

TABLE 13

EXPENDITURES OF NEW YORK COUNTIES FOR CURRENT PURPOSES AND OUTLAYS,
1902*

PURPOSE	Amount	Per Cent
General government.....	\$2,989,537	33.8
Protection.....	2,115,969	23.9
Health.....	11,369	.1
Highways.....	296,014	3.3
Charities.....	1,739,984	19.7
Education.....	22,329	.3
All others.....	250,928	2.8
Total maintenance.....	\$7,426,160	83.9
Outlays.....	1,098,430	12.4
Interest.....	329,479	3.7
Total.....	\$8,854,069	100.0

* United States Department of Commerce, *Wealth, Debt, and Taxation* (1907), Table 10, p. 988.

for 23.9 per cent of the budget of 1902, but only 2.9 per cent in 1930. In a large measure the shrinking significance of these items has come about through the expansion of county activities in the fields of health, education, and highway construction. For example, outlays in 1902 were responsible for only 12.4 per cent of the expenditures for that year, whereas in 1930, and for six other years in the decade preceding, outlays have accounted for more than 40 and as much as 54 per cent of the total budget. In Table 14 and Figure 8 the development of county functions is set forth for the years 1917 to 1934 inclusive. Attention should be directed to the increasing importance of highway construction as evidenced in the mounting of the item captioned "outlays" from 1920 to 1932. While the depression years have caused a deceleration in the rate of growth of this activity since 1930, they have at the same time been responsible for a sharp increase in expenditures attributable to welfare work. Expenditures for recreational activities were separately reported for the first time in 1926.

TABLE 14
NET EXPENDITURES OF NEW YORK COUNTIES FOR CURRENT PURPOSES AND OUTLAYS, 1917-1934*
 (Thousands)

PURPOSE	1917	1918	1919	1920	1921	1922	1923	1924	1925
General government.....	\$6,086	\$6,179	\$6,523	\$7,283	\$8,137	\$8,352	\$8,481	\$9,244	\$10,184
Protection.....	871	1,064	941	1,017	1,128	1,171	1,269	1,485	1,659
Health.....	638	911	1,082	1,693	2,068	2,028	2,348	2,609	2,894
Highways.....	926	688	1,211	1,580	1,804	2,498	3,208	3,508	4,004
Charities and corrections.....	5,377	6,017	6,554	7,044	7,782	7,727	8,029	8,704	9,217
Education.....	282	285	379	480	530	530	630	687	721
Recreation.....	.....	.....	.....	.....	.....	.....	.....	.....	669
All other.....	282	110	152	84	229	299	455	402	832
Total maintenance.....	\$14,412	\$15,254	\$16,842	\$19,181	\$21,676	\$22,655	\$24,418	\$26,639	\$29,680
Outlays ^b	4,601	3,724	4,209	7,202	13,661	14,589	16,399	26,042	26,115
Interest.....	1,054	1,371	1,392	1,235	1,619	1,959	2,123	2,270	2,714
Total.....	\$20,067	\$20,849	\$22,533	\$27,618	\$36,956	\$39,203	\$42,940	\$54,951	\$58,509
<i>Percentage Distribution</i>									
General government.....	30.3	30.4	28.9	26.4	22.0	21.3	19.7	16.8	17.4
Protection.....	4.3	5.2	4.2	3.7	3.0	3.0	3.0	2.7	2.8
Health.....	3.2	4.5	4.8	6.1	5.5	5.2	5.4	4.8	5.0
Highways.....	4.6	3.4	5.4	5.7	4.9	6.3	7.5	6.4	6.9
Charities and corrections.....	26.8	29.5	29.1	25.5	21.0	19.7	18.7	15.8	15.8
Education.....	1.3	1.4	1.6	1.7	1.4	1.5	1.5	1.3	1.2
Recreation.....	.....	.....	.....	.....	.....	.....	.....	.....	1.1
All other.....	1.4	.6	.7	.3	.8	.8	1.0	.7	.6
Total maintenance.....	71.8	75.0	74.7	69.4	58.6	57.8	56.8	48.5	50.8
Outlays ^b	22.9	18.8	19.1	26.1	37.0	37.2	38.2	47.4	44.6
Interest.....	5.3	6.7	6.2	4.5	4.4	5.0	5.0	4.1	4.6
Total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

* Data from Special Reports of the Comptroller on Municipal Accounts. Exclusive of public utilities and Greater New York.

^b Largely for highways.

TABLE 14—*Concluded*

PURPOSE	1926	1927	1928	1929	1930	1931	1932	1933	1934
General government.....	\$11,107	\$12,220	\$13,874	\$13,264	\$14,985	\$14,901	\$15,089	\$14,095	\$15,132
Protection.....	1,775	1,901	2,557	2,739	3,122	3,584	3,639	3,312	3,274
Health.....	3,245	3,449	3,625	4,047	4,485	4,775	4,785	4,412	4,661
Highways.....	4,373	4,960	5,502	6,028	7,987	7,924	6,394	5,141	6,647
Charities and corrections.....	9,964	10,939	11,828	12,669	15,361	21,467	33,675	45,555	48,496
Education.....	708	814	857	944	1,041	1,021	1,057	744	731
Recreation.....	1,049	891	841	2,611	2,134	2,294	1,887	1,601	177
All other.....	769	153	894	265	493	480	568	492	1,472
Total maintenance.....	\$32,900	\$35,327	\$39,178	\$42,567	\$49,308	\$56,326	\$67,074	\$75,352	\$80,590
Outlays ^b	42,739	34,977	39,292	46,002	50,222	55,083	39,263	24,245	19,729
Interest.....	3,377	4,366	5,372	6,343	8,404	8,644	9,965	10,629	12,242
Total.....	\$79,106	\$74,670	\$83,842	\$94,912	\$107,934	\$120,053	\$116,302	\$110,226	\$112,561
<i>Percentage Distribution</i>									
General government.....	14.0	16.4	16.6	14.0	13.6	12.3	13.0	12.8	13.6
Protection.....	2.3	2.5	3.0	2.9	2.9	3.0	3.1	3.0	3.0
Health.....	4.1	4.6	4.3	4.2	4.2	4.0	4.1	4.0	4.3
Highways.....	5.5	6.6	6.6	6.3	7.4	6.6	5.5	4.7	6.0
Charities and corrections.....	12.6	14.7	14.1	13.3	14.2	17.9	29.0	41.1	43.2
Education.....	.9	1.1	1.0	1.0	1.0	8.5	.9	.7	.1
Recreation.....	1.3	1.2	.6	2.7	2.0	1.9	1.6	1.5	.....
All other.....	1.0	.2	.5	.3	.4	.4	.5	.5	1.8
Total maintenance.....	41.7	47.2	46.7	44.8	45.7	46.9	57.7	68.3	71.5
Outlays.....	54.0	46.8	46.9	48.5	46.5	45.9	33.7	22.0	17.8
Interest.....	4.3	5.9	6.4	6.7	7.8	7.2	8.6	9.7	10.9
Total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

^b Largely for highways.

^c Includes \$6,983,061 in 1932, \$20,953,707 in 1933, and \$23,618,217 in 1934 for emergency work and home relief.

^d All in Erie, Westchester and Monroe counties.

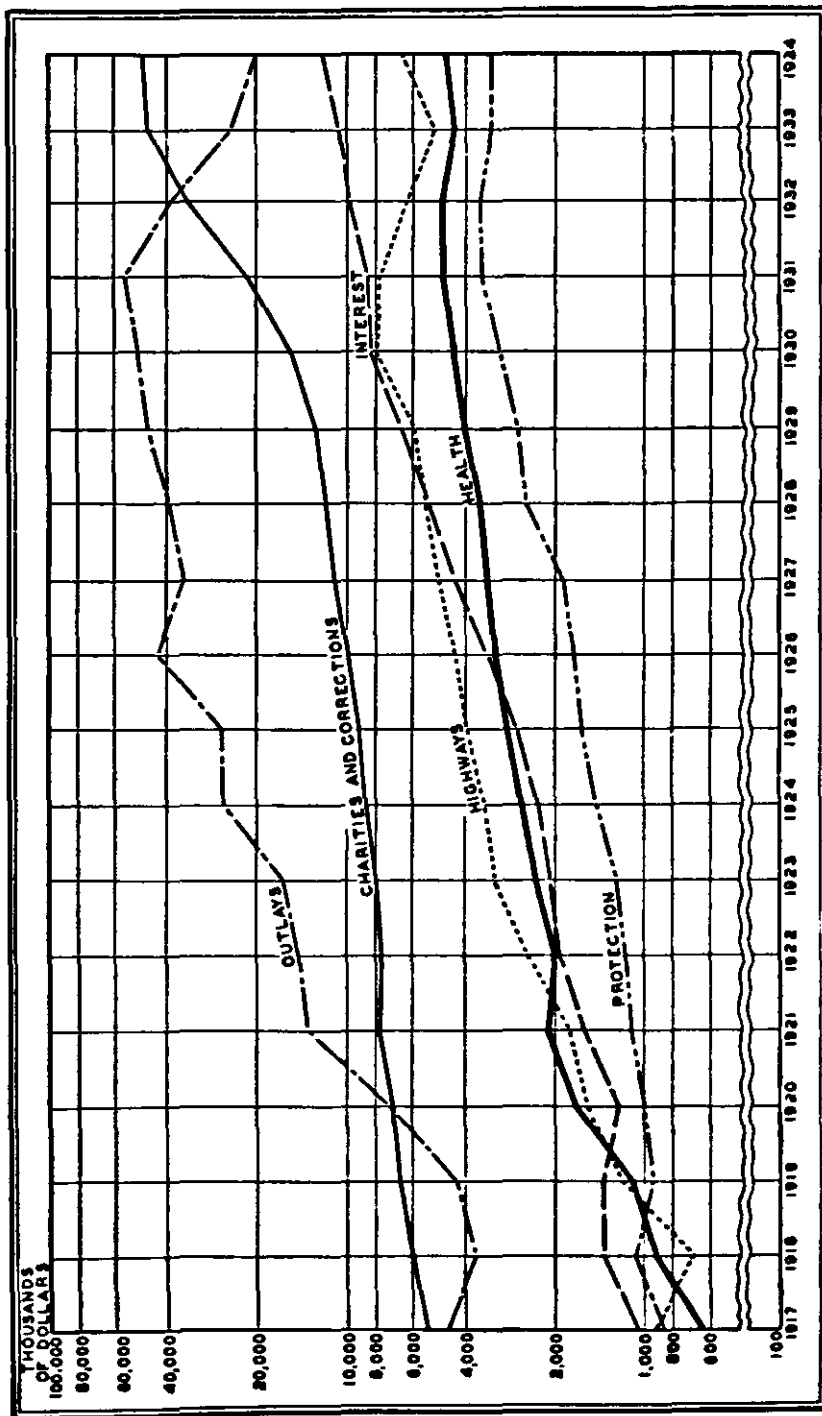


FIG. 5.—NET EXPENDITURES OF NEW YORK COUNTIES FOR CURRENT PURPOSES AND OUTLAYS

3. County Relationships with Other Units

The abolition of the practice of central appointment and the filling of all offices by popular vote marked the climax of the decentralization of this unit of government. With the popular choice of incumbents fully established by 1826 and the addition of numerous new functions to the prerogatives of the county, it became necessary for the State, in certain instances, to set up devices limiting the exercise of these newly acquired powers and, in others, to impose mandatory obligations.

Among those controls more or less negative in character are: the power of the governor to remove certain county officers;²⁰ tax and debt limits; prohibition on loans to private corporations; restrictions as to interest rate, length of time that bonds may run, type of bond, and price of sale;²¹ regulation as to accounting methods used, auditing of accounts by the comptroller, and financial reporting;²² plus the limitations imposed on expenditures of funds advanced by the State for highways, health, and charities.²³

From a fiscal point of view the positive aspects of State and county relationships are by far the most important. The State, either by requiring the payment of specific, maximum, or minimum amounts, may influence the expenditures of the county for payment of supervisor's salaries, publication expense, purchase of certain supplies, expenses of various county officers, salaries of various judicial officers, maintenance of civil and criminal courts, care of the poor, memorials, etc.²⁴ In Rensselaer county 77 per cent of current expenditures in 1931 was disbursed for items falling within the above-enumerated category. In Ulster county 75 per cent was similarly expended.²⁵ These data do not indicate that a withdrawal of certain of these mandatory requirements would necessarily reduce the amount expended by the locality, for in many instances the appropriations exceed the minimum requirements. On the other hand, there are numerous instances where the localities have been embarrassed because of their inability to adjust local budgets in keeping with revenues available for current purposes.²⁶

The county is closely allied with the State in that it administers taxes, a portion of which is allocated to the State, and in turn is the recipient of various State grants and shared taxes. For example, the county levies the property tax, assesses and collects the mortgage tax, and assesses the estates tax all of which are shared by the State. On the other hand, State grants for high-

²⁰ Constitution, 1930, Art. X, § 1.

²¹ See *infra*, pp. 239-40; cf. also *Laws*, 1936, c. 509.

²² See *infra*, pp. 240-42.

²³ See *infra*, pp. 299-300, 360-61, 330-33.

²⁴ *Depression Taxes and Economy through Reform of Local Government*, Third Report of the New York State Commission for the Revision of the Tax Laws, Legislative Document No. 56 (1933), pp. 162-65.

²⁵ *Ibid.*

²⁶ See *infra*, pp. 112-13.

ways, health, welfare, and educational activities are received by the county. Another recent development integrating State and county functions is the provision that county employees, upon favorable action of the local board, may be made members of the New York Employees' Retirement System.³⁷ Applications for relief of the blind are addressed to a State functionary but the allowances are to be raised by the county board.³⁸ Since 1807 it has been a mandatory obligation of the county board to levy funds for public buildings when so directed by the Legislature.³⁹

In highway construction and maintenance the county comes in contact with the State in various ways. It supervises, through the county commissioner of highways, local road construction in the town. It has dealings with the city and the village arising out of construction of county highways passing through the corporate limits of these places, and by the undertaking of joint projects.⁴⁰

The county collects the mortgage tax and part of the property tax, to be shared with the town, city, village, and school district. Continuing a policy started in 1875 the State has increased the responsibility of the county for the governing of the fiscal affairs of minor civil divisions contained within its territory. The specific intent of legislation of this character has been to enable municipal and district functions to be carried on without recourse to the State Legislature.⁴¹

The county further influences local affairs through the activities sponsored by home-demonstration workers and county agents;⁴² through dairy and sanitary inspectors whose services are placed at the disposal of the local boards of health;⁴³ and finally, through a county planning commission with its inclusive range of interests.⁴⁴

4. Summary

The turn of economic developments during the early part of the nineteenth century definitely tended to reduce the traditional town governments to impotence. The Embargo and Non-Intercourse Acts of 1807-9 and the War of 1812 had forced the development of home resources and industries; the factory system had become an integral part of American life. The development, also, of turn-pikes, canals, steamboats, and railroads aided materially in breaking away from the provincialism of colonial days.

To meet the requirements of this new era the county was gradually transformed from an agency of State government into an instrumentality for the satisfaction of purely local needs. For example, the incarceration of prisoners could not be handled satisfactorily on a town basis; and out of the meeting of justices from

³⁷ *Cahill's Consolidated Laws*, 1930, 8:75.

³⁸ *Laws*, 1922, c. 185.

³⁹ *Ibid.*, 1807, c. 14.

⁴⁰ See *infra*, pp. 300-303.

⁴¹ *Cahill's Consolidated Laws*, 1930, 11:12 (26).

⁴² *Laws*, 1917, c. 281.

⁴³ *Ibid.*, 1928, c. 432.

⁴⁴ *Ibid.*, 1925, c. 539.

the various towns to make the levy for the jail, the county board system developed. By the opening of the century these officers were clothed with authority to levy taxes and carry on other functions of government not adequately administered by towns. Until near the close of the nineteenth century the State was continually increasing the supervisory power of the county over other governmental units contained within it. If the Legislature was not to be unduly cluttered up with minute local problems, a portion of the responsibility for maintaining respectable and uniform practices had to be delegated to some major unit of local government.

With the opening of the twentieth century it became obvious that county supervision over towns was not enough. The financial and technical character of many functions required that some agent superior to the town must be made responsible for their administration. Accordingly, the county, under a grant of municipal powers, began to engage directly in providing highway facilities, building hospitals, establishing clinics, maintaining agricultural schools, conserving economic resources through reforestation, and aiding social and economic betterment through definite social planning. How adequately these new requirements are being met will be discussed in subsequent sections.

CHAPTER V

THE CITY

In its fiscal, economic, and social aspects the city must be accorded a pre-eminent place. The State with which this study is concerned contains a single city with an annual budget exceeded only by that of the Federal government. In 1930 the city budget of 778 million dollars was over two and one-half times greater than the expenditures of the State for similar purposes.¹ For the same year, the city spent nine times as much for protection to persons and property and eight times as much for health conservation as did the State.² If outlays and subventions are excluded from the State figures, New York City spent \$19,615,000 more on education alone than the State expended for all current purposes.³

New York City spent more on education in 1930 than the receipts of any one of the 160 fiscally largest governments, a list which included 46 states. It spent more on the retirement of city employees, or on the retirement of teachers, or on its health department or board of child welfare than was raised by the state of Nevada for all purposes. The continued expenditures of that city for these four services exceeded the combined expenditures of Nevada, New Mexico and Arizona. The expenditures of New York City on its police department exceeded the revenues of Indiana, or Missouri or any one of 35 other states. Its fire department spent more than Florida, Arkansas or West Virginia, not to mention 18 other states.⁴

In addition to this one city accounting for so large a part of the public expenditures of the State, the remaining fifty-nine municipalities add still greater significance to the modern urban governmental unit. According to Table 17⁵ over a billion dollars

¹ New York City expended \$777,820,864 for maintenance and operation plus improvements (*Special Report of the Comptroller on Municipal Accounts, 1930, Tables 4A and 5A, p. 6*). The State spent \$291,875,820 (*Financial Statistics of States, 1930, p. 58*).

	<i>New York City^a</i>	<i>State^b</i>
² Protection to persons and property.....	\$94,229,587	\$10,274,413
Conservation of health.....	26,594,128	3,037,324
Education	142,499,073	97,595,554

^a *Special Report of the Comptroller on Municipal Accounts, 1930, Table 4A, p. 6.*

^b *Financial Statistics of States, 1930, pp. 94-96.*

³ State expenditures less outlays, \$218,205,982 (*ibid.*, p. 58); subventions, \$95,322,000 (see Table 44, p. 249).

⁴ Simon E. Leland, "The Coordination of Federal, State and Local Fiscal Systems," *Municipal Finance*, August, 1933, pp. 35-36.

⁵ Pp. 106-7.

was paid out by the cities of New York for all purposes in 1931—a sum representing an amount equal to approximately one-fourth of the ordinary expenditures of the Federal government. To reach a budget of one billion dollars, it is necessary to add the cost payments of the thirty states located in the east north central, west north central, south Atlantic, east south central, west south central, mountain, and Pacific regions of the United States.⁶

The fiscal pre-eminence of municipal units is as new as the process of urbanization. In 1900 the urban population made up 40 per cent of the total of the United States, while in 1930 the same group represented 56.2 per cent.⁷ In 1870 more than one-half of the gainfully employed persons was engaged in agriculture, lumbering, and fishing. In 1900, 64 per cent and in 1930, 79 per cent of the working population was engaged in non-agricultural pursuits.⁸ New York State had only 9 cities and 156 villages in 1840. By 1930 the numbers had increased to 60 and 535, respectively.⁹

The concentration of one-half the people of the United States into an area representing 5.6 per cent¹⁰ of the total has brought with it many dislocations in government. In metropolitan communities the flow of population has disregarded the traditional governmental boundaries—State, local, and national. The provision of police protection, water supply, sewage disposal, and educational and recreational facilities on a scale sufficiently large to satisfy metropolitan conditions involves technical, jurisdictional, and fiscal problems, which as yet have not been finally solved.

The American city, like other institutions of local government, was inherited from England. The first American city to receive civil recognition was New York, in 1653. It was given the status of an English municipal corporation in 1665 when by proclamation Governor Nicolls declared the "inhabitants of New York . . . are and shall bee for ever accounted, nominated, and Established, as one Body, Politique, and Corporate."¹¹ Albany and New York both received their Dongan charters in 1686. Hudson, in 1785, and Schenectady, in 1798, completed the list of incorporations down to the year 1800. Thirty-eight more were added during the nineteenth century.¹²

⁶ *Financial Statistics of States, 1931*, pp. 52-53, excluding outlays.

⁷ U. S. Department of Commerce, *Fifteenth Census of the United States, 1930*, I, 8.

⁸ Ralph G. Hurlin and Meredith B. Givens, "Shifting Occupational Patterns," *Recent Social Trends* (New York, 1933), p. 281.

⁹ See Table 2, p. 13.

¹⁰ Total land area of the United States, 3,026,789 sq. mi. (*Fifteenth Census of the United States, 1930*, I, 5). One-half of the population is contained in 170,517 sq. mi. (R. D. McKenzie, "The Rise of Metropolitan Communities," *Recent Social Trends*, p. 445).

¹¹ *Documentary History of New York*, I, 603.

¹² See Table 2, p. 13.

I. The Growth of City Functions

Changes in the character of the organization set up to administer the affairs of the municipality, modification of the municipal concept as defined by the courts, and new types of financial policy are only reflections of the readjustment of the institutional framework necessary to maintain organized social relationships in urban areas. To explain, then, the factors responsible for the growing power of the mayor, the more recent introduction of the city manager, or innovations in fiscal policy, one has only to examine the character and extent of the services rendered by the modern city as compared with a municipality of the seventeenth and eighteenth centuries.

A description of the development of city functions is much more difficult than for any other unit since the majority of New York cities operates under charter provisions rather than under general laws.¹³ Fiscal data, the real measure of the extent and character of municipal activities, are, unfortunately, available only for very recent years. Therefore, the statements made with respect to the beginnings of the various functions of city governments are based chiefly on the experiences of New York City and Albany. In Table 15 each added power is classed in its respective functional column and arranged in sequence of enactment. Some of the earlier municipal services were not supported out of tax revenues,¹⁴ but they are mentioned at the time they were of first concern to the municipality for present obligations have arisen out of these early commitments.

Providing protection to persons and property apparently deserves first place in the category of municipal functions. As is pointed out in the section dealing with the evolution of the administrative organization, the officers of the city, consisting of the burgomaster and schepens under the Dutch rule, and the mayor and aldermen under the English, served both as administrative and judicial officers.¹⁵ When the city came under English rule in 1665, the officials met and established the mayor's court, the personnel consisting of the mayor, aldermen, and sheriff.¹⁶ A judicial system essentially similar to the mayor's court was provided for in the Dongan and Montgomery charters.¹⁷

¹³ Cf. *Reorganization of Local Government in New York State*, pp. 93-94. The first General City Law was enacted in 1900 (c. 327) and the Second Class Cities Law in 1898 (c. 182).

¹⁴ In New York City income from ferries, docks, markets, lands, buildings and licenses constituted the principal revenue sources. City taxes were not levied regularly for municipal purposes until after 1756 (cf. G. W. Edwards, *New York as an Eighteenth Century Municipality, 1731-1776* [New York, 1917], pp. 196-200).

¹⁵ See *infra*, p. 109 note.

¹⁶ *Documentary History of New York*, I, 604.

¹⁷ The mayor, recorder, and three or more of the aldermen, not exceeding five, were designated as justices of the peace in 1688 (*Colonial Laws*, I, 189). The Montgomery charter (1730) included a deputy mayor (*ibid.*, II, 620-21).

TABLE 15

THE HISTORICAL DEVELOPMENT OF CITY FUNCTIONS, WITH SPECIAL REFERENCE TO NEW YORK CITY AND ALBANY, 1648-1935

YEAR	Assessment and Collection of Revenue	General Government	Protection to Persons and Property	Health and Sanitation
1648.....			Hooks, ladders, and buckets purchased in New York from chimney tax. <i>L. of N. N.</i> , Jan. 23, p. 83.	
1666.....			Mayor and aldermen of New York given authority to appoint officers for administration of justice. <i>Doc. Hist.</i> , I, 604.	
1673.....		Provision in New York to indemnify parties for property taken for public purposes. <i>L. of N. N.</i> , Oct. 16.		
1686.....	Mayor given authority to license businesses in Albany and New York. <i>Col. L.</i> , I, 191, 207.		Court of common pleas for debt and trespass provided in Albany and New York. <i>Col. L.</i> , I, 194, 214.	
1691.....			New York empowered to regulate structure of new buildings. <i>Ibid.</i> , c. 18.	New York to provide sewers for removal of waste from streets. <i>Col. L.</i> , c. 18.
1696.....	Assessors and collector named in New York city for raising certain taxes. <i>Col. L.</i> , c. 47.	Public buildings ordered repaired in New York. <i>Col. L.</i> , c. 47.		Tax levied for scavenger services in New York City. <i>Ibid.</i> , c. 47.
1717.....				New York authorized to lay a tax of £500 to alter Broad street sewer. <i>Ibid.</i> , C. 327.
1720.....	Provision made in New York city charter for election of assessors and collectors. <i>Col. L.</i> , II, 603.		New York authorized to construct jails. <i>Ibid.</i> , II, 617. New York mayor enabled to raise money for fire engines. <i>Ibid.</i> , c. 550.	
1737.....			New York organized first corps of volunteer firemen. <i>Ibid.</i> , c. 670.	
1741.....				Provision made for repairing the public pump in New York. <i>Ibid.</i> , c. 719.
1748.....			New York to provide garrison with firewood and candles. <i>Ibid.</i> , c. 739.	

TABLE 15—Continued

YEAR	Assessment and Collection of Revenue	General Government	Protection to Persons and Property	Health and Sanitation
1746.....			New York to provide fortifications through funds raised by lotteries. <i>Ibid.</i> , c. 817.	
1755.....				Bedlow's Island designated as quarantine for contagious diseases on vessels. <i>Ibid.</i> , c. 973.
1758.....				Bedlow's Island purchased as a site for pest house. <i>Ibid.</i> , c. 1077.
1761.....			New York permitted to levy tax for erection of street lamps. <i>Ibid.</i> , c. 1164.	
1770.....			Maximum levy of \$350 for night watch permitted in Albany. <i>Ibid.</i> , c. 1426.	
1772.....			Approval of tax for lighting of lamps in Albany. <i>Ibid.</i> , c. 1523.	
1774.....				New York City council authorized expenditure for well and reservoir. <i>Min. of Common Council</i> , VIII, 41, 43.
1787.....			Mayor, recorder, and aldermen to act as justices of the peace in New York and Albany. C. 8.	Overseer of wells appointed in New York City. C. 59.
1788.....	Assessors and collectors to be elected in Albany and Hudson. C. 64.		Firemen appointed in Albany. C. 79.	
1796.....				Albany authorized to build water conduits. C. 26.
1797.....				New York authorized to clean and scour streets. C. 16.
1798.....			Firemen incorporated in New York City. C. 40.	
1799.....		Salary provided for mayor in Albany. C. 6.	Police office established in New York. C. 25.	
1805.....			Police office established in Albany. C. 83.	Board of health established in New York. C. 31.
1806.....				Board of health established in Albany. C. 109. New York authorized to operate a lottery for the erection of hospital. C. 176.

Chapter references subsequent to 1778 are to *New York Laws*.

TABLE 15—Continued

YEAR	Assessment and Collection of Revenue	General Government	Protection to Persons and Property	Health and Sanitation
1808				New York authorized to lease or purchase Manhattan water works. C. 88.
1810		Compensation provided for mayor in New York. C. 59.	Provision made for recording deeds in New York. C. 175.	
1822				Boards of health to be appointed in cities of certain counties. C. 333.
1834				Bond issue of \$2,500,000 approved for construction of water works in New York City. C. 256.
1840		Authorized to hold property in trust for public purposes. C. 318.		
1844			New York organized disciplined police force. C. 315.	
1847		Authority to insure public buildings C. 294.		
1849				Health inspectors provided in New York. C. 187.
1850				All cities required to provide a board of health. C. 324.
1853				Albany authorized to raise money for water works. C. 235.
1855			Mandatory recording of vital statistics in New York City. C. 75.	
1869				Cities authorized to acquire burial places. C. 727.
1870		Further departmentalization of New York government. C. 137.		
1892				May establish free public bath. C. 473.
1894				May contract for purification of water and sewage. C. 667.
1895			First-class cities permitted to contract with gas and electric companies for lighting. C. 990.	
1899				First-class cities authorized to establish hospitals for treatment of tuberculosis. C. 637.

TABLE 15—Continued

YEAR	Assessment and Collection of Revenue	General Government	Protection to Persons and Property	Health and Sanitation
1910.....				May establish public general hospital. C. 558.
1911.....		Second- and third-class cities may support conference of mayors. C. 322.		First- and second-class cities may establish hospital and industrial colonies for inebriates. C. 700.
1913.....	May levy and collect taxes on real and personal property for any public or municipal purpose. C. 347.			
1917.....			May provide arms for military organizations. C. 235.	
1918.....		Second- and third-class cities may pay expenses of officials attending municipal officers convention. C. 637.		
1921.....				May appropriate money for prenatal care. C. 420.
1928.....			May pay expenses of policemen in attendance at training school C. 538.	
1931.....				Board of health to provide treatment for venereal disease. C. 481.
1934.....				Cities may establish housing authority. C. 4.
1935.....			May raise money for expenses of firemen in attendance at training school. C. 821.	

Chapter references are to *New York Laws*.

TABLE 15 — *Continued*

YEAR	Economic Development	Transport Facilities	Charities and Corrections	Education and Recreation
1676.....		New York City imposed a tax for new docks. <i>Mm. of Common Council</i> , I, 298.		
1683.....			Cities charged with responsibility for the care of the poor. <i>Col. L.</i> , c. 9.	
1686.....		New York and Albany authorized to construct and repair streets, highways, water-courses, and ferries. <i>Col. L.</i> , I, 183, 198.		
1691.....		Mayor, aldermen and council of New York given power to name supervisors of streets, lanes, wharfs, docks, and alleys. <i>Col. L.</i> , c. 18.		
1695.....		"Mirey and foul" lanes to be repaired in New York. <i>Ibid.</i> , c. 47.	Mayor, recorder and aldermen of New York to name five overseers of poor. <i>Ibid.</i> , c. 47.	
1702.....				Levy made for support of a school master in New York City. <i>Col. L.</i> , c. 120.
1722.....		Mayor, recorder, and aldermen appointed commissioner of highways for Albany. <i>Ibid.</i> , c. 441.		
1720.....			New York empowered to build a poor house and house of correction. <i>Ibid.</i> , II, 617.	
1722.....				Public instruction provided in New York in Latin and mathematics. <i>Ibid.</i> , c. 594.
1734.....		Public wharf built in Albany. <i>Ibid.</i> , c. 620.		
1764.....		Authorisation for removal of nuisances and paving of streets in New York. <i>Ibid.</i> , c. 956.		
1764.....		Mayor, aldermen, and council named highway commissioners for New York City. <i>Ibid.</i> , C, 1268.		
		New York granted permission to levy tax for widening public roads. <i>Ibid.</i>		

TABLE 15—Continued

YEAR	Economic Development	Transport Facilities	Charities and Corrections	Education and Recreation
1766			New York empowered to levy tax to build workhouse. <i>Ibid.</i> , c. 1312.	
1784			Two overseers of poor elected in New York in each ward to work with the mayor, recorder, and aldermen. C. 35.	
1788			Albany and Hudson to elect overseers of the poor. C. 64.	
1795			Albany and Hudson may levy tax to build a poor house. C. 62.	
1799		Albany authorized to lay out and widen streets. C. 66.	Every city made responsible for its own poor. C. 62.	New York and Albany to raise money for free schools equal to one-half the State grant. C. 75.
1806			Albany permitted to establish house of correction. C. 109, §10.	
1819			State appropriated \$10,000 to New York City institution caring for deaf and dumb. C. 238.	
1830				Provision for school board in Albany with authority to levy tax. C. 240.
1842				Independent board of education established in New York. c. 150.
1847				Free evening schools established. C. 74.
1851				Public park in New York to be financed by taxes and special assessments. C. 629.
1853			Charities and corrections budgets submitted to New York City officials for approval. C. 217.	New York school budgets submitted to officials for approval. C. 217.
1860	Certain cities permitted to sell bonds and invest in railroad securities. C. 907.			Public parks designated in Albany. C. 582.

Chapter references subsequent to 1778 are to *New York Laws*.

TABLE 15—*Concluded*

YEAR	Economic Development	Transport Facilities	Charities and Corrections	Education and Recreation
1871.....				Department of education centralized under mayor in New York. C. 574.
1873.....				May establish free public libraries. C. 453.
1892.....		Authorized to submit to vote whether funds may be borrowed for bridges. C. 209.		
1895.....			Authorized to pay money to charitable institutions for care, support, and maintenance. C. 754.	
1898.....				First- and second-class cities allowed to purchase works of art. C. 395. Third-class cities authorized to set aside funds for Memorial Day. C. 58.
1913.....	May create planning commission. C. 699.			
1917.....	Third-class cities may establish publicity fund. C. 279.			Cities of second and third class may provide playgrounds and recreation centers. C. 215.
1923.....				Given permission to maintain a band. C. 602.
1925.....	Regional planning authorized in counties providing same. C. 539.			
1928.....	May acquire land for forestry purposes. C. 342, § 60.	May establish and maintain landing fields. C. 159.		
1929.....			Certain cities designated as public welfare districts. C. 565, § 12.	
1930.....			Welfare districts to care for aged jointly with State. C. 387.	
1931.....			Home and work relief delegated to cities, partially supported by State. C. 798.	
1934.....	May lease, own, and/or operate certain public utilities. C. 281.			

Closely akin to the judicial system is the actual policing of thoroughfares and guarding of persons and property. This activity soon became a concern of municipal government. New York City had paid watchmen in 1658. The burgomasters engaged eight citizens to act as night watchmen for which they were to receive twenty-four stivers per night of service. The assessments necessary to pay the watchmen were to be collected by the captain, each householder being assessed fifteen stivers per month.¹⁸ It was not until 1844, however, that the city of New York had an organized police force.¹⁹ Repair of the stockade was one of the first concerns of the citizens of Albany. In 1695 the fortification was repaired and enlarged. To meet these costs the assessor was directed to make the levy and deliver the list to the mayor for execution.²⁰

Lighting of streets is also a matter chiefly of a protective nature. The first efforts in this direction required that every seventh house was to provide a lantern and candle and that the cost was to be defrayed by the householders concerned. Ordinances of this character appeared first in New York City in 1697²¹ and in Albany in 1765.²² By 1752 the corporation of New York City had purchased three lights for the entrance of the city hall²³ and in 1771 the city of Albany was supporting some twenty lamps and consuming about 150 gallons of oil annually.²⁴ General street illumination was attempted in New York in 1761 and the assembly was petitioned for the privilege of extending a tax to support this service.²⁵ From this time on the assembly permitted the corporation to levy from £1,400 to £2,000 annually.²⁶ The Albany Gas Company was incorporated in 1825,²⁷ electricity was introduced in 1881.²⁸

Apparatus for fighting fire was first purchased in New York City in 1648.²⁹ Fire ladders and hooks were added in 1659 and the following year a shed was built for storing the various pieces of equipment.³⁰ Albany designated certain citizens to act as fire officers as early as 1694. Hooks and ladders were added in the same year.³¹ Both Albany and New York added fire engines to their equipment in 1731.³²

¹⁸ A. E. Peterson, *New York as an Eighteenth Century Municipality Prior to 1731* (New York, 1917), pp. 155-56.

¹⁹ *Laws*, c. 315.

²⁰ G. R. Howell and J. Tenney (eds.), *History of the County of Albany* (New York, 1886), p. 464.

²¹ Peterson, *op. cit.*, p. 104.

²² Howell and Tenney, *op. cit.*, p. 515.

²³ Edwards, *op. cit.*, p. 125.

²⁴ Howell and Tenney, *op. cit.*, p. 515.

²⁵ *Colonial Laws*, c. 1164.

²⁶ Edwards, *op. cit.*, p. 126.

²⁷ *Laws*, c. 59.

²⁸ Howell and Tenney, *op. cit.*, p. 515.

²⁹ *Laws of New Netherland*, January 23, 1648, p. 83.

³⁰ Peterson, *op. cit.*, p. 173.

³¹ Howell and Tenney, *op. cit.*, p. 519.

³² *Colonial Laws*, 1730, c. 550; Howell and Tenney, *op. cit.*, p. 520.

If provision for guarding of property and persons was the first concern of certain of the leading cities of New York, then certainly the development of municipal enterprises must have been second. Probably a more accurate statement would be that this function developed simultaneously with the emergence of New York's corporate existence.

The care of [the] dock was one of the government's most vexing problems. Which would work the better, to pay a dock-master a salary and look to him to collect all revenues and deposit such in the city treasury, or to lease the dock and its revenues to the one who would offer the most at a "public outcry," expecting the lessee to keep the dock in repair?⁵⁵

Because of the obligation incurred in rebuilding and repairing the dock, the city extended its first property tax in 1676.⁵⁶

The beginning of what is now modern welfare work was initiated in New York City in 1683. Prior to this date the care of the needy was an obligation imposed upon clerical officials. The deacons of the church derived the needed funds from the receipts collected in the "poor boxes." In 1683 cities were made responsible for the care of their own poor.⁵⁷ Taxes for this purpose were authorized in 1695 by an act of the assembly when the councilmen were given power to appoint five freemen of the city who, with the council, were to raise all taxes for the city including the amount necessary to care for the poor.⁵⁸ It is probably true that the city maintained some sort of poor house as early as 1714.⁵⁷ Such facilities, however, were not definitely provided until the adoption of the Montgomery charter in 1730. This document contained a clause empowering the corporation to build a poor house. It was to be managed by a keeper who was to receive his remuneration part in kind and services and the remainder in money.⁵⁸

The last municipal functions to be added before the close of the seventeenth century were the construction of streets and the introduction of a few sanitary measures of elemental proportions. The Dongan charter gave the mayor and aldermen authority to lay out and maintain streets, highways and watercourses.⁵⁹ A revenue measure, dealing primarily with providing funds for the care of the poor, had a rider clause making provision for the repair of "mirey and foul lanes."⁶⁰ In 1764 the administration of city

⁵⁵ Peterson, *op. cit.*, pp. 1-2.

⁵⁶ *Minutes of the Common Council of the City of New York, 1675-1776* (New York, 1905), I, 29 ff.

⁵⁷ *Colonial Laws*, c. 2.

⁵⁸ *Ibid.*, 1695, c. 47.

⁵⁹ Peterson, *op. cit.*, p. 189.

⁶⁰ *Colonial Laws*, II, 617; cf. Edwards, *op. cit.*, pp. 98-99.

⁶¹ *Colonial Laws*, I, 183.

⁶² *Ibid.*, 1695, c. 47.

streets was transferred from the supervision of the surveyors to the common council, and authority was granted to lay an annual tax. Under this act £300 was expended annually until the time of the Revolution.⁴¹ It was about this time that the principle of special assessment was introduced as a method of financing street improvements.⁴² Council records of Albany show that £50 was expended for sidewalks as early as 1695.⁴³ However, the Dongan charter of 1686 gave the mayor and council power to lay out and maintain streets, highways, bridges and watercourses.⁴⁴ By 1717 a number of streets had been ordered paved.⁴⁵ Having discovered that the refuse accumulating on streets could be used for a bridge fill, the New York City council in 1693 decided to pay three half-pence per load thus deposited. Two years later a commissioner of street cleaning was appointed who was to serve at an annual salary of £30.⁴⁶ Funds necessary to defray the expenses of the scavenger were raised by an assessment against property, laid by the assessor and collected by the city collector.⁴⁷

Because the Broad street sewer deposited large quantities of rubbish, sand, and mud in the basin of the dock whenever a torrential rain occurred, the assembly in 1717 authorized the city to levy a tax of £500 to alter its course.⁴⁸ Sewers were laid in Albany and financed by means of special assessments as early as 1800, but it was not until 1854 that a regular system was provided for the city.⁴⁹

As early as 1702 New York City was making provision for the free education of children residing in the city. Fifty pounds was authorized to be assessed and collected annually for a period of seven years for the employment of a school master.⁵⁰ Thirty years later appropriations were being made for the public support of schools giving instruction in Latin and mathematics.⁵¹

New York City was definitely established as an agency for the assessment and collection of taxes by the Montgomery charter of 1732. This document authorized the election of sixteen assessors and seven collectors.⁵² By statutory enactment similar powers were granted to Hudson and Albany in 1788.⁵³

The provision of recreational facilities in the form of public parks is thought to be a modern development of city government.

¹⁵

²⁰ *Ibid.*, 1764, c. 1268; cf. Edwards, *op. cit.*, p. 165.

(*New York Colonial Laws*, 1754, c. 956.

²¹ Peterson, *op. cit.*, p. 506.

²² Howell and Tenney, *op. cit.*, p. 506.

²³ Edwards, *op. cit.*, p. 506.

²⁴ Howell and Tenney, *op. cit.*, pp. 100-1.

²⁵ *Colonial Laws*, 1695, c. 47.

²⁶ Edwards, *op. cit.*, p. 503.

²⁷ *Laws*, c. 59.

²⁸ Howell and Tenney, *op. cit.*, p. 503.

²⁹ *Laws of New York*, 1732, c. 120.

³⁰ Peterson, *op. cit.*, p. 506.

³¹ Howell and Tenney, *op. cit.*, p. 506.

³² *Colonial Laws*, 1730,

Indeed, this is generally true. However, the city of New York in 1733 leased the land located at the lower end of Broadway to be "inclosed to make a Bowling Green thereof with Walks therein, for the Beauty & Ornament of Said Street as well as for the Recreation & delight of the Inhabitants of this City."⁵⁴ By means of special assessments and a bond issue, funds were provided for acquiring the property for Central Park in 1851.⁵⁵ Parks were not developed in Albany or at least opened to the public until about 1871.⁵⁶

An organized effort was made to care for the sick in New York City in 1758 when all of Bedlow's Island was purchased and a building erected to care for persons afflicted with contagious diseases.⁵⁷ A semi-public hospital was erected in 1771, the mayor, recorder, and other city officials serving as ex officio members of its governing board. It received support from both the city and provincial governments.⁵⁸ Boards of health were first established in New York City in 1805 and in Albany in 1806.⁵⁹ In 1872 questionnaires were sent to twenty-four New York cities regarding the extent of health activities carried on by their respective boards. Responses were received from eleven. Of those replying, New York and Buffalo were the only ones in which boards of health were actively engaged in health conservation.⁶⁰

Water supply, while an important item in many functions, is essentially a problem of health conservation. In 1774 the city council of New York spent £1,050 for land on which to sink a well as a source of public water supply. A reservoir was constructed and filled with water from the well by means of steam-operated pumps. Orders were placed for the logs intended to be used as conduits, but on account of the Revolution the system was never put into operation.⁶¹ After a severe scourge of cholera in 1834 the Croton aqueduct was constructed in 1842, a date marking the real beginning of a public water supply.⁶² Albany had had a water system prior to 1850, but it was not until this time that the assembly appointed five commissioners to consider supplying the city with water. The council was authorized to borrow \$600,000 and to purchase the equipment of the private company.⁶³

⁵⁴ Edwards, *op. cit.*, p. 171, quoting from *Minutes of the Common Council*.

⁵⁵ *Laws*, c. 529.

⁵⁶ Certain lands were designated for Washington Park in 1869 (*Ibid.*, c. 582), cf. Howell and Tenney, *op. cit.*, p. 518.

⁵⁷ *Colonial Laws*, c. 1077.

⁵⁸ Edwards, *op. cit.*, p. 101.

⁵⁹ See Table 15, p. 94.

⁶⁰ J. A. Fairlie, *The Centralization of Administration in New York State* (New York, 1898), p. 129.

⁶¹ Edwards, *op. cit.*, pp. 139 ff.

⁶² A bond issue of \$2,500,000 was approved in 1834 for the construction of water works (*Laws*, c. 256).

⁶³ *Ibid.*, 1850, c. 235.

While 1850 apparently marks the time when the fiscal importance of the municipality reaches significant proportions, it is also at this time that most of the essential functions of government had become common to the two leading cities of the State of New York. Protection, charities, street construction, sanitation, education, recreation, care of the sick, and the supplying of an ample quantity of pure water were all being provided after a fashion, appearing in the order named. City activities have in recent years been broadened to include the raising of money for supporting the conference of mayors, maintaining police training schools, establishing hospitals, creation of planning commissions, construction of landing fields, and acquiring works of art.⁴⁴

From 1850 on, the development of city functions can best be presented in terms of the growth of the fiscal budgets. The expenditures of New York City in 1830 compared with those in 1930 are indicative of the marked expansion of municipal services. During the interval of one hundred years the population of New York City had increased from 202,589 to 6,930,446, or a 33 fold increase.⁴⁵ At the same time expenditures for the various functions of government grew much more rapidly. According to the data presented in Table 16, the per capita expenditures of 1930 for general government, after correction for price level changes,

TABLE 16

A COMPARISON OF EXPENDITURES FOR SELECTED FUNCTIONS OF NEW YORK CITY FOR THE YEARS 1830 AND 1930*

FUNCTION	1830		1930*		1930 CORRECTED AS TO PRICE LEVEL**	
	Total	Per Capita	Total	Per Capita		Per Capita
General government.....	\$21,743	\$0.09	\$56,709,000	\$8.18	\$46,350,008	\$6.68
Protection.....	304,137	1.25	118,169,000	17.05	96,603,158	12.94
Health.....	27,228	.11	79,595,000	11.48	65,068,913	9.30
Highways.....	50,378	.21	28,780,000	5.60	21,702,650	4.57
Charities.....	131,021	.54	27,918,000	5.47	30,907,966	4.47
Education.....	25,995	.11	202,712,000	29.25	165,717,060	22.91
Interest.....	52,118	0.22	104,072,000	15.03	86,079,678	12.28

* Expenditures for 1830 taken from Durand, *The Finances of New York City* (New York, 1898) Table 3, pp. 378-77; for 1930 see Table 17, pp. 106-7.

** Outlays excluded.

*** Wholesale price level in 1830 was 103; in 1930, 126, as compiled by G. F. Warren and F. A. Pearson of Cornell University. Average of 1910 through 1914 equals 100.

⁴⁴ See Table 15, pp. 93-99.

⁴⁵ *Abstract of the Fifth Census of the United States, 1830*, p. 10; *Fifteenth Census of the United States, 1930*, I, 768.

were 74 times as great as expenditures for similar purposes in 1830; protection, 11 times; health, 85 times; highways and streets, 22 times; and education, 217 times. A rather complete description of the scope and character of the activities engaged in by all of the New York cities since 1918 is set forth in Table 17. Expressing the municipal expenditures of 1918 and 1931 in terms of a common price level, the effective increase is in the neighborhood of 508 per cent.⁶⁶ The dynamic aspects of city activities are more clearly discernible when this growth is compared with that of population. While expenditures increased 508 per cent, the urban population for the decade preceding 1930 increased only 22.5 per cent.⁶⁷ The expansion cannot be attributed to any one particular activity of government as against another. The percentage distribution of expenditures shown at the bottom of Table 17 and in the semi-logarithmic chart (Fig. 9) indicates that, with the exception of welfare expenditures for the years 1931 to 1934, the rate of growth for all has been rather constant. Associated with past experiences, the welfare expenditures for these years appear abnormal. Nevertheless, these new responsibilities will, in all probability, modify the normal course of developments. There are also indications that the fields of activity soon to be common to the city will be much wider than at present. The city of New York now has fifty-three milk centers. On the 12th of June, 1934, the city dispensed 12,517 quarts of milk to 7,093 families as a part of a program to care for the health of infants. As a further extension of this work, the city is contemplating the handling of ice to insure fair prices and practices.⁶⁸ These events are instanced as being characteristic of the new activities in which cities may presently find themselves actively engaged.

⁶⁶ Expenditures of 1918, 1931 and 1933 corrected for change in price level are \$225,980,000, \$1,373,667,000, and \$1,284,210,000, respectively. Based on 1926=100; 1918, 131.3; 1931, 73.0; 1933, 66.0 (U. S. Bureau of Labor Statistics, Wholesale Price Index).

⁶⁷ Urban population in New York, 1920, 8,589,844; 1930, 10,521,952 (*Fifteenth Census of the United States, 1930, I, 15*).

⁶⁸ *New York Times*, June 13, 1934.

TABLE 17
NET EXPENDITURES OF NEW YORK CITIES FOR CURRENT PURPOSES AND OUTLAYS, 1918-1934^a
(Thousands)

PURPOSE	1918 ^b	1919 ^b	1920 ^c	1921 ^b	1922 ^b	1923 ^b	1924 ^b	1925	1926
General government.....	\$24,231	\$24,101	\$27,152	\$30,080	\$32,794	\$34,866	\$36,078	\$41,183	\$43,764
Protection.....	40,626	43,105	50,100	56,633	64,602	67,346	71,962	94,233	98,314
Health and sanitation.....	20,102	21,800	27,677	33,019	34,852	36,760	39,147	36,275	39,749
Highways.....	17,257	18,863	23,188	27,946	21,964	31,569	27,911	23,781	25,074
Charities and corrections.....	18,112	18,219	21,026	23,844	25,412	24,898	25,654	26,285	30,004
Education.....	57,634	64,851	83,485	102,546	129,403	185,554	141,329	149,265	160,881
Recreation.....	4,614	5,509	6,373	7,370	8,227	8,865	8,622	10,038	12,040
All other.....	110,475	13,308	13,836	14,094	18,370	20,924	23,021	1,549	1,722
Total maintenance.....	\$193,051	\$209,846	\$252,836	\$295,532	\$335,624	\$360,282	\$373,724	\$382,609	\$411,548
Outlays.....	41,863	40,315	55,235	72,366	91,578	118,233	173,195	208,577	199,439
Interest.....	61,798	65,487	67,540	69,916	78,923	80,996	83,046	71,947	77,264
Total.....	\$296,712	\$315,648	\$375,611	\$437,803	\$506,125	\$559,511	\$629,965	\$663,133	\$688,241
<i>Percentage Distribution</i>									
General government.....	8.2	7.6	7.2	6.9	6.5	6.3	5.7	6.2	6.4
Protection.....	13.7	13.7	13.3	12.9	12.7	12.0	11.4	14.2	14.3
Health and sanitation.....	6.8	6.9	7.4	7.6	6.9	6.6	6.2	5.5	5.8
Highways.....	5.8	6.0	6.2	6.4	4.3	5.7	4.4	3.6	3.6
Charities and corrections.....	6.1	5.8	5.6	5.4	5.0	4.4	4.1	4.0	4.4
Education.....	19.4	20.6	22.3	23.4	26.8	24.2	22.4	22.5	23.4
Recreation.....	1.6	1.7	1.7	1.7	1.7	1.6	1.4	1.5	1.8
All other.....	3.5	4.2	3.7	3.2	3.6	3.7	3.7	.3	.3
Total maintenance.....	65.1	66.5	67.3	67.5	66.5	64.4	59.3	57.7	60.0
Outlays.....	14.1	12.8	14.7	16.5	18.0	21.1	27.5	31.5	29.0
Interest.....	20.8	20.7	18.0	16.0	15.5	14.5	13.2	10.8	11.0
Total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

^a Data from *Special Reports of the Comptroller on Municipal Accounts*. Exclusive of public utilities.

^b Data for New York, Buffalo, and Rochester taken from United States Bureau of the Census, *Financial Statistics of Cities*.

^c Expenditures for New York, Buffalo, and Rochester estimated (average of 1919 and 1921 expenditures).

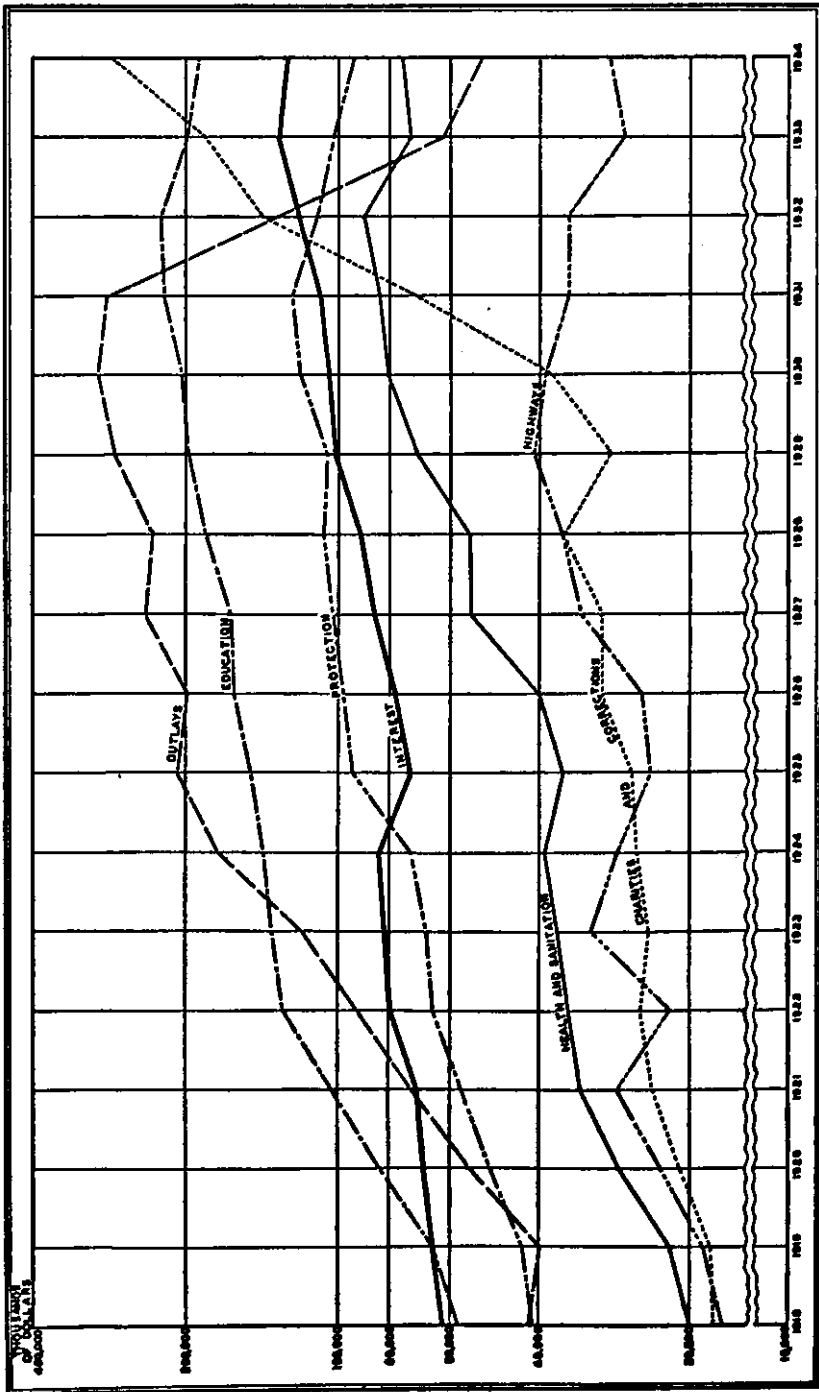


FIG. 9.—NET EXPENDITURES OF NEW YORK CITIES FOR CURRENT PURPOSES AND OUTLAYS

2. City Relationships with Other Units⁶⁹

When the municipal corporation was introduced into the catalog of American institutions, the attitude of the State was quite antithetical to that now prevailing. For example, mayoralty selections rested in the hands of the central government; power to levy local taxes for public purposes was denied; and during the latter half of the nineteenth century the central government attempted, through legislative action, to regulate minutely the internal affairs of municipal government. The elimination of these restraints has given the history of city-State relationships a belligerent bent. A State legislature made up largely of rural representatives has not taken kindly to the problems presented by urban interests. On the other hand, the municipalities have been aggressive in pressing for those changes permitting them a greater exercise of local initiative. The fact that cities, like other units of government, were originally an administrative arm of State government, provided the pretext for the central appointment of the chief administrative officer long after the municipality had come to be an institution satisfying primarily local needs. A large part of the time of the mayor and council was originally absorbed by judicial duties. In this capacity they were State officers.⁷⁰

As the functions of the city came to include more than providing facilities for the adjudication of disputes, various elective and appointive officers began to assume functionalized duties. The mayor's work became chiefly administrative, the judicial functions were taken over by the judges, and the council became responsible for the determination of legislative policies and programs. Associated with this development was a gradual change in the relationship of the State to local personnel. Throughout the colonial era the mayors were appointed by the governor. From 1777 to 1821 appointments were made by the council of appointments. The Constitution of 1821 provided for election by the common council,⁷¹ and in 1833 and 1839 New York and all other cities of the State, respectively, were given the privilege of electing their own mayors.⁷²

The central government looked on the early municipal corporations as only quasi-public institutions. So strong was the emphasis of the private aspects of corporate existence that the Legislature

⁶⁹ For a statement of principles involved in administrative supervision and a summary of city-State relationships prevailing in the United States, cf. Schuyler C. Wallace, *State Administrative Supervision over Cities in the United States* (New York, 1928).

⁷⁰ "Previous to the Dongan charter, whether their work was legislative or judicial, it was precisely the same body of magistrates that performed it and it was the same clerk who recorded their acts. Indeed their administrative and judicial sessions would frequently follow each other on the selfsame day, separated only by the ringing of the bell" (Peterson, *op. cit.*, p. 10).

⁷¹ Art. IV, § 10.

⁷² Amendment No. IV, ratified November, 1833, and Amendment No. VI, ratified November, 1839.

was not inclined to grant to them general powers of taxation.⁷³ Thus when revenues from licenses and earnings of public enterprises were inadequate it was necessary to secure passage of an annual tax bill. So long as the need for direct levies was only occasional, no serious conflict came out of having to obtain legislative approval. The periodicity of the practice, however, coupled with a growing inclination on the part of the Legislature to regulate municipal affairs, provided a basis for curbing the fiscal autonomy of municipalities.⁷⁴ Most of the cities had probably been freed from interference of this character in the early part of the nineteenth century, but New York City operated under budgetary restraints until 1872.⁷⁵ A full recognition of the public character of city government was not announced until 1913 when the general laws were broadened to permit the levying and collecting of taxes for any public or municipal purpose.⁷⁶

There is probably no other single item equally indicative of the changed status of city-State relationships than that of revenue administration. Whereas throughout the eighteenth century the Legislature required each municipality to present an annual tax bill for such revenues as it might need to raise from taxes, the State now provides the cities with 20 to 25 per cent of their net tax receipts.⁷⁷ All cities receive a share of the business and personal income taxes, financial institutions tax, and receipts from licenses and taxes imposed on beer and wine.⁷⁸

The questions as to whether the State or the municipality should name the chief executive officer and fix the principal items in the budget were not the only irritating points of city-State relationships. Equally grievous was the problem of State versus local control over particular functions of local government. The means by which the Legislature justified this sort of encroachment was a clause in the Constitution of 1846 which provided that "all other officers, whose election or appointment is not provided for by this Constitution, and all officers, whose offices may hereafter be created by law, shall be elected by the people, or appointed as the Legislature may direct."⁷⁹ Availing itself of the right to name officers to fill positions created subsequent to 1846, the Legislature brought into existence an array of special commissions and *ad hoc* districts.⁸⁰ As a result of this policy the council in New York City

⁷³ Goodnow, *op. cit.*, p. 16.

⁷⁴ Durand, *op. cit.*, pp. 88 ff.

⁷⁵ *Ibid.*, p. 152. The Tax Law of 1872 was the last tax bill passed by the Legislature on behalf of New York City.

⁷⁶ *Laws*, c. 247.

⁷⁷ Cf. Tables 50 and 51, pp. 259-60.

⁷⁸ Cf. Figure 16 and Table 50, pp. 232, 259.

⁷⁹ Art. X, § 2. This same clause was repeated in the Constitution of 1894.

⁸⁰ Metropolitan police district (*Laws*, 1857, c. 569), Capital police district (*ibid.*, 1865, c. 554), Niagara Frontier police district (*ibid.*, 1866, c. 484), Metropolitan sanitary district (*ibid.*, 1866, c. 74), Metropolitan board of excise (*ibid.*, 1866, c. 578), Metropolitan fire district (*ibid.*, 1865, c. 249).

was only directly responsible for 26 per cent of the estimated local expenditures for the year 1868. Over four million dollars was to be disbursed under the direction of special commissions officered by appointees of the State.⁸¹

An attempt has been made to eliminate city-State conflicts by a series of constitutional changes. The Constitution of 1894 limited the enactment of special legislation.⁸² In 1923 the "home rule" amendment was added. By means of this change the Legislature was prohibited from passing

any law relating to the property, affairs or government of cities, which shall be special or local either in its terms or in its effect, . . . except on message from the governor declaring that an emergency exists and the concurrent action of two-thirds of the members of each house of the Legislature.⁸³

By the same amendment every city was granted the right to legislate within rather broad limits and the Legislature was authorized to grant such further powers as it might deem expedient.⁸⁴ The Legislature in declaring its intent relative to the home rule section stated:

It is not the intention of the legislature hereby to abolish or curtail any powers or rights heretofore conferred upon or delegated to a city or cities or to any board, body or officer thereof, unless a contrary intention is clearly manifest from the express provisions of this chapter or by necessary intent therefrom; nor to restrict the powers of the legislature to pass laws regulating matters of state concern as distinguished from matters relating to the property, affairs or government of cities.⁸⁵

⁸¹ Computation based on table of estimated appropriations (Durand, *op. cit.*, p. 87).

⁸² General laws were defined as those "which relate to all the cities of one or more classes," special laws as those "which relate to a single city, or to less than all the cities of a class" (Art XII, § 2). This section further provided that no special bill enacted by the Legislature should become operative until it had been approved by the mayor or mayor and council of the localities concerned. A bill returned marked "unapproved" might still become operative if it were passed by both houses and approved by the governor.

⁸³ *Ibid.*

⁸⁴ Cities were authorized "to adopt and amend local laws not inconsistent with the Constitution and laws of the State, relating to the powers, duties, qualifications, number, mode of selection and removal, terms of office and compensation of all officers and employees of the city, the transaction of its business, the incurring of its obligations, the presentation, ascertainment and discharge of claims against it, the acquisition, care, management, and use of its streets and property, the wages or salaries, the hours of work or labor, and the protection, welfare and safety of persons employed by any contractor or subcontractor performing work, labor or services for it, and the government and regulation of the conduct of its inhabitants and the protection of their property, safety and health" (*ibid.*, § 3). "The Legislature may by general laws confer on cities such further powers of local legislation and administration as it may, from time to time, deem expedient" (*ibid.*, § 5).

⁸⁵ *Laws, 1924*, c. 363, § 30.

Furthermore, the Legislature made it clear that it desired that the courts should construe the act liberally.⁸⁶ The constitutional changes and enabling legislation just reviewed, represent an important part of the movement toward autonomy for municipalities. The character of the limitations imposed has changed from the listing of a few permissible activities to an enumeration of those fields of action reserved to the central government.⁸⁷

In spite of the long way that has been traveled in giving municipal governments a relatively large measure of autonomy there are still phases of city-State relationships that are somewhat out of adjustment. In the interest of home-rule principles and continued respect for policies of the central government, the remaining causes of conflict should be thoroughly investigated. Determination by the State of salary schedules and annual increases for municipal employees imposes a rather onerous burden, especially at times when retrenchment is expedient. Teachers' salaries provide the outstanding example of such regulation and are applicable to all cities in the State. Also in the case of New York City, the salaries of the policemen and firemen are paid in accordance with a schedule of rates determined by the Legislature in 1929.⁸⁸ The recent financial plight of the city of New York has brought all of these limitations on home rule clearly to the fore. In order to reduce the salaries of employees receiving earnings in excess of \$3,000 per year it was necessary to secure the passage of an economy bill in the State Legislature. As the bill was enacted it was necessary to exempt

⁸⁶ *Ibid.*, § 31. Actually, the courts have interpreted "property, affairs or government" narrowly and "matters of state concern" broadly (cf. *Reorganization of Local Government in New York State*, pp. 87 ff).

⁸⁷ *Laws*, 1924, c. 363, § 21. "Notwithstanding any provision of this chapter, the local legislative body of a city shall not be deemed authorized by this chapter to adopt a local law, which supersedes a state statute now in force or hereafter enacted by the legislature, if such local law.

"1. Removes or raises any limitation of law on the amount in which the city may become indebted, or on the amount to be raised in any one year by tax for city purposes, or for any city purpose;

"2. Removes restrictions of law as to issuing bonds or other evidences of debt;

"3. Applies to or affects the maintenance, support or administration of educational system in such city, or a teacher's pension or retirement system in such city;

"4. Changes the number or term of office of the members of the county board of supervisors chosen as such in such city under the official title of supervisors;

"5. Applies to or affects any provision of the labor law or the workmen's compensation law;

"6. Changes any provision of the tenement house law;

"7. Applies to or affects existing powers of the state comptroller in relation to auditing or examining municipal accounts or prescribing forms of municipal accounting;

"8. Applies to or affects any provision of law providing for regulation or elimination of railroad crossings at grade or terminal facilities within the city;

"9. Applies to or affects any provision of law relating to the property, affairs of government of a county or counties."

⁸⁸ *Ibid.*, c. 202.

the employees of the board of education; uniformed forces of the police and fire departments; the salary of any employee whose office is established by the Constitution; or the employees of numerous State, county, and city courts.⁸⁹ This same city is required to provide approximately \$16,000,000 for annual mandatory salary increases due policemen, teachers, firemen, and employees of the courts.⁹⁰ After securing legislative permission to reduce salaries by approximately \$20,000,000, it was found that no action had been taken on the mandatory increases; therefore, the net saving to the city was only \$4,000,000.

Not only are the cities bound by State action relative to matters of employee compensation, but they are dependent upon the central government for numerous authorizations pertaining to matters essentially local in character. For example, between 1932 and 1935 New York City asked the Legislature to provide for reopening the budget,⁹¹ to consolidate the various purchasing bureaus into one department,⁹² to advance the date of tax collections,⁹³ to lease the Bronx terminal market,⁹⁴ to establish a court of domestic relations,⁹⁵ and to merge all inspectional forces into the bureau of buildings.⁹⁶ Several of these measures are patently administrative and as such should not even be referred to the city council, much less to the legislative halls at Albany. Some of the above measures were enacted into law; others failed. Among those receiving unfavorable action was the bill providing for the consolidation of the various purchasing departments into one bureau. There is indeed grave doubt as to whether the Legislature of the State was in a position to dictate wisely a matter of this regard.

Besides those relationships responsible for a considerable amount of friction, there are others that appear to be accepted more as a matter of course. Cities are obliged by legislative action to "make appropriations and raise money for veteran relief in the same manner as for the care and relief of other persons in need of public relief and care."⁹⁷ As a result of the operation of this law the city of Buffalo experienced an increase in appropriations from \$100,000 in 1925-26 to \$537,415 in 1932-33.⁹⁸ Cities constituted as separate welfare districts are "responsible . . . for the administration of public relief and care and the expense incident thereto."⁹⁹ It is further the duty of public welfare districts "to provide adequately for those unable to maintain them-

⁸⁹ *Ibid.*, 1934, c. 178, § 41; cf. *New York Times*, April 11, 1934.

⁹⁰ *Ibid.*, January 1, 1933.

⁹¹ *Ibid.*, December 16, 1932.

⁹² *Ibid.*, April 11, 1933.

⁹³ *Ibid.*, January 20, 1933.

⁹⁴ *Ibid.*, April 12, 1933.

⁹⁵ *Ibid.*

⁹⁶ *Ibid.*

⁹⁷ *Public Welfare Law, 1935*, § 117.

⁹⁸ *Depression Taxes and Economy through Reform of Local Government*, p. 62.

⁹⁹ *Public Welfare Law, 1935*, § 31.

selves,¹⁰⁰ to arrange for hospital facilities for those unable to secure medical care,¹⁰¹ to assume responsibility for the care of needy children,¹⁰² and to levy such taxes as are necessary for old age relief.¹⁰³ As public health districts the cities are subject to State regulations¹⁰⁴ governing the minimum salary paid to local health officers, the alteration and construction of sewers, provision of public baths, inspection of school children, treatment of venereal diseases, and provision for hospital facilities.¹⁰⁵ Cities are limited by the Constitution and statutory enactment as to the amount of indebtedness they may incur and the maximum tax rates they may levy.¹⁰⁶ With the exception of Rochester, Buffalo, and New York City, all municipalities must report their annual receipts and expenditures to the State comptroller.¹⁰⁷ Since 1842 New York City has been required to levy a minimum tax each year for educational purposes¹⁰⁸ and every other city must levy the minimum required by the grants-in-aid formulae in order to be entitled to the maximum allowance.¹⁰⁹

Important as they are, regulatory aspects do not comprise the whole of city-State relationships. There are numerous instances where cooperation provides the only means of solving problems of common interest to the municipality and to the State as a whole. Examples of this character are the construction of State highways and bridges falling partly within corporate limits;¹¹⁰ the reporting of crime by means of teletypewriter and radio;¹¹¹ State collection of revenue and sharing of the proceeds;¹¹² grants for education,¹¹³ health,¹¹⁴ and welfare;¹¹⁵ and provision of park facilities by the State, principally for the benefit of urban dwellers.¹¹⁶ On approval of the local legislative body, municipal employees not provided for by a retirement system are eligible to participate in the State system.¹¹⁷

In addition to spheres of mutual interest existing between the cities and the central government, urban communities may, to a limited extent, be associated with other units of local government. A city may jointly undertake with a town or village to establish

¹⁰⁰ *Ibid.*, § 77.

¹⁰¹ *Ibid.*, § 83.

¹⁰² *Ibid.*, § 103.

¹⁰³ *Ibid.*, §§ 122, 124-c.

¹⁰⁴ New York City is generally exempted (cf. *supra*, p. 37).

¹⁰⁵ Cf. *infra*, p. 360.

¹⁰⁶ Cf. *infra*, pp. 239-40, also, *Laws*, 1936, c. 509.

¹⁰⁷ Cf. *infra*, pp. 240-42.

¹⁰⁸ *Laws*, 1842, c. 150.

¹⁰⁹ Cf. *infra*, p. 195.

¹¹⁰ Cf. *infra*, pp. 302-3.

¹¹¹ Cf. *infra*, p. 375.

¹¹² Cf. *infra*, pp. 233-34, 246 ff.

¹¹³ Cf. *infra*, pp. 175-76.

¹¹⁴ Cf. *infra*, pp. 359-60.

¹¹⁵ Cf. *infra*, pp. 330-31.

¹¹⁶ Cf. *infra*, pp. 378-79.

¹¹⁷ *Laws*, 1922, c. 591.

a consolidated health district,¹¹⁹ a union water district,¹²⁰ or a city may cooperate with a village in providing for sewage disposal,¹²⁰ or in the construction of a joint landing field.¹²¹ For the better protection of property from fire, a city may, by ordinance, place its equipment at the disposal of a town, village, or fire district, or vice versa.¹²² A city may share with a county, town, or village the expense incident to providing playground facilities and neighborhood recreation centers.¹²³ Mortgage-recording taxes collected by the county on all instruments covering properties located within corporate limits are set apart for the respective cities.¹²⁴ The supervisors have power to correct errors in assessment rolls, and to equalize assessments prepared by the various taxing districts, including cities.¹²⁵ All property taxes remaining uncollected at the expiration of the collector's warrants are returned to the county treasurer to be collected by him.¹²⁶ Also, railroads and certain other corporations may elect to pay their current property tax directly to the county treasurer.¹²⁷ In these instances, the county again is acting as a collection agency for the city.

3. Summary

State and city relationships from colonial times to the present have been marked by a continuous struggle on the part of the city to win a wider degree of political and economic independence. The first charter granted to New Netherlands was sought because it promised some degree of relief from the onerous obligations imposed by the director general.¹²⁸ Today scarcely an issue from the daily press fails to carry some article dealing with reapportionment and a further extension of home-rule powers. Regular and special sessions of the Legislature are at one time or another confronted with clamors from the urban centers. However, since the Legislature is predominantly rural in character the demands of the cities, in general, are unheeded.

During the past 250 years some accomplishments tending to give greater independence to the urban centers have nevertheless been achieved. Since the adoption of the Constitution of 1894 a train of legal adjustments was set in motion tending to restrain the Legislature from interfering unduly in the local affairs of cities. The State has relinquished one of its earliest administrative controls, namely, the power to appoint the mayor and other local officers.

¹¹⁹ *Ibid.*, 1916, c. 369.

¹²⁰ *Cahill's Consolidated Laws*, 1930, 10:530.

¹²¹ *Laws*, 1932, c. 152.

¹²² *Ibid.*, 1935, c. 677.

¹²³ *Ibid.*, 1931, c. 352.

¹²⁴ *Ibid.*, 1922, c. 391.

¹²⁵ *Two Laws*, 1935, § 261.

¹²⁶ *Ibid.*, §§ 56, 50.

¹²⁷ *Ibid.*, § 82.

¹²⁸ *Ibid.*, § 73.

¹²⁹ *Peterson, op. cit.*, p. 3.

Before the middle of the nineteenth century all of the cities of New York were decentralized to the extent that they chose their own executive head. The necessity of securing legislative approval before any tax was levied for municipal purposes provided the basis for a period of legislative interference so minute in character that the State legislature even specified the amount of particular items in the city budget. Also the central government in certain instances named the officers responsible for police, fire, and health administration. Constitutional legislative and charter revision before the close of the nineteenth century marked the decline of this particularly offensive type of interference. Approximately at the same time that legislative interference was discontinued the cities were no longer required to submit their budgets to the Legislature for approval. General grants of authority enabled the municipalities to levy taxes for any municipal purpose. The fiscal policy of the State has been modified from that of legislative restriction to turning over to the municipalities funds in the form of subventions and shared taxes.

There remains, however, the problem of mandatory expenditures—an obligation responsible for considerable city-State friction. An equitable solution of the problem apparently lies in the State standing ready to finance substantially those objects of expenditure included in the category of State-established standards. Home-rule principles require that a municipality should have the opportunity to apportion its available revenue in the way it sees best. This principle precludes State imposition of fixed items of expenditure, unless it stands ready to finance its mandates.

CHAPTER VI

THE VILLAGE

The village is, strictly speaking, a derivation of town government. Populous areas becoming dissatisfied with the services rendered by the town or special district petitioned for the formation of a village government. Though more than 145 years old, the village is the most recent addition to the list of basic governmental units. Town, county and city governments had each been in existence over a century and a quarter before Lansingburgh was given its first grant of quasi-municipal prerogatives. The popularity of this form of organization is indicated by the growth in numbers since 1800. Beginning with seven villages at that date, the number increased to 276 in 1880, 505 in 1920, and 554 in 1934.¹ Important as the village may be from the standpoint of numbers, it ranks least of all local governments as to fiscal importance. From 1918 to 1934, the percentage of all governmental expenditures attributable to villages has ranged from 1.6 in 1919 and 1934 to 2.6 in 1929.² Table 19 indicates that the chief services rendered by villages are providing protection to persons and property, and the construction of streets and highways.³ Recognition given to village government by the Constitution and the courts has, in general, been in keeping with its fiscal rank. Its constitutional status is limited to a mandate to the Legislature to provide for the organization of incorporated villages.⁴ The courts have said that a village is rather unimportant because it is "only a small collection of houses in the country, . . . and is a subordinate branch of the civil government."⁵ A "small collection of houses" may be an accurate modal description of a village, but it fails in a portrayal of what the extremes may be. Fifteen villages have populations in excess of 10,000, four have less than 100 inhabitants; Deering Harbor has 39.⁶

1. The Growth of Village Functions

Village government grew out of the shortcomings of the town. Unable to secure the needed fire protection from the town board, and finding inadequate such highway facilities as the town could provide, citizens living in rather definite community groups peti-

¹ Cf. Table 2, p. 13.

² Cf. Table 3, pp. 15-16.

³ Cf. Table 19, pp. 124-25.

⁴ Constitution, 1894, Art. XII, § 1.

⁵ *In re Rice*, 199 N. Y. S. 547 (1923). The court, five years later, in speaking of the powers of the village trustees, stated: "being a creature of the statute [it], has no inherent power" (*Village of Greenville v. Krauss*, 228 N. Y. S. 210 [1928]).

⁶ *Special Report of the Comptroller on Municipal Accounts, 1934*, pp. 97, 98, 166.

tioned the Legislature for additional grants of power. Such was the case in the incorporation of Troy and Lansingburgh.⁷ They were given power to choose five trustees and were declared to be a body politic and corporate. They might purchase and hold real estate, levy taxes to erect houses for the protection of fire equipment, educational purposes, and a public market or any other necessary improvement. The trustees were given power to make by-laws regulating the public market and slaughter houses. They could provide for the organization of fire companies, installation of street lighting, construction of streets and highways, licensing of inns, and establishing a town watch. Revenues necessary to finance these activities were to be assessed by three assessors and collected by a village collector.⁸

It was fifty-three years after establishment of the first village that a general incorporation law was enacted.⁹ The powers granted were not materially extended beyond those of the earlier acts. Upon action of the electorate taxes could be levied for fire equipment, pounds, cemetery purposes, cross walks, supplies and officers' salaries, highways, and all other purposes when required of village officers. The scope of village activities was increased somewhat by the new incorporation act of 1870.¹⁰ In addition to the old grants, police power was extended, taxes were permissible for street-lighting facilities, and sewers could be constructed and financed by special assessments. The trustees were to act as guardians of the public health and to remove all persons afflicted with contagious diseases. In 1875 the importance of the village was further augmented by exempting all villages incorporated under the new act from assessments and taxes for roads outside of such corporation.¹¹ Shortly before the opening of the twentieth century other functions, typically characteristic of a modern city, were added. In 1875 the village authorities were permitted to organize into a board of water commissioners to provide facilities for a "pure and wholesome" supply of water.¹² Land could be acquired for park purposes in 1888. Sewers were included in the category of village prerogatives in 1887, and lighting facilities could be contracted for in 1888. After 1900 the character of the new authorizations was not essentially different from those of the latter nineteenth century. Building codes were authorized in 1910; band concerts, 1911; and taxes could be levied subsequent to 1917 for the construction of incinerator plants. More recently villages were permitted to provide expenses for police in attendance at training schools; certain villages may engage in child welfare

⁷ *Loc. cit.*, 1798, c. 14.

⁸ *Ibid.* A more elemental grant of power was given to Lansingburgh in 1790 (*ibid.*, c. 49).

⁹ *Ibid.*, 1847, c. 426.

¹⁰ *Ibid.*, c. 291.

¹¹ *Ibid.*, c. 570.

¹² *Ibid.*, c. 181.

work; and any first- or second-class village may establish and maintain an airport.¹³

The summary of historical developments presented in Table 18 indicates that the services now responsible for an important part of village budgets began to appear after 1840—fire engines in 1847, electric lighting plants in 1894, water supply in 1875, garbage disposal in 1894 and highways in 1875. The fiscal data set forth in Table 19 do not reveal any significant shift in the functional expenditures of New York villages since 1917. On the contrary, a rather high degree of stability is apparent, not only as between the various functions, but also as to the rate of growth of expenditures as a whole. These data are plotted on semi-logarithmic scale in Figure 10.

2. Administrative Organization

As was pointed out in the statutory provision for the organization of Troy and Lansingburgh, the village officers consisted of five trustees, one clerk, three assessors, one treasurer, and one collector. Since that time there has been no significant change in the basic pattern, only additional officers and commissions have been appended. Under the general village law it is now mandatory for every village to elect a mayor, and for certain villages to choose from two to six trustees, a receiver of taxes and assessments, and a police justice.¹⁴ All villages must also appoint a treasurer, clerk, and one or three assessors.¹⁵ Certain villages must also appoint two to four inspectors of election, acting police justice, registrar of vital statistics, and local health officer.¹⁶ Any village may employ an engineer, superintendent of public works, village auditor, street commissioner, village attorney, pound keeper, appraisal experts, and such other officers as the board may deem expedient.¹⁷ Certain villages may appoint a deputy village clerk, poll and ballot clerk, dog warden, and receiver of taxes and assessments.¹⁸ In addition to these officers the village board may appoint fire, water, light, sewer, park, or cemetery commissioners, each board consisting of three to five members, or they may create a municipal board which can assume the duties of two or more of the boards.¹⁹ In 1927 provision was made that villages might, on referendum, adopt a centralized form of government and elect a village manager.²⁰

¹³ See Table 18, pp. 120-23.

¹⁴ *Cahill's Consolidated Laws*, 1930, 65:43, 44, 70, 47.

¹⁵ *Ibid.*, 65:43, 48. Village board may act as ex officio assessors in third- or fourth-class villages.

¹⁶ *Ibid.*, 65:51, 187, 373, 20.

¹⁷ *Ibid.*, 65:43, 89 (11), (12), (60).

¹⁸ *Ibid.*, 65:43, 51, 1:119, 65:76.

¹⁹ *Ibid.*, 65:63. Other commissions eligible for establishment are: board of police commissioners in villages of first and second class (*ibid.*, 65:63), zoning commission (*ibid.*, 65:179-a), board of appeals (*ibid.*, 65:179-b), planning board (*ibid.*, 26:234), and shade tree commission (*ibid.*, 65:329-d).

²⁰ *Laws*, c. 650, §§ 360-74.

TABLE 18
THE HISTORICAL DEVELOPMENT OF VILLAGE FUNCTIONS, 1788-1935

YEAR	Assessment and Collection of Revenue	General Government	Protection to Persons and Property
1788.....			Portion of Brooklyn authorized to provide for fire prevention. C. 80. Part of Schenectady provided with night watch. C. 49.
1790.....		Lansingburgh empowered to elect 7 trustees who may hold lands for common use. C. 49.	Lansingburgh trustees to appoint firemen. C. 49.
1798.....	Troy and Lansingburgh authorized to elect 8 assessors and 1 collector. C. 14.		
1800.....	Newburgh given power to elect 3 to 5 assessors and 1 collector. C. 54.		
1840.....		Authorized to hold property in trust for certain public purposes. C. 318.	
1847.....	Villages to elect 3 assessors and 1 collector. C. 426, § 25.	First general village act. Authority to raise funds for suits at law; purchase books of record; publish the laws; provide for salaries of village officials; and insure the property of the village. C. 426, § 28.	Provision made for purchase of fire engine and fire house; pounds to be established; wells and reservoirs to be provided for fire protection. C. 426, § 28.
1870.....	Trustees to act as assessors and board of review. C. 291.	Trustees authorized to keep public buildings in repair. C. 291.	Authorized to provide lockup; establish police force; and install street lighting. C. 291.
1871.....			Police justices provided for certain villages. C. 688.
1874.....		Authorization of publication of village accounts. C. 345.	
1884.....		Trustees may raise money for special purpose on referendum. C. 131.	
1887.....		Trustees given power to raise up to \$500 for a special purpose. C. 504.	
1888.....			Authorized to contract for electric lights. C. 452.
1892.....		Village declared to be a municipal corporation. C. 685.	

Chapter references are to *New York Laws*.

TABLE 18—Continued

YEAR	Assessment and Collection of Revenues	General Government	Protection to Persons and Property
1894.....			Authorized to establish own lighting plants. C. 680.
1910.....			May adopt building code. C. 202.
1917.....			May establish lighting districts. C. 414. May provide arms for military organizations. C. 235.
1918.....		May pay the expenses of officials attending municipal officers association meetings. C. 637.	
1921.....			May regulate height and type of buildings. C. 464.
1926.....		May acquire buildings for public purposes through condemnation proceedings. C. 718.	
1927.....	Optional with village to make its own assessment or employ the town roll. C. 650, § 104.	May adopt centralized form of government on referendum and elect village manager. C. 650.	
1928.....			May provide expenses for attendance of police at training school. C. 538.
1935.....			May raise money to defray expenses for attendance of firemen at training school. C. 821.

TABLE 18—Continued

YEAR	Health and Sanitation	Economic Development	Transport Facilities	Education and Recreation
1790.....		Lansingburgh permitted to make regulations regarding common lands. C. 49.	Lansingburgh given power to clean and repair streets and highways. C. 49.	
1795.....			Cohomis authorized to repair roads and raise money for care of streets. C. 40.	
1796.....			Schenectady authorized to pave streets by special assessment. C. 31.	
1834.....	Brooklyn established board of health and given power to levy tax for public hospital. C. 201.			
1832.....	Village trustees in certain counties to choose board of health and physician. C. 333.			
1847.....	Cemeteries to be provided. C. 426, § 28.		Authorized to raise money for roads when village is a separate road district. C. 426, § 28. Tax for repair and construction of crosswalks authorized. <i>Ibid.</i>	
1850.....	All villages to provide a board of health. C. 334.			
1869.....		Certain villages authorized to invest funds in railroad securities. C. 907.		
1870.....	Authorized to construct sewers. C. 291.		Villages to be separate highway districts. C. 291. Snow and ice removal authorized. C. 291.	
1872.....				May establish free public library. C. 453.
1878.....	Board of water commissioners authorized and provision made for water supply. C. 181.			
1881.....				May acquire land for erection of monuments. C. 226.
1887.....	Trustees authorized to provide sewerage and drainage. C. 513.			

Chapter references are to *New York Laws*.

TABLE 10
NET EXPENDITURES OF NEW YORK VILLAGES FOR CURRENT PURPOSES AND OUTLAYS, 1917-1934*
 (Thousands)

PURPOSE	1917	1918	1919	1920	1921	1922	1923	1924	1925
General government.....	\$631	\$649	\$728	\$803	\$992	\$1,071	\$1,250	\$1,431	\$1,610
Protection.....	1,197	1,205	1,306	1,487	1,887	2,109	2,258	2,807	3,187
Health and sanitation.....	585	541	571	712	954	951	999	1,095	1,357
Highways.....	2,490	2,555	2,591	3,055	3,440	4,026	4,143	4,671	4,855
Charities.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Education.....	91	50	99	67	129	143	180	247	139
Recreation.....	65	61	72	123	116	140	136	174	215
All other.....	136	148	126	104	122	139	168	117	162
Total maintenance.....	\$5,105	\$5,219	\$5,488	\$6,351	\$7,640	\$8,579	\$9,133	\$10,542	\$11,525
Outlays.....	3,066	2,315	1,304	2,942	3,369	4,635	6,977	8,015	9,921
Interest.....	763	783	814	783	847	807	999	1,201	1,448
Total.....	\$9,094	\$8,318	\$7,606	\$10,076	\$11,856	\$14,071	\$17,109	\$19,758	\$23,894
<i>Percentage Distribution</i>									
General government.....	7.0	7.8	9.5	7.9	8.4	7.6	7.8	7.2	7.0
Protection.....	13.3	14.5	17.2	14.6	15.9	15.0	13.2	14.2	13.9
Health and sanitation.....	6.5	6.5	7.5	7.1	8.0	6.8	5.8	5.5	5.9
Highways.....	27.5	30.8	34.1	30.3	29.0	28.6	24.2	23.7	21.3
Charities.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Education.....	1.0	.6	1.3	.7	1.1	1.0	1.1	1.2	.6
Recreation.....	.7	.7	.9	1.2	1.0	1.0	1.8	.9	.9
All other.....	1.5	1.8	1.7	1.0	1.0	1.0	1.0	.6	.7
Total maintenance.....	57.5	62.7	72.2	63.0	64.4	61.0	53.4	53.3	50.2
Outlays.....	34.0	27.9	17.1	29.2	28.4	32.9	40.8	40.6	43.4
Interest.....	8.5	9.4	10.7	7.8	7.2	6.1	5.8	6.1	6.4
Total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

* Data from *Special Reports of the Comptroller on Municipal Accounts*. Exclusive of public utilities.

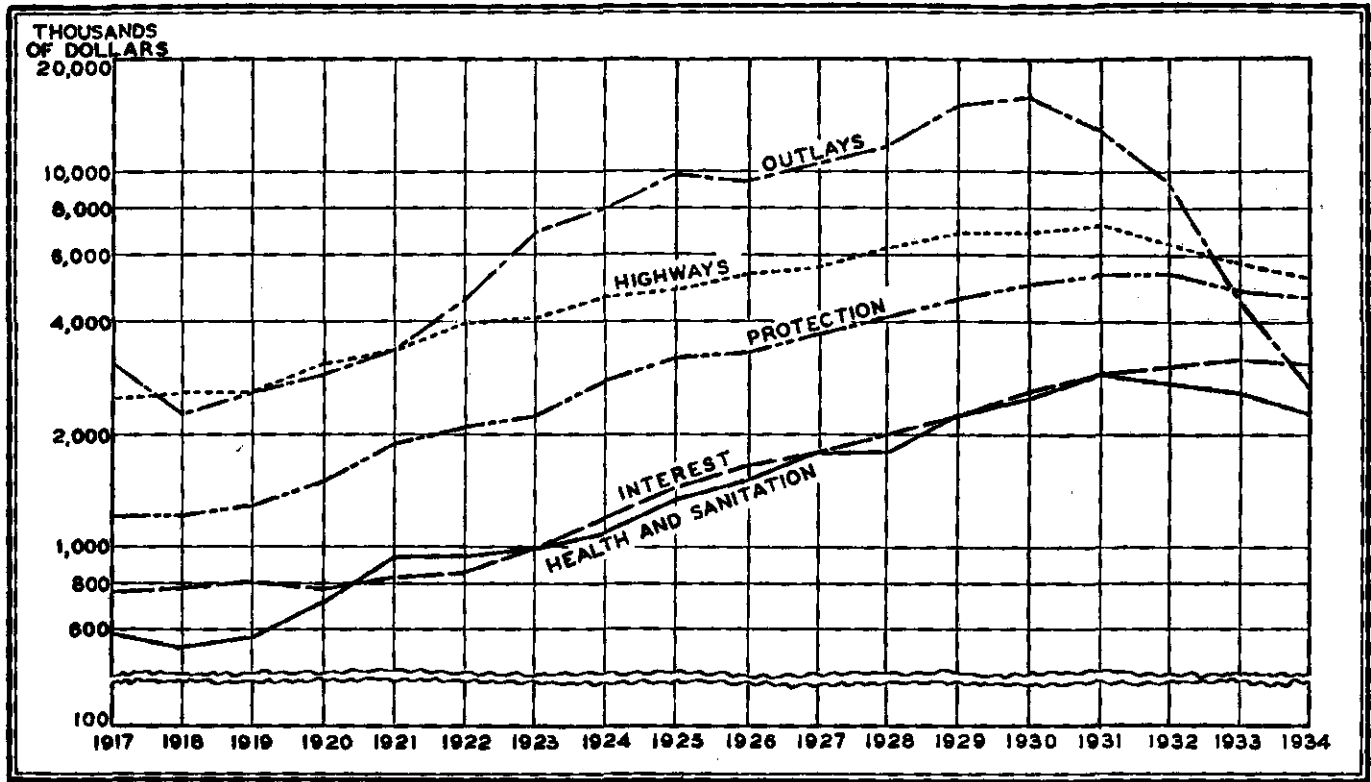


FIG. 10.—NET EXPENDITURES OF NEW YORK VILLAGES FOR CURRENT PURPOSES AND OUTLAYS

3. Relationships with Other Units

Of the various units of local government thus far considered, all have been found to have some relationship with every other civil division and the State. These affinities are not, however, of equal strength. For example, the county and city are more directly bound to the State than to any other unit. The town, through the board of supervisors and the administrative controls vested in various county officials, is bound directly to county government. As county government is integrated with the State and the town with the county, so village government is in turn closely allied with the town. The relationship between these two units arises in the first instance out of the fact that a petition for the organization of village government must be acted upon by the town board. After incorporation the village is in no manner completely divorced from town affairs—it must still contribute its share toward the support of town government.²¹ The non-conformity of village boundaries with that of functional areas has made it necessary to develop devices whereby the village and the town may render services of common interest to both. Examples of this character are the provisions that a town and a village may unite to form a consolidated health district;²² joint water district;²³ union water district;²⁴ joint garbage-, metal-, and refuse-disposal district;²⁵ or a jointly maintained playground and recreation center.²⁶ A village and a town may acquire land for the erection of an incinerator plant.²⁷ In the matter of fire protection a village may, by ordinance, place its equipment at the disposal of the town, or vice versa.²⁸ Since these two units always overlap it is desirable at times that the two provide a common seat of government.²⁹ In those instances where the village is coextensive with the town, the village board may be constituted the town board.³⁰ In towns of the first class, revenue functions of the village and the town may be consolidated to the extent that the receivers of taxes may collect for both the town and the village.³¹

The county is in some respects the arbiter of village problems. In order to prevent the necessity of frequent recourse to the Legislature, the State has delegated some administrative supervision to the county. Informal village procedure at elections, or acts of officers within the scope of their authority and performed in good

²¹ May be exempt from road and bridge levies when a separate highway district (*Highway Law*, 1935, § 99).

²² *Laws*, 1916, c. 369.

²³ *Cahill's Consolidated Laws*, 1930, 26:120-t.

²⁴ *Ibid.*, 10:530.

²⁵ *Laws*, 1934, c. 787.

²⁶ *Ibid.*, 1922, c. 391.

²⁷ *Ibid.*, 1932, c. 579.

²⁸ *Ibid.*, 1931, c. 332.

²⁹ *Cahill's Consolidated Laws*, 1930, 63:340.

³⁰ *Laws*, 1932, c. 208.

³¹ *Cahill's Consolidated Laws*, 1930, 65:138-a.

faith may be legalized by a two-thirds vote of the county board.²² Or, the county may authorize the raising of money or issuing of bonds when desired by the locality as evidenced by a referendum vote.²³ The county collects the mortgage tax to be shared by the village.²⁴ Since 1921 the county has had potential control over matters pertaining to village health in that the supervisors have power to consolidate any or all of the county into a general health district in charge of a full-time officer.²⁵

The village comes into contact with the State in the assessment, collection, and distribution of State and local revenues. The State exercises control over the village by setting tax and debt limits, prescribing the limitations on methods of issuing bonds,²⁶ type of accounting records used, auditing of accounts,²⁷ control over the retirement system,²⁸ and review of health ordinances.²⁹ In cases where the village is coterminous with a school district it is then subject to all the authority exercisable by the State commissioner of education.

4. Summary

County government was originally considered to be an administrative arm of the State. By a series of constitutional and statutory changes it was metamorphosed into an agency for satisfying local needs. Town government, too, under the justices of the peace was more than a purely local agency. Village government, on the other hand, has never experienced these changes. As originally designed it was to serve as a local agency. Its officers have always been locally elected, and, in general, the State has not made the village responsible for the performance of services having a general interest. For example, education is financed by special-purpose districts; poor relief is mandated to the town, county, and city; and the institutional and research phases of health administration have been placed upon cities and counties. In matters of revenue administration, the village assesses and collects taxes for village purposes only—the town collecting all State and county levies. Starting out as an agency to provide fire protection, the scope of activities has now been greatly expanded. Villages may build hospitals and incinerator plants, hold forest lands, establish and maintain airports, maintain a band, and provide park and recreational facilities. The execution of these functions has rested in the hands of a village board since the creation of the first unit until the provision for the village manager plan in 1927. The effectiveness of the administrative machinery and the appropriateness of village government to carry on some of the tasks it now undertakes will be considered in subsequent sections.

²² *Ibid.*, 11:15.

²³ *Ibid.*, 11:12 (26).

²⁴ *Tax Law*, 1935, § 261.

²⁵ *Laws*, c. 509.

²⁶ Cf. *infra*, pp. 239-40, also, *Laws*, 1936, c. 509.

²⁷ Cf. *infra*, pp. 240-42.

²⁸ *Laws*, 1923, c. 708.

²⁹ Cf. *infra*, pp. 360-61.

CHAPTER VII

THE SPECIAL DISTRICT

Simultaneous with the creation of the village, which in its earlier stages might well be called a special district, certain areas were set apart for the performance of particular governmental services. An act passed in 1795¹ to aid the localities in the establishment of common schools made it possible for persons conveniently located in any part of the town to elect trustees to look after hiring the "school master" and the erection of school buildings. The rudimentary system instigated at that time has now become thoroughly institutionalized. The extent of its permeation is evidenced in the present governmental structure of New York by the existence of 8,434 school districts, a number almost four times larger than any other single type of local unit.² Besides the 8,434 school districts there are 2,564 other districts set up to perform such special functions as fire protection, police protection, garbage removal, dock maintenance, water supply, and park construction and maintenance.

Presumably the chief cause for the formation of such a large number of districts lies in the inability of the existing government to provide the services demanded by the taxpayer. The majority of these *ad hoc* units are in reality an adaptation of town government to fit the needs of persons living in areas sufficiently dense in population to warrant the performance of certain municipal functions. Through this device taxes for special services are apportioned on a benefit basis. Another causal factor has been the desire of certain localities or interested minorities to circumvent the restrictions imposed by maximum debt- and tax-limitation statutes.³ In the case of the school district the argument is current that politics is kept out of schools by means of setting up specially constituted authorities to administer the school system.⁴ Again, it has been set forth that the special district makes possible experimentation and a gradual adjustment bringing government into accord with current social and economic conditions. A still more valid justification of the *ad hoc* district has arisen out of the fact that functions have not corresponded to traditional civil divisions and, therefore, a new district must be created to care for the service demanded.

¹ Laws, c. 75, p. 630.

² See Table 2, p. 13.

³ Under the provisions of the Kirkland Law, the obligations of the special district are now considered a part of town debt (*Cahill's Supplement*, 1935, 63:108).

⁴ For opposite point of view cf. C. H. Judd, "Against Educational Secularism," *Public Management*, XV (1933), 89.

1. Types of Districts

The school district was the first type of *ad hoc* unit to be created in New York State. The educational law of 1795 provided for the election of commissioners in each town and trustees for each school.⁵ Not long after the creation of the school district the towns in all counties were divided into road districts. Considering the way road taxes of 1797 were imposed, these areas were quite as definitely taxing districts as any common to our day. From lists submitted by each district, labor assessments were made "in proportion to the estate and ability of each person."⁶ County highway districts were provided for in certain counties in 1880. The supervisors named the commissioners who were authorized to borrow money and determine on a plan for assessing and collecting the needed revenues.⁷ Fire districts first appeared in 1880;⁸ lighting, 1892;⁹ garbage removal, 1894;¹⁰ water supply, 1896;¹¹ sewerage disposal, 1901;¹² sidewalk, 1910;¹³ park, 1916;¹⁴ police, 1920;¹⁵ dock, 1924;¹⁶ fire alarm, 1926;¹⁷ incinerator, 1930;¹⁸ and fire protection districts in 1932.¹⁹ Evidently the popularity and the perplexing problems growing out of choosing names for the special districts led to a blanket act in 1926 known as the "general district law." Any interested group could petition the proper authorities to organize a district for the

purpose of carrying on, performing or financing one or more public functions intended to generally benefit the health, welfare, safety or convenience of all or a portion of the inhabitants of such district, or to benefit generally all or a portion of the property within such district.²⁰

2. Methods of Formation

The majority of the aforementioned districts is created by petition addressed to the town board.²¹ The only exceptions are the

⁵ Cf. *infra*, pp. 173-74.

⁶ *Laws*, 1797, c. 43. Provisions similar to this existed for certain counties as early as 1779 (*ibid.*, c. 31).

⁷ *Ibid.*, 1880, c. 175.

⁸ *Ibid.*, c. 512.

⁹ *Ibid.*, c. 255.

¹⁰ *Ibid.*, c. 666.

¹¹ *Ibid.*, c. 678.

¹² *Ibid.*, c. 348.

¹³ *Ibid.*, c. 183.

¹⁴ *Ibid.*, c. 54.

¹⁵ *Ibid.*, c. 233.

¹⁶ *Ibid.*, c. 642.

¹⁷ *Ibid.*, c. 275.

¹⁸ *Ibid.*, c. 222.

¹⁹ *Ibid.*, c. 634.

²⁰ *Ibid.*, c. 470.

²¹ Prior to the enactment of the new Town Law in 1932, certain of these districts might have been created by resolution of the town board. With the exception of police districts (*Cahill's Supplement*, 1935, 63:217), all town district organizations since 1932 have been by petition addressed to the town board (*ibid.*, 63:190).

county water districts created by action of the board of supervisors;²⁰ joint garbage-, metal-, and refuse-disposal, and collection districts created by chief executive officers of the municipalities concerned;²¹ joint water districts formed by adoption of the proposition by towns and villages concerned;²² and sewage districts formed by petition addressed to a justice of the supreme court of the judicial district in which the proposed district is located.²³

3. Administrative Organization and Fiscal Importance of Town Districts

The forms of administrative organization provided for these various local districts are virtually as numerous as the ways they are brought into existence. The affairs of police districts,²⁴ fire districts,²⁵ school districts, and all improvement districts²⁶ which may have taken advantage of Article XIII²⁷ are managed by elected boards. Improvement districts not under Article XIII are managed by the town board.²⁸ County water district commissioners are named by the town board.²⁹ The board of a school-hygiene district is composed of the director, chairman of the board of supervisors, and all district and school superintendents.³⁰ Joint garbage-, metal-, and refuse-disposal districts are managed by a board composed of the executive officers of the municipalities concerned.³¹ A mosquito-extermination district is under the direction of a board of six members, four of whom are named by a special nominating commission, one named by the State, and the sixth member is the chairman of the board of supervisors.³² Sanitary district commissioners are supervised by a board of three appointed by a justice of the supreme court.³³ The most rudimentary administrative organization exists in those areas where the town and village enter into a joint contract for water. Under these conditions, no separate governing board is provided.³⁴

The fiscal importance of the principal town districts with a budget of six million dollars for 1934 is rather insignificant compared with the billion dollar budget for all governments, State and local. The total expenditure is equivalent to 12 per cent of

²⁰ *Laws, 1934, c. 847 as amended 1935, c. 176.*

²¹ *Ibid., 1934, c. 787.*

²² *Ibid., 1924, c. 459.*

²³ *Ibid., 1932, c. 132.*

²⁴ *O'Neill's Supplement, 1935, 63:217.*

²⁵ *Ibid., 63:174.*

²⁶ Improvement districts include refuse and garbage, public dock, park, lighting, water, sewer, and drainage (*ibid.*, 63:190).

²⁷ *Ibid.*, 63:210-216. Lighting districts excluded.

²⁸ *Ibid.*, 63:198.

²⁹ *Laws, 1934, c. 847.*

³⁰ *O'Neill's Consolidated Laws, 1930, 15:577-b.*

³¹ *Laws, 1934, c. 787.*

³² *Ibid.*, c. 499.

³³ *Ibid.*, 1932, c. 132.

³⁴ *O'Neill's Consolidated Laws, 1936, 28:120-t.*

all disbursements made by towns during the same period.³⁷ Table 20 gives a distribution of the total expenditures according to the functions of protection to persons and property, conservation of health and sanitation, highways, and miscellaneous purposes for the years 1927 to 1934 inclusive.

TABLE 20
EXPENDITURES OF SPECIAL DISTRICTS ORGANIZED IN TOWNS, 1927-1934*
(Thousands)

YEAR	Protection to Persons and Property	Conservation of Health and Sanitation	Highways	Miscellaneous and General	Total
1927.....	\$2,880	\$89	\$1,412	\$81	\$4,462
1928.....	3,860	5	1,987	55	5,907
1929.....	3,942	677	1,986	48	6,653
1930.....	5,065	35	1,989	55	7,144
1931.....	5,471	12	2,009	50	7,542
1932.....	3,808	122	1,906	65	5,901
1933.....	3,626	209	1,935	172	5,942
1934.....	3,378	192	1,878	271	5,719

* From *Annual Reports of the State Tax Commission*, Table 3.

4. Districts Authorized under Special Legislative Acts

In addition to the locally managed districts created under general acts there are a number organized under special legislative authorization. In this group are the Niagara Frontier Planning Board;³⁸ Central New York and Lower Hudson Regional Markets;³⁹ Thousand Island Bridge Authority;⁴⁰ and the Triborough Bridge Authority.⁴¹ The affairs of these districts are managed by boards appointed by cities and/or counties in the district. The planning board makes budgetary recommendations to the board of supervisors who may or may not act favorably on their recommendation. Operating revenues required by the market and bridge authorities are derived from fees and tolls charged to users of the facilities.

The unsatisfactory State and local relationships experienced as a result of the metropolitan districts created subsequent to 1850 have not prevented the reappearance of districts officered by State appointees.⁴² The difficulties associated with this earlier period may not arise again since the ends sought appear in general to

³⁷ See Table 3, pp. 15-16.

³⁸ *Laws*, 1925, c. 267.

³⁹ *Ibid.*, 1933, chaps. 232, 231.

⁴⁰ *Ibid.*, c. 209.

⁴¹ *Ibid.*, c. 145.

⁴² For a discussion of the earlier metropolitan districts, cf. *supra*, p. 110.

be free from the home-rule issue. Where this might arise the power of central appointment is materially qualified. Furthermore, the creation of certain of the districts can come about only through the exercise of local initiative.⁴⁴ The first to appear in this category were districts for the regulation of rivers.⁴⁴ Under the provisions of this act the Black and Hudson River-regulating districts were formed in 1919 and 1922 respectively.⁴⁵ Petitions for the formation of districts of this character are addressed to the State water power and control commission. Fiscal affairs are managed by a commission appointed by the governor. These officers have a general grant of corporate powers including the authority to make assessments and levy taxes.⁴⁶

The management of the Bronx Parkway was in the hands of a State-appointed commission throughout the time of its planning and construction.⁴⁷ When the work of the commission was completed, however, administration was transferred to a local commission appointed by the county board and financial obligations incurred were paid as other county claims.⁴⁸ In the Albany Port District, appointees of the governor are nominated by the mayors of the cities concerned.⁴⁹ Costs incident to the work of the commission are apportioned among the municipalities on the basis of benefit.

The Port of New York Authority is without doubt the outstanding example of a district created by two sovereign states.⁵⁰ As now constituted it embraces some two hundred municipalities. This agency came into existence in 1921 through a compact between the states of New Jersey and New York. The initial project called for improving the freight terminal facilities within the district. Besides the provision of rail transportation the Port Authority is now carrying on negotiations with Jersey City for the construction of terminal facilities. Similar negotiations are being carried on with respect to the Hoboken piers. In planning for the future, the authority is conducting transportation surveys, investigating the establishment of food terminals, cooperating with Federal authorities in marketing research, improving the navigability of the Hudson river, supplying information on port facilities, making suburban transit studies in connection with governmental and

⁴⁴ River-regulating districts are formed only on petition.

⁴⁵ *Laws*, 1915, c. 662.

⁴⁶ *Trenton's Annual Report of the Conservation Department*, Legislative Document No. 38 (1931), p. 320.

⁴⁷ *Cahill's Consolidated Laws*, 1930, 10:432, 436.

⁴⁸ *Laws*, 1907, c. 594.

⁴⁹ *Ibid.*, 1922, c. 292.

⁵⁰ *Ibid.*, 1925, 192.

⁵⁰ The Palisades Interstate Park also falls within this category, but it derives the major portion of its revenue from State appropriations. Thus discussion of a district of this type is outside the scope of a study of State and local relationships. (For the organization of this district, see *Laws*, 1900, c. 170.)

private corporate bodies, making highway traffic studies, and supervising the emergency work bureau forces.⁵¹

The best picture of the scope of the activities engaged in by the Port Authority is portrayed by an examination of the value of the physical assets as set forth in a certified general balance sheet for 1933. The two Arthur Kill bridges, Bayonne Bridge, George Washington Bridge, Holland Tunnel, Midtown Hudson Tunnel, and the Inland Terminal No. 1 represent an investment of \$157,989,550. The total of all assets amounts to \$179,835,006. The gross income from these ventures for the same year was \$10,134,638. Deducting from this amount the operating expenses, interest on the funded debt, and miscellaneous income charges, the net income amounted to \$3,112,954. The Port Authority now has outstanding \$145,900,000 of bonds secured by revenue remaining after caring for expenses of operation and maintenance.⁵²

5. Place of the Special District in the Hierarchy of Governments

Before one can pass intelligently upon the desirability of this array of districts, it is necessary to understand their relationship to other governments, the extent of their fiscal independence, and in what way they are responsible for decentralization of administrative responsibility. Numerous reports mentioning special-purpose districts have thrown the lot of them into a homogeneous grouping. They have all been considered as so many governments.⁵³ Whether the board in charge of the *ad hoc* district was elected or appointed; whether the act stated that the commissioners were a corporate entity with power to sue and be sued; whether revenues were derived from assessments or taxes; whether the board could make its levy independently of any other authority; or whether it merely submitted a budget to be approved by a town or village board have not been considered of sufficient moment to warrant classification. An investigation of State and local relationships involving a scrutiny of governmental structure calls for a more refined treatment. Multiplicity of governments is one problem; an excessive amount of decentralization through delegation of duties to boards and commissions is another.

DEGREE OF FISCAL INDEPENDENCE

From a fiscal point of view the criterion of governmental attributes rests primarily in independence of power to tax.⁵⁴ If an *ad hoc* district has power to determine its budget independently of

⁵¹ *Annual Report of the Port of New York Authority, 1931, Legislative Document No. 73 (1932), pp. 16 ff.*

⁵² *Ibid.*, Legislative Document No. 126 (1934), pp. 72-75.

⁵³ Cf. *Report of the New York State Commission for the Revision of the Tax Laws (1932), p. 235.*

⁵⁴ Cf. William Anderson, *The Units of Government in the United States, Public Administration Service No. 42 (Chicago, 1934), pp. 2 ff. for a definition of a unit of government.*

other legislative bodies and to control the expenditure of funds thus appropriated, it should be classed as a true governmental type. On the other hand, if the administrative officials are only acting as agents of other governments with no independence as to budget-making power and with no assessing and collecting machinery at their disposal, the contrast is complete. To treat these two quite opposite extremes and the intermediate ones as a homogeneous group just because they bear the name special district is certainly indefensible.

If independence of power to tax is to be the criterion of governmental status, there are very few districts worthy of the name. With the exception of fire and school districts, the others either must submit their budget to a regularly constituted civil division, raise their revenues by special assessment, apportion the burden among the municipalities concerned, or depend upon the earnings accruing from the service undertaken. In any police, garbage-disposal, dock, park, or lighting district, the town board may reduce any item except those pertaining to debt service.⁵⁵ All town water, sewer, and drainage districts are financed by special assessments and could therefore hardly be classed as taxing units.⁵⁶ Furthermore, any improvement district mentioned in the preceding group may be financed by assessments based on benefit if so planned originally.⁵⁷ Boards managing school-hygiene districts,⁵⁸ joint garbage-, metal-, and refuse-disposal and collection districts,⁵⁹ joint water districts,⁶⁰ and districts for the joint disposal of sewage⁶¹ do not make direct levies but apportion the necessary costs among the municipalities concerned. County water authorities derive their revenues from water rents.⁶² Similar provisions prevail in those districts created by legislative action and officered by local or State employees. The Albany Port district and the river-regulating districts are financed through special assessments. The Port of New York Authority and the regional markets depend upon their earnings.

6. Decentralization of Administrative Responsibility

If the majority of these districts are in reality not governments, and if very few of them have independent taxing powers, in what way can they be held responsible for mal-administration? The answer lies in the decentralization of administrative responsibility and the augmenting of debt burdens. Prior to the enactment of the Kirkland Bill, virtually all town districts were managed by a commission appointed by the local governing board or elected by popular vote. Under the new Town Law separate commissions are

⁵⁵ *Cahill's Supplement*, 1935, 63:215 (10).

⁵⁶ *Ibid.*, 63:202 (2-3).

⁵⁷ *Ibid.*, 63:202 (4).

⁵⁸ *Cahill's Consolidated Laws*, 1930, 15:577-b (4).

⁵⁹ *Laws*, 1934, c. 787, § 13.

⁶⁰ *Cahill's Consolidated Laws*, 1930, 26:120-t.

⁶¹ *Laws*, 1932, c. 132.

⁶² *Ibid.*, 1934, c. 847, § 3(5).

abolished, however, and all powers are to be centralized in the town board.⁶³ The effectiveness of the new provision relative to the administrative organization in special districts depends largely upon the action taken under the savings clause providing for the continuance of independent boards. Besides the concentration in the hands of the town board of administrative authority over special district affairs, debt limitations are now computed by including the obligations of all subdivisions of the town. These two changes should eliminate much of the inherent weaknesses common to this form of organization.

Still less criticism can be directed at those districts such as, joint water, county water, and the Port of New York Authority. In each of these cases the agency is forced to scale its operations commensurate with limits set by prices. The district stands or falls in accordance with its ability to adjust itself to conditions imposed by the market.

7. Summary

Whatever may be said about *ad hoc* districts, either for good or bad, it must be admitted that they have become firmly entrenched as a mechanism of government. Their growth in numbers has been phenomenal, their administrative machinery has been improved, their fiscal importance has been increasing, and the range of their activities has been gradually broadening. The tax commission first segregated the fiscal data pertaining to special districts from that of the town in 1927. At that time they numbered 1,758. In 1934 there were 2,564 districts, an increase of 46 per cent in a period of seven years.⁶⁴ Under the provisions of the new town law most of the elected and appointed commissions have been abolished. The importance of the special district from a fiscal point of view is indicated quite definitely in Nassau, Westchester, and Suffolk counties. Here better than 80 per cent of all town expenditures classed as protective was disbursed through special district channels.⁶⁵ The range of activities embraced has come to include virtually every function common to local government, including health, protection, highways, education, recreation, and economic development.

⁶³ Exceptions are found in (1) fire district commissioners, (2) commissioners of joint water-supply and joint water districts established prior to 1932, (3) improvement districts electing prior to June 1933 to operate under Art. XIII, and (4) police commissioners in Nassau county.

⁶⁴ In 1933 the towns were prohibited for a period of two years to create a new district without the approval of the Bureau of Municipal Accounts (*Laws*, 1933, c. 683; cf., also, *Annual Report of the Comptroller*, 1933, p. xxxiv). This limitation was extended for an additional two years by *Laws* 1935, c. 45. The numbers here reported are for town districts only.

⁶⁵ Cf. Table 9, p. 48.

CHAPTER VIII

AN APPRAISAL AND SUGGESTED PROGRAM

If the State of New York, comprising as it does some 47,654 square miles, were turned over to competent administrators to divide into districts for the performance of governmental services demanded today, the number of divisions would without doubt be considerably less than twelve and one-half thousand. The present patch-work organization has been developed in a manner comparable to a householder adding, in an opportunistic fashion, additional rooms of varying sizes, shapes, and materials to house a rapidly growing family.

Town government served well when providing an enclosure for the common pasture, taking care of the local poor, and supporting the minister and school master were the chief responsibilities. Today there is no common pasture, the church and State are entirely separated and poor relief and education have reached proportions entirely incommensurate with the town—yet New York still has 932 towns. Counties, developed to supply the deficiencies of town government, were shortly performing every function common to the town, yet the town remains, while county government continues on a scale adapted to a state of the arts existent two hundred years ago. City and village governments arose to satisfy the collective needs of persons living in areas with considerable density of population. The same is true of the special district. The law of 1926,¹ making possible the creating of a special district to take care of *any* new need that evidenced itself, is the culmination of this evolutionary movement. Old agencies are not discarded, nor is their scope of authority enlarged or curbed, but they continue to function in their same realm and a new agency is organized to render the new or expanded service.

1. Criteria for Determining Adequacy of Present Governmental Structure

At least seven questions may be raised as to the adequacy of the present units of government to meet the demands arising out of a complex social order. Is the region within which a government is intended to function coterminous with existing spheres of economic and social interest? Does the area contain a sufficiently dense population to generate common feelings with respect to problems growing out of their economic and social relationships? Is there one policy-determining board in one area or are there separate boards in charge of education, parks, health, libraries, roads, and streets? Are the affairs of local government given due consideration by the State? Are policy-determining functions sharply separated from matters of administrative routine and is the line of authority such as will make for dispatch and accountability? Are the functions of government divided between the State and the localities in

¹ Laws, c. 470.

accordance with the respective capacities of each? Has provision been made for financing those services appropriate for local administration?

RELATIONSHIP OF FUNCTIONAL AREAS TO COMMUNITIES OF RELATED INTERESTS

To the extent that boundaries of local government fail to conform to areas of unified social and economic interests there is no rationale for their design.

The very object of having a local representation is in order that those who have any interest in common which they do not share with the general body of their countrymen may manage that joint interest by themselves, and the purpose is contradicted if the distribution of the local representation follows any other rule than the grouping of those joint interests.³

The basic areas of government in New York represented by the town, county, and school district were well established over a century ago. As early as 1830 there were 753 towns, 56 counties, and 9,063 school districts—numbers virtually equivalent to a 1935 enumeration. Since the establishment of these units the revolutionizing influence of industrialization, improved means of transportation, and facilities for communication have so altered economic and social habits that it is only remotely possible that any one of these areas coincides with either a sphere of economic or social interest.

The radical social and economic adjustments wrought since 1830 are definitely set forth in the growth of urban communities. In 1830 there were only 102 villages and 5 cities. Today they number 554 and 60 respectively.⁴ How these new communities have over-run the traditional governmental bounds is strikingly apparent in metropolitan areas. In the State there are seven regions that might be so classed: New York City, Albany-Schenectady-Troy, Syracuse, Utica-Rome, Rochester, Buffalo-Niagara, and Binghamton. Here are to be found 24 cities, 147 villages, 101 towns, the whole or parts of 20 counties, 1,368 special districts, and possibly 1,000 to 1,500 school districts, making a total of over 2,500 civil divisions and *ad hoc* units. Common interests have drawn 80.8 per cent of the people and 90.4 per cent of the assessed wealth into these seven regions representing 9 per cent of the total area of the State, yet their public affairs are managed by some 2,500 independent governments.⁵

³The Commission for the Revision of the Tax Laws in its 1935 report stated: "It seems hardly open to question that the desirable objective is to have each unit of local government in New York State perform those functions which it can perform most efficiently and most economically" (*Reorganization of Local Government in New York State*, p. 30).

⁴John Stuart Mill, *Considerations on Representative Government* (New York, 1867), p. 292.

⁵See Table 2, p. 13.

⁶*Ibid.*

⁷See Table 21.

TABLE 21
NUMBER OF GOVERNMENTS, GOVERNMENTAL COST PAYMENTS, POPULATION, ASSESSED VALUATION, AND AREA OF SEVEN METROPOLITAN
REGIONS OF NEW YORK, 1930

REGION	NUMBER OF GOVERNMENTS *						COST OF GOVERNMENT *		Popula- tion ^d (000)	Assessed Value of Real Estate ^e (000,000)	Area in Square Miles ^f
	Cities	Villages	Towns	Counties	Special Districts ^g	Total	General Govern- ment (000)	Total Cost Payments (000)			
New York.....	7	94	27	9	403	540	\$53,595	\$585,118	7,399	\$23,554	1,301.1
Niagara-Buffalo.....	5	10	13	2	362	392	6,714	53,955	822	1,571	492.3
Albany-Troy-Schenectady.....	6	10	18	4	57	125	2,577	22,212	438	681	718.9
Rochester.....	1	4	10	1	396	412	2,760	28,658	401	761	314.3
Syracuse.....	1	7	6	1	51	66	1,787	14,944	249	421	245.9
Utica-Rome.....	3	19	18	2	43	85	1,245	9,898	327	267	680.9
Binghamton.....	1	3	9	1	26	40	628	5,885	136	186	290.6
Total for Regions.....	24	147	101	20	1,368	1,660	\$69,607	\$720,665	10,173	\$26,441	4,045.0
Total for State.....	60	525	932	62	2,368	3,357	\$4,939*	\$61,561*	12,588	29,123	45,168.5
Percentage of total.....	40.0	27.8	10.8	33.3	57.8	42.0	73.8	74.9	80.8	90.4	9.0

* Does not include school districts.

¹ Annual Report of the State Tax Commission, 1930, Table 33.

² Special Report of the Comptroller on Municipal Accounts, 1930. Outlays and public utilities excluded.

³ Fifteenth Census of the United States, 1930, I.

⁴ Annual Report of the State Tax Commission, 1930, Table 23.

⁵ Ibid. Acres reduced to square miles.

⁶ Compiled from Tables 3, 8, 14, 17, 19 and Financial Statistics of States, 1930, Tables 4 and 12. Outlays excluded. State aid deducted from total to eliminate double counting.

Homer.....	Cortlandville.....	Cortland	Waterloo.....	Fayette.....	Seneca
Lions Falls.....	Homer.....	Lewis	Waterville.....	Waterloo.....	Oneida
Mamaroneck.....	Lionsdale.....	Westchester	Watkins Glen.....	Marshall.....	Schoyler
Medina.....	West Turin.....	Orleans	Wolcott.....	Sangerfield.....	Wayne
	Mamaroneck.....			Dix.....	
	Rye.....			Reading.....	
	Ridgeway.....			Butler.....	
	Shelby.....			Wolcott.....	

Two Towns and Two Counties

Almond.....	Almond.....	Allegany	Gowanda.....	Perry.....	Cattaraugus
Deposit.....	Hornellville.....	Steuben	Kaneville.....	Collins.....	Erie
Doyleville.....	Sanford.....	Broome	Rushville.....	Ausable.....	Clinton
Earville.....	Deposit.....	Delaware		Chesterfield.....	Essex
	Oppenheim.....	Fulton		Gorham.....	Ontario
	Manheim.....	Herkimer		Potter.....	Yates
	Sherburne.....	Chenango			
	Hamilton.....	Madison			

Three Towns and Two Counties

Saranac Lake.....	North Elba.....	Essex			
	St. Armand.....	Franklin			
	Harristown.....				

* Compiled from *Fifteenth Census of the United States, 1930, 1, 751-65.*

In the rural regions the ill-conformity of governmental jurisdiction to areas homogeneous in the sense of having common interests is no less striking than the case of the metropolitan community. The degree of mutual dependence between the village and its hinterland might be questioned when recognition is taken of the strong antipathies that develop at times between the citizens of the farming and village communities. However, there can be no reasonable excuse as to why the village proper should be cut by numerous civil boundary lines. Yet fifty-four New York villages lie in more than one township; eight of these lie in two counties. One village lies in two counties and in three different towns.⁷ The existence of such irrational arrangements may be attributable to a number of factors. Tradition, disinterest, and a general lack of knowledge on the part of the citizenry are of prime responsibility. In addition to these lethargic elements, those holding sinecures have contributed their bit to maintenance of the *status quo*.

DENSITY OF POPULATION

The shifting of population to urban centers has brought about some rather incongruous relationships between areas and population densities. Population, on a county basis, ranges from 2.3

TABLE 23
NEW YORK COUNTIES RANKED ACCORDING TO POPULATION PER SQUARE MILE, 1930*

COUNTY	Population per Square Mile	COUNTY	Population per Square Mile
Hamilton.....	2.3	Seneca.....	74.4
Essex.....	18.5	Saratoga.....	76.9
Lewis.....	18.5	Ontario.....	83.1
Franklin.....	27.2	Wayne.....	83.5
Delaware.....	28.4	Tompkins.....	87.2
Schoharie.....	30.6	Genesee.....	89.7
St. Lawrence.....	33.7	Fulton.....	90.2
Sullivan.....	35.2	Cayuga.....	92.1
Allegany.....	36.3	Chautauque.....	118.3
Schuyler.....	38.4	Dutchess.....	130.8
Warren.....	39.0	Montgomery.....	150.9
Chenango.....	38.8	Orange.....	156.3
Greene.....	40.1	Oneida.....	159.0
Herkimer.....	43.9	Suffolk.....	175.1
Clinton.....	44.5	Rensselaer.....	180.7
Otsego.....	46.3	Chemung.....	183.5
Wyoming.....	47.9	Broome.....	206.5
Tioga.....	49.0	Niagara.....	226.1
Yates.....	49.1	Rockland.....	225.7
Cattaraugus.....	52.9	Onondaga.....	273.4
Washington.....	55.5	Albany.....	402.2
Putnam.....	59.0	Schenectady.....	606.9
Steuben.....	59.1	Monroe.....	639.3
Livingston.....	59.5	Erie.....	737.3
Madison.....	61.2	Nassau.....	1,106.0
Cortland.....	63.0	Westchester.....	1,162.8
Columbia.....	64.6	Richmond.....	2,278.0
Jefferson.....	65.6	Queens.....	9,991.9
Ulster.....	70.5	Bronx.....	30,860.0
Cesego.....	72.1	Kings.....	36,062.0
Orleans.....	72.7	New York.....	84,877.8

* Fifteenth Census of the United States, 1930, I, 794.

⁷ See Table 22.

persons per square mile in Hamilton to 84,877.8 in New York. Five counties have less than 30 persons per square mile, while seven have more than 1,000, with three of the seven having numbers in excess of 30,000.⁸ A similar disparity may be pointed out in the town. Of the 932 towns, 254 have less than 1,000 people, 2 have less than 100, 16 less than 300, and 32 less than 400 persons. On the other hand, there are 7 New York towns with a population of over 33,000 and 43 with a population in excess of 10,000.⁹ Village populations present as great extremes as the two cases just cited. Two hundred fifty-four villages out of 535 have less than 1,000 inhabitants, 4 have less than 100, 12 less than 200, and 119 less than 500. Fifteen villages have inhabitants numbering from 10,000 to 22,000—areas sufficiently populous to warrant being placed in the category of cities.¹⁰

TABLE 24
DISTRIBUTION OF NEW YORK TOWNS ACCORDING TO POPULATION, 1930*

POPULATION	Number of Towns	POPULATION	Number of Towns
Above 33,000.....	7	14,000-14,999.....	0
28,000-28,999.....	1	13,000-13,999.....	3
27,000-27,999.....	0	12,000-12,999.....	5
26,000-26,999.....	1	11,000-11,999.....	6
25,000-25,999.....	2	10,000-10,999.....	6
24,000-24,999.....	0	9,000-9,999.....	5
23,000-23,999.....	0	8,000-8,999.....	10
22,000-22,999.....	0	7,000-7,999.....	13
21,000-21,999.....	0	6,000-6,999.....	14
20,000-20,999.....	2	5,000-5,999.....	24
19,000-19,999.....	2	4,000-4,999.....	35
18,000-18,999.....	2	3,000-3,999.....	77
17,000-17,999.....	2	2,000-2,999.....	139
16,000-16,999.....	1	1,000-1,999.....	318
15,000-15,999.....	2	Below 1,000.....	254 ^b
		Total.....	932

* Special Report of the Comptroller on Municipal Accounts, 1931.

^b This class further analyzed:

900-999.....	43
800-899.....	33
700-799.....	45
600-699.....	35
500-599.....	37
400-499.....	24
300-399.....	16
200-299.....	9
100-199.....	5
Under 100.....	2
Total.....	254

Population density is, however, only one of the many factors to be considered in appraising the practicability of a local governmental unit. The fact that one unit has only 500 persons does not invalidate the possibility that its boundaries are properly

⁸ See Table 23.

⁹ See Table 24.

¹⁰ See Table 25.

drawn. On the other hand, a city may contain several thousand or even a million persons and yet be illogically designed territorially. The final criterion rests in the test of political, economic and social unity. Regardless of the number of persons concerned, are the boundaries so drawn as to make the area of political thought coincide with the unifying forces of economic and social life? There is, of course, a minimum population density below which the maintenance of any sort of local governmental institu-

TABLE 25
DISTRIBUTION OF NEW YORK VILLAGES
ACCORDING TO POPULATION, 1930^a

Population	Number of Villages
Over 22,000	1
17,000 — 17,999	1
16,000 — 16,999	2
15,000 — 15,999	2
14,000 — 14,999	0
13,000 — 13,999	2
12,000 — 12,999	1
11,000 — 11,999	3
10,000 — 10,999	3
9,000 — 9,999	2
8,000 — 8,999	4
7,000 — 7,999	7
6,000 — 6,999	9
5,000 — 5,999	14
4,000 — 4,999	31
3,000 — 3,999	34
2,000 — 2,999	37
1,000 — 1,999	128
Below 1,000	254 ^b
Total	535

^a Special Report of the Comptroller on Municipal Accounts, 1931.

^b This class further analyzed:

900-999	11
800-899	32
700-799	22
600-699	28
500-599	42
400-499	37
300-399	35
200-299	35
100-199	8
Under 100	4
Total	254

tion is impracticable. Whenever population is not sufficiently dense and economic activity not sufficiently vigorous to generate common thought about community problems, then such areas had best be unorganized so far as institutions of local governments are concerned.

NATURE OF ADMINISTRATIVE MACHINERY

An eminent governmental authority of the nineteenth century said "that in each local circumscription there should be but one elective body for all local business, not different bodies for different parts of it."¹¹ The argument advanced for this position is that a single body can best get a comprehensive view of community problems in all of their aspects. Piecemeal administration attracts only the mediocre into governmental service. Part-time commissions and trusteeships interest, in general, only those who have narrow minds or some personal end in view. In order to attract the best talent of the community toward public service they must be offered nothing less than the responsibility for the governmental activity of the whole community.

Instead of one policy-determining body existing in one governmental circumscription, there are in New York numerous agencies superimposed one upon another. No better illustration of the multiplicity of policy-determining boards can be cited than to refer again to the metropolitan regions in the State. The seven regions should, it would seem, have seven local governments. But instead there are no less than 2,500 separate governing boards, the majority of which are vested with authority to levy taxes and incur debts; 24 city councils; 147 boards of village trustees ranging from 2 to 6 members; 101 township boards consisting of the supervisor, town clerk, and the justices of the peace; boards of supervisors for 15 counties; and finally the trustees in charge of the various school districts. When viewed in the light of present-day standards of administrative efficiency a more incongruous situation is hardly conceivable.

DISTINCTION BETWEEN ADMINISTRATION AND DETERMINATION OF POLICIES

Indefensible as the non-conformity of governmental boundaries to areas unified by economic and social forces may be, and however incongruous the distribution of population between various governments, there is even less justification for the failure to separate legislative matters from administrative routine and to provide for a responsible form of government. Outside of cities and villages, not even an approach has been made toward the attainment of these fundamental objectives. Consider for a moment the administrative organization provided for county government. Public business to the extent of \$113,000,000 is handled annually by an organization without an administrative head. Responsibility for county affairs is not even centralized in the board of supervisors, as loosely organized and uncoordinated as that body is. A glance at the county organization chart¹² indicates that there may

¹¹ Mill, *op. cit.*, p. 293.

¹² Figure 7, p. 67.

be no less than fourteen persons or agencies responsible for the formation of county policies. Execution of legislative programs enacted by these sundry special-purpose boards and independently elected officials rests upon the same agency responsible for their adoption. The Sixth Report of the Commission for the Revision of the Tax Laws summarized the situation by stating that the system defies control by the electorate, makes attempts at budgetary control a farce, puts a premium on inefficiency, bars the selection of qualified personnel, and encourages logrolling and sectionalism.¹³

STATE INTEREST IN LOCAL FISCAL PROBLEMS

The answer to the query—does the central government in New York give due consideration to the fiscal problems of the localities?—is decidedly in the negative. It is true that the several departments of education, health, welfare, and public works are interested in the maintenance of minimum standards and in the exercise of limited fiscal controls. But these divided concerns of functional departments fall far short of providing the comprehensive sort of fiscal control needed. The only State departments interested strictly in revenues and expenditures as such are the department of taxation and finance through its supervision over assessment and the comptroller through his power to audit municipal accounts and require periodic reports on receipts and expenditures. The degree of fiscal paternalism needed by local governments can be supplied only by creating a division of State government concerned solely with the problems of localities.

ALLOCATION OF FUNCTIONAL RESPONSIBILITIES

As indicated in Table 1, every level of government in New York is responsible to a greater or less degree for every function common to the catalog of public activities. The State provides police protection, builds highways, guards the public health, assists in economic development, cares for the unfortunate, educates the youth, and sets apart regions for recreational purposes. Similar services are engaged in by the city, village, town, and county. In addition to these basic units with their comprehensive range of activities, there are numerous unifunctional districts. Even to a casual observer it appears improbable that the attributes of each of these widely differing governments would be such as to justify all of them in undertaking identical functions. The optimum-sized operating unit as determined by staff requirements and equipment, say for highways, may be an area in many instances larger than a county.¹⁴ In health administration, it may be that all terri-

¹³ *Reorganization of Local Government in New York State*, pp. 37-39.

¹⁴ A governmental unit may be said to be of optimum size if it can organize its operations for the performance of any particular function so that the average total unit cost of providing any given level of service will be at a minimum.

tory outside of incorporated places should be under a State-wide organization—possibly the same is true with respect to highway administration.

Regardless of what the ideal circumscription for rendering the various functions of government may be, it is not difficult to demonstrate some of the shortcomings of the structure as it now exists. Consider in this connection the capacities of some of the units for providing highway services. Though the construction and maintenance of highways has been passing over gradually from the town to the county and from the county to the State, yet the towns of New York in 1934 expended \$19,591,000.¹⁵ Twenty million dollars expended by 932 units competing against each other in the market for road supplies; 932 road "engineers" planning highway construction according to 932 different ideas; 932 units possessing in some cases expensive tractors, snow plows, scarifiers, graders, stone crushers and trucks, which frequently are utilized but a minor fraction of the year, presents one of the best instances of an old system blundering at a task made incommensurate for its capacities by modern transport developments.

Proper assessment procedure calls for an adequate staff of full-time employees under competent direction, with maps and records to describe every piece of property to be valued, rules for the valuation of land and buildings, information relative to property values, and prompt and impartial reviewing machinery for the adjustment of complaints of taxpayers. Instead of employing a few tax administrators continuously, New York has in the neighborhood of 71,000¹⁶ offices filled by assessors, collectors, and reviewing officials who are concerned only incidentally with fiscal matters. Most rural towns do not have correct lists of ownership, much less a set of maps essential to a scientific assessment system. Where there is a board of assessors, this body reviews its own work—a practice thoroughly discredited by every administrative authority.

The public health commission, appointed in 1930 by Governor Roosevelt, argued for the county health unit as an improvement over the town and village. It would make possible the employment of trained personnel, lessen the number of boards, provide con-

¹⁵ See Table 55, p. 282.

¹⁶ Assessors: township, 2,796 (may have 1 or 3; 3 is prevailing practice); village, 1,662 (1 or 3); city, 59 (some cities have more than 1); school trustees, 25,431 (*Education Law*, 1934, § 413); total 29,948.

Collectors: town collectors or receivers of taxes, 932; county treasurers, 57; school district collectors, 8,434 (this number is slightly exaggerated since this office has been abolished in first-class towns. There are 41 first class towns and 71 second-class towns eligible to change classification); village, 554; city treasurers, 59; city comptrollers, 59 (a few cities have not provided for this officer); total, 10,095.

Boards of equalization and review: township assessors, 2,796; county boards of equalization, 172 (in some counties the board of supervisors acts as board of equalization); city boards of review, 177; village boards of review, 2,770; school trustees, 25,431; (*Education Law*, 1934, § 413); total, 31,346. Total number of assessors, collectors and reviewing officials, 71,369.

tinnity of service, and make possible the elimination of overlapping activities. All of these arguments, valid for the county, would without doubt be advocated by this same commission for still more suitable health districts set up irrespective of county lines. In many cases even counties, because of a small population, find that hospitalization costs are inordinately high.

Education under the present system of centralized administrative control, resting in the hands of the board of regents and the commissioner of education, probably is capable of coping with the problem of providing adequate primary and secondary educational facilities if the local units were properly drawn and the plan of financial support were substantially modified. The problems of school finance can be met only by the State assuming full financial responsibility for the minimum program it may deem desirable to establish. Wherever feasible this program should be defined in objective terms; *e.g.*, teacher qualifications, plant facilities, and recreational opportunities. A plan of guaranteed financial support for a minimum program would not preclude the exercise of local initiative considered to be essential to the development of progressive school techniques.

Policing of highways and the apprehension of criminals no longer yields to local treatment. Crime, like business, has syndicated its operations irrespective of town, city, or county lines. Traffic control is frequently chaotic as a result of non-unification of systems of patrol. Instead of positive cooperation the various departments rendering police services frequently engage in bickerings and petty jealousies.¹⁷

DISTRIBUTION OF TAXABLE RESOURCES

The State is not meeting its obligations to the localities when they are dependent for as much as 75 per cent of their revenue derived from a base as unequally distributed as are real estate values. According to Table 26, five towns have valuations per square mile of a million dollars and over. At the other end of the array, fifty-two have less than \$50,000. Of these fifty-two, four have less than \$10,000 valuation. These wide disparities represent variations in the proportion of 1 to 100. Value of real property expressed on a per capita basis by villages varies from \$575 in Fort Edwards to \$19,771 in Kings Point.¹⁸ Disparity in the tax base of school districts of the State is, of course, still more striking since they are the smallest subdivisions. Three districts had less than \$11,000 of taxable property in 1923, while at the same time thirty-seven districts had a base of \$10,000,000 or more.¹⁹

¹⁷ Cf. C. E. Merriam, S. D. Farratt and Albert Lepawsky, *The Government of the Metropolitan Region of Chicago* (Chicago, 1923), pp. 86-89.

¹⁸ See distribution in Table 27.

¹⁹ *Annual Report of the State Tax Commission*, 1925, pp. 494-95.

It is not at all probable that a readjustment of governmental circumscriptions in conformation with natural communities of interest would lessen these disparities. Nor is it contended that governments should be divided or so drawn that each would have equal amounts of wealth, or that each should necessarily have completely adequate resources to support its activities. It is believed, however, that if the State assumed responsibility for financing all those functions representing a general and local interest to the extent of the general interest, all units fit for organization could manage their local affairs tolerably well.

TABLE 26
DISTRIBUTION OF 103 NEW YORK TOWNS ACCORDING
TO FULL VALUE OF PROPERTY PER
SQUARE MILE, 1930^a

Full Value of Property per Square Mile	Number of Towns
\$1,000,000 and over	5
950,000 — 999,999	0
900,000 — 949,999	2
850,000 — 899,999	0
800,000 — 849,999	0
750,000 — 799,999	2
700,000 — 749,999	1
650,000 — 699,999	1
600,000 — 649,999	0
550,000 — 599,999	0
500,000 — 549,999	0
450,000 — 499,999	1
400,000 — 449,999	1
350,000 — 399,999	1
300,000 — 349,999	2
250,000 — 299,999	1
200,000 — 249,999	3
150,000 — 199,999	6
100,000 — 149,999	7
50,000 — 99,999	18
Under 50,000	52 ^b
Total	103

^a Annual Report of the State Tax Commission, 1930, Table 23, pp. 156 E., personality excluded. Every ninth town selected.

^b This class further analyzed:

\$40,000—\$49,999	8
30,000— 39,999	7
20,000— 29,999	17
10,000— 19,999	16
Under 10,000	4
Total	52

Any system of local government which apportions taxable income mainly on the basis of *situs* is utterly irrational. The concentration of taxable resources in trade centers, accumulated out of trade and industrial activities extending far beyond the confines of the local taxing jurisdiction and even the State itself, does not by any standard of social equity make the immediate vicinity a prior claimant upon the income and wealth located or reported there.²⁰ A new comprehension of social interdependence needs to be introduced into the fiscal system.

TABLE 27
DISTRIBUTION OF 106 NEW YORK VILLAGES ACCORDING
TO FULL VALUE OF REAL PROPERTY
PER CAPITA, 1930^a

Full Value of Real Property per Capita	Number of Villages
\$5,000 and over	17 ^b
4,500 — \$4,999	0
4,000 — 4,499	2
3,500 — 3,999	2
3,000 — 3,499	3
2,500 — 2,999	3
2,000 — 2,499	9
1,500 — 1,999	21
1,000 — 1,499	34
500 — 999	15
Total	<u>106</u>

^a *Annual Report of the State Tax Commission, 1930*, pp. 156 ff. Every fifth village selected in *Special Report of the Comptroller on Municipal Accounts, 1930*.

^b This class further analyzed:

\$18,000—\$19,999	2
16,000— 17,999	1
14,000— 15,999	1
12,000— 13,999	1
10,000— 11,999	2
8,000— 9,999	2
6,000— 7,999	4
5,000— 5,999	4
Total	<u>17</u>

2. Governmental Reorganization

In attempting to arrive at a conclusion as to how the organization should be set up to handle the public affairs of any given social order, it is necessary to determine the boundaries of the local subdivision, prescribe in general terms the character of an appropriate administrative organization, and establish a principle for determining how functional responsibilities are to be apportioned between the central government and the minor civil divisions.

²⁰ Leland, *Municipal Finance*, August, 1933, pp. 35 ff.

AREAS UNABLE TO SUPPORT A GOVERNMENTAL ORGANIZATION

In connection with the problem of governmental circumscription there appears to be no other sound basis than that political areas should, so far as possible, be made coextensive with the economic and social forces tending to draw people together in community life. When social and economic activities are not sufficiently vigorous to generate community life, then other considerations must prevail in determining the line of State and local relationships. A sizable portion of the State lying in Hamilton, Herkimer, St. Lawrence, Essex, Warren, Fulton, Saratoga, Oneida, Lewis, and Franklin counties falls within this category. In the Third Report of the Commission for the Revision of the Tax Laws, forty-nine towns in these counties were singled out as having conditions making the maintenance of local governmental institutions uneconomical.²¹

The situation prevailing in this region is one that can be duplicated in any section of the United States where "cut-over" forest lands make up a large percentage of the acreage. With the culmination of exploitive activities in the seventies a large percentage of tax delinquencies developed and the State intervened as a purchaser of these properties. Out of these tax-sale purchases and direct negotiation with owners the State has come to hold, in many of the towns, the larger percentage of the land—in some cases as much as 87 per cent of the acreage. Of the total of 4,292,246 acres comprising the towns under consideration, the State owns 38.3 per cent, or in value terms, 22 per cent.²²

One-half of the towns in this section possess five or less persons per square mile, with Arietta and Morehouse of Hamilton county having one-half a person per square mile. With these conditions of sparse population one would expect to find the overhead costs of government inordinately high. In only ten of the forty-six towns was the per capita cost of general government lower than \$2.30, the State average. On the other hand there were thirty-six whose costs were in excess of \$2.30, the highest being over fifteen times greater than that amount. Arietta town in Hamilton county with a population of 165 has the highest cost, amounting to \$36.35.

Sparseness of population, migratory nature of the population resulting from the character of economic activity carried on in the region, the relatively high cost of maintaining local governmental units, all point toward the need of a different organization for the rendering of essential services. Complete State assumption of all revenue collection and administration of the usual functions of government, except in certain village communities, appears to present a likely possibility. As a matter of fact the problem of revenue collection has already been virtually taken over by the

²¹ *Depression Taxes and Economy Through Reform of Local Government*, pp. 108 ff.

²² *Ibid.*, pp. 114-15.

TABLE 28
POPULATION PER SQUARE MILE IN SELECTED NEW YORK TOWNS LOCATED IN
ADIRONDACK REGION, 1930 *

TOWN	Population per Square Mile	TOWN	Population per Square Mile
Altamont.....	49.9	Day.....	5.0
Harrietstown.....	22.7	Watson.....	4.8
St. Armand.....	21.7	Montague.....	4.7
Diana.....	14.4	Indian Lake.....	4.4
Elisabethtown.....	14.3	Colton.....	4.0
Croghan.....	13.9	Webb.....	3.9
Forestport.....	10.2	Inlet.....	3.9
Worth.....	9.7	High Market.....	3.8
Dresden.....	9.7	Osoeola.....	3.7
Grieg.....	9.5	Minerva.....	3.6
Clifton.....	9.2	Bleeker.....	3.3
Lewis.....	8.4	Hope.....	3.2
Edinburg.....	8.4	Wells.....	3.0
Bellmont.....	8.2	Santa Clara.....	2.9
Franklin.....	7.5	Lake Pleasant.....	2.7
Thurman.....	6.8	Long Lake.....	2.6
Fine.....	6.4	Clare.....	2.4
Redfield.....	6.4	Duane.....	2.3
Schroon.....	6.3	Newcomb.....	1.9
Caroga.....	6.1	Ohio.....	1.5
Stony Creek.....	5.7	North Hudson.....	1.4
Keene.....	5.5	Benson.....	0.8
Hopkinton.....	5.4	Morehouse.....	0.6
Stratford.....	5.2	Arietta.....	0.6

* *Depression Taxes and Economy through Reform of Local Government* (1933), Table III, p. 102.

State. Considering the taxes which the State has been paying on the lands held by it, plus the grants that are made available for schools and roads, cases exist where the State contributes as much as 88.2 per cent of the total tax burden.²³ In twenty-two of the towns the State contribution accounts for 50 per cent or more of the local revenue receipts. At the other end of the array only two towns got less than 30 per cent of their revenue from State sources. As the situation stands at present, the State has practically assumed the full financial burden for town government in decadent areas. What remains to be modified are the restrictions preventing the State from reorganizing the machinery of administration so that the greatest economy can result from the expenditure of public funds necessary for the carrying out of essential governmental services. Since the State is really supporting these local units, the problem is essentially a state matter rather than one of maintaining traditional local governments. State responsibility in regions of this character is further heightened because of the public use to which they are put. The Adirondacks are the playground for New York City and in fact all other portions of the State. Health conservation and police protection under these conditions become matters of far more than local concern.

²³ See Table 30.

TABLE 29
PER CAPITA COST OF GENERAL GOVERNMENT FOR SELECTED NEW YORK TOWNS, 1930.*

TOWN	County	Per Capita Cost of General Government	TOWN	County	Per Capita Cost of General Government
Arietta.....	Hamilton.....	\$36.35	Keene.....	Essex.....	\$3.45
Morehouse.....	Hamilton.....	23.57	North Elba.....	Essex.....	3.32
Benson.....	Hamilton.....	22.54	Indian Lake.....	Hamilton.....	3.30
Ohio.....	Herkimer.....	13.53	Stony Creek.....	Warren.....	3.14
Camp.....	Fulton.....	11.59	Lewis.....	Essex.....	3.13
Wells.....	Hamilton.....	11.45	Schroon.....	Essex.....	2.93
Newcomb.....	Essex.....	9.22	Edinburg.....	Saratoga.....	2.83
Day.....	Saratoga.....	8.93	Colton.....	St. Lawrence.....	2.57
Lake Pleasant.....	Hamilton.....	8.06	Elisabethtown.....	Essex.....	2.51
Claire.....	St. Lawrence.....	7.70	Fine.....	St. Lawrence.....	2.44
Hope.....	Hamilton.....	6.69	Belmont.....	Franklin.....	2.42
Inlet.....	Hamilton.....	6.71	Harristown.....	Franklin.....	2.35
Minerva.....	Essex.....	6.64	Forestport.....	Franklin.....	2.35
Long Lake.....	Hamilton.....	6.69	Webb.....	Oneida.....	2.16
North Hudson.....	Essex.....	6.40	Watson.....	Herkimer.....	2.16
Thurman.....	Warren.....	5.96	Piercefield.....	Lewis.....	2.18
Santa Clara.....	Franklin.....	5.33	St. Armand.....	St. Lawrence.....	1.95
Wilmington.....	Essex.....	5.28	Parishville.....	Essex.....	1.94
Duane.....	Franklin.....	4.84	Brighton.....	St. Lawrence.....	1.85
Franklin.....	Franklin.....	4.13	Diana.....	Franklin.....	1.71
Blacker.....	Fulton.....	4.00	Hopkinton.....	Lewis.....	1.41
Stratford.....	Fulton.....	3.94	Greg.....	St. Lawrence.....	1.29
Clifton.....	St. Lawrence.....	3.45	Altamont.....	Lewis.....	1.22
				Franklin.....	1.22

* Special Report of the Comptroller on Municipal Accounts, 1930.

TABLE 80
PERCENTAGE OF LOCAL TAX REVENUE SUPPLIED BY THE STATE IN SELECTED NEW YORK TOWNS, 1930.*

TOWN	County	Per Cent of Revenue Supplied by State	TOWN	County	Per Cent of Revenue Supplied by State
Benson.....	Hamilton.....	83.2	Keene.....	Essex.....	49.5
St. Armand.....	Essex.....	84.2	Diana.....	Lewis.....	49.4
Minerva.....	Essex.....	77.8	Webb.....	Herkimer.....	49.3
Walls.....	Hamilton.....	78.7	Colton.....	St. Lawrence.....	49.1
Stony Creek.....	Warren.....	78.4	Hopkinton.....	St. Lawrence.....	49.0
Arietta.....	Hamilton.....	73.6	Newcomb.....	Essex.....	47.7
Hop.....	Hamilton.....	70.3	Stratford.....	Fulton.....	47.2
Morhouse.....	Hamilton.....	66.1	North Elba.....	Essex.....	46.0
Altamont.....	Franklin.....	64.8	Caroga.....	Fulton.....	45.4
Indian Lake.....	Hamilton.....	64.8	Fine.....	St. Lawrence.....	45.2
Lake Pleasant.....	Hamilton.....	62.8	Lewis.....	Essex.....	44.3
North Hudson.....	Essex.....	60.6	Long Lake.....	Hamilton.....	42.1
Thurman.....	Warren.....	60.5	Day.....	Saratoga.....	40.3
Duane.....	Franklin.....	59.0	Piercefield.....	St. Lawrence.....	38.7
Wilmington.....	Essex.....	57.1	Santa Clara.....	Franklin.....	37.0
Blacker.....	Fulton.....	57.0	Grieg.....	Lewis.....	35.4
Edinburg.....	Saratoga.....	56.7	Harrietstown.....	Franklin.....	34.8
Forestport.....	Oneida.....	55.3	Inlet.....	Hamilton.....	34.7
Ohio.....	Herkimer.....	54.3	Elisabethtown.....	Essex.....	32.4
Parishville.....	St. Lawrence.....	52.2	Watson.....	Lewis.....	30.6
Babron.....	Essex.....	51.3	Franklin.....	Franklin.....	30.0
Clifton.....	St. Lawrence.....	50.2	Brighton.....	Franklin.....	29.4
Belmont.....	Franklin.....	49.9	Clare.....	St. Lawrence.....	16.3

* Includes general property tax on State lands (determined by applying the percentage of assessed value of State lands [see *Depression Taxes and Economy through Reform of Local Government*, pp. 114-15] to the aggregate general property taxes exclusive of the county), subventions for highways and schools, and State-administered taxes (*Annual Report of the State Tax Commission, 1930, Table 33, pp. 204 ff.*).

AREAS ABLE TO SUPPORT LOCAL GOVERNMENTAL INSTITUTIONS

The general direction in which the City of New York moved in 1898 through the adoption of the "borough plan" indicates a practicable suggestion of the readjustments needed in areas able to support local governmental institutions. Twenty political subdivisions gave way to five boroughs with limited powers. The city was made largely autonomous and its effectiveness implemented by a sound integration of powers in the hands of the mayor, comptroller, and the board of apportionment. Virtually all changes made by way of revision have tended to accentuate the trend started in 1898. Today the clamor is for more "home rule" powers. These grants must eventually be made to New York City and to all other regions similarly situated. The fact that seven metropolitan regions in New York represent 81 per cent of the people and 90 per cent of the wealth²⁴ indicates clearly that what is accomplished for these people they must do for themselves. Nor should the destiny of thirteen million people be hampered by 19 per cent of the total population with 10 per cent of the wealth, merely because they occupy 91 per cent of the land area of the State. If New York City could continue its expansion to include all areas which are hers by right of common interests, if her power could be more highly centralized, if home rule were complete, and if all other regions of the State, similarly situated, could take steps as outlined above, then the phase of the problem relative to concentrated population areas is well on the way to solution.

The problem of governmental reorganization in the rural areas is essentially the same as that of the metropolitan region. It consists in bringing the governmental structure into juxtaposition with those forces tending to give unity to the thoughts and actions in community life. The chief problem arises in the determination of those limits to which the circumscription should be extended. In the metropolitan region these questions are probably more easily answered since they can be presumed to be covered in the density and distribution of population about the central city. For the rural regions one must look to other indices as well as population for a final answer. Along with density and homogeneity of population must be considered retail market areas, topography of the region, transportation, communication, social affiliations, and recreational habits. Of the various indices noted above, the one of first importance, and probably the most obvious to detect, would be the trade center as represented by the village and the surrounding countryside contributing to its support. In any event, whatever may be the factor determining the limits of the community, once these geographical limits have been established, the chief unit of local government should be made to coincide therewith. An illustration of the ill-conformity of present governmental jurisdictions to these areas of common interests is well illustrated by a map of Otsego county presented on the following page. In virtually no instance do the areas of government and community interest coincide.

²⁴ See Table 21, p. 139.

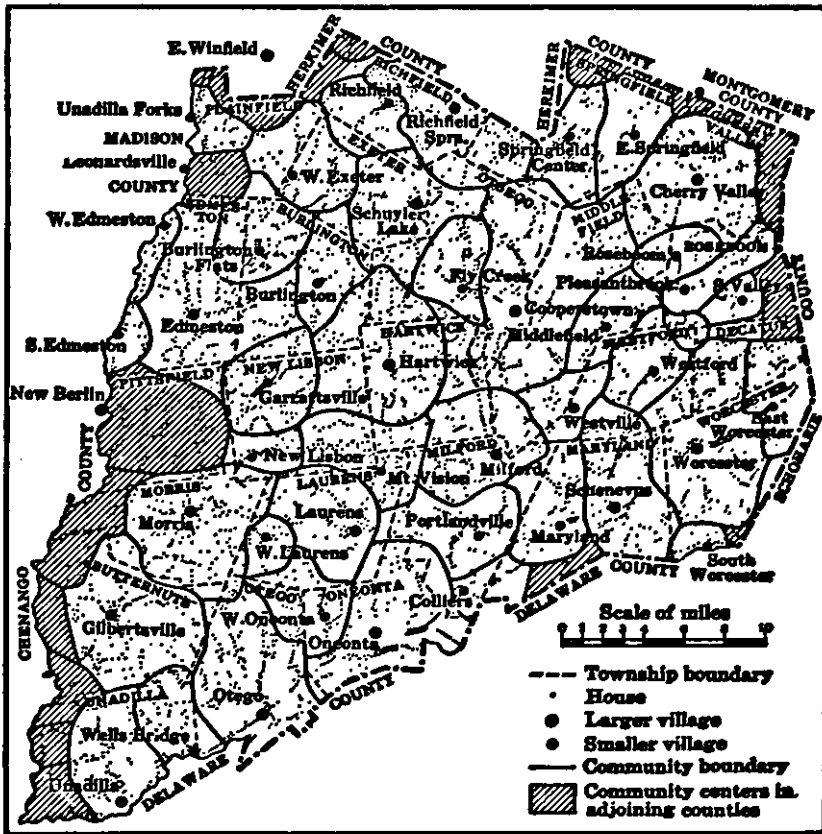


FIG. 11.—COMMUNITY CENTERS AND BOUNDARIES IN OTSEGO COUNTY, NEW YORK. (From E. D. Sanderson, *The Rural Community* [Boston, 1932], p. 489. Used by permission.)

Social and economic solidarity are the prime objects of the quest for a new area of local government rather than an area that is of optimum size for the performance of one or more public functions. It is humanly impossible to select communities of interests that would be optimum for *all* services of government. The steps in governmental reorganization should therefore be, first, determination of community lines and the establishment of local governmental units coterminous with these areas; and second, apportionment of duties between the local units thus determined and the State, so that each might render those services best suited to its capacities. It would be desirable to have sufficient flexibility in local machinery so that communities might associate themselves together in a way that area could be made to correspond to function; that is, it should be possible for two or more communities interested in common problems of sewage disposal, fire protection, recreation facilities, or water supply to cooperate through the medium of their

regularly constituted officers. The necessity of making provision for functional needs common to several communities must be provided for in the case of the metropolitan regions as well as in the less densely settled areas. In all events these areas should not be duplications of the present *ad hoc* system. The latter has resulted in divided responsibility for the totality of the tax burden and administrative policies. The proposed functional areas should be supervised and fitted into the general scheme of government and administered by representatives from the local governing boards.

DISPOSITION OF AD HOC DISTRICT, TOWN, CITY, AND VILLAGE

From the foregoing it would appear that the *ad hoc* district, with its separate board of trustees, clerk, and retinue of officers, administering the sundry services of government, would have no place in a thoroughly reorganized system. The township, likewise, must give way to the newer community unit. The city and village remain, but with a larger sphere of responsibility delegated to them extending throughout the area in which their influence radiates. Through an adequate system of representation, and through tax zoning,²⁵ the village and the countryside, the metropolis and its environs, should be brought into a relationship whereby the problems common to both may be mutually resolved.

DISPOSITION OF THE COUNTY

If the performance of all necessary governmental services were taken over by the State in forestry regions and sub-marginal farming areas, if local units were so extended as to include all territory subject to common social and economic forces, and if those functions not amenable to local administration were transferred to the State, there would be little left to support a contention for county government. County government should be abolished and in its stead a revitalized unit of local government should be substituted.²⁶ This position is taken because it is believed that as a workable program there is less local pride attached to the county generally than there is to the more elemental unit. Thus, if a new and vital unit of local government is offered, the only serious resistance to county abolition would come from office incumbents. The abolition of the county is advocated because no two of the major objectives of government can be handled optimally in any given geographical area. The State highway department has divided the State into nine districts for purposes of highway administration. They are obviously more desirable from the standpoint of efficiency than sixty-two coun-

²⁵ Cf. Theodore B. Manny, *Rural Municipalities* (New York, 1930), pp. 227 ff.

²⁶ For a plan of governmental reorganization where the county is marked for an important rôle, see *Home Rule Plan of Government for Westchester County*, Report No. 3, Westchester County Commission on Government (January 20, 1936).

ties. However, it is entirely possible that the highway districts may not correspond to the districts desirable as health, administration, or tax assessment. It becomes obvious, then, that these functional districts, in order to be highly effective, should be capable of variation to meet changed conditions. Similarly, this is true for police control, tax administration, and educational supervision.

APPROPRIATE LEGISLATIVE AND ADMINISTRATIVE MACHINERY

After a suitable unit of local government has been devised there still remains the task of providing efficient legislative and administrative machinery. As was stated earlier, over one area there should be but one policy-determining board.²⁷ Instead of having one board determining the policies of the local school system, one or more boards directing health activities, other trustees ordering the affairs of special districts, and finally independently elected officials in charge of finance, assessments and highways—all of these departments of government should be brought together and viewed as a whole by one board composed of a small number of council members directly chosen by their constituency to represent them in a legislative capacity.

The men elected to these boards should not actively participate in the day-to-day administrative routine of government, but rather they should outline broad policies and approve or disapprove of the actions of the administrator for the period under review. A full-time officer should be appointed by the board for an indeterminate term who would be responsible for carrying out the outlined policies, and for installing proper administrative procedures. This officer should be made responsible for the preparation of the budget, maintenance of checks on the financial condition of the unit, and the preparation of financial and other reports.

ALLOCATION OF FUNCTIONAL RESPONSIBILITIES

Mill's plan for the division of responsibilities between the central government and the localities made in 1867 is not far amiss today. He suggested that the central government is in a position to act supremely in matters of principle, to prohibit one locality from prejudicing the interests of its neighbors, and to lay down administrative rules for the performance of those functions fraught with a general concern. To the localities he recommends the delegation of the details of administration, even if mismanaged, so long as the function in question is essentially a local one.²⁸

In the division of work between the State and local units there appears to be no basis of defensible allocation save that of capacity to perform the work in question. Whether it be assessment and collection of revenue, building a highway, providing an educational system, or devising a plan for the better ordering of public affairs,

²⁷ Cf. *supra*, p. 145.

²⁸ Mill, *op. cit.*, chap. xv.

each should be given to that level of government best able to meet the requirements of the task imposed.⁴⁹

This criterion has provided the principal basis for allocating the various functions discussed in succeeding portions of this report. The responsibility for providing a common and secondary school system should be divided between the State and the localities, the former concerning itself with the broad principles of supervision and the underwriting of needed revenues; the latter, with the immediate problems of administration. The building of highways, outside of incorporated places, appears to entail fiscal responsibilities and require technical competence in such measure as only the State can supply. When problems of water and milk supply are viewed in terms of public health it is obvious a guarantee of their purity can never be made by a unit of less size than the State—even it may be too small in some instances. In rural communities the volume of cases may be too small to warrant the maintenance of a hospital unit with its complement of officers and technicians. Certainly matters of broad fiscal control should be centralized in a state functionary responsible for budgetary matters, personnel administration, and supervision of public works. State financial control over local units has been urged by various groups interested in the problems of State and local relationships. The Commission for the Revision of the Tax Laws in its 1932 report, for example, suggested the creation of a local governmental board with an inclusive range of supervisory powers.⁵⁰ In general the powers and functions here suggested cover adequately those responsibilities growing out of any effective fiscal control. However, this department of government should differ from other branches in its point of view. Instead of gathering facts to be utilized only by members of the department concerned or by students of governmental affairs, the local governmental board should concern itself with stimulating citizen interest in the relative efficiency and rating of one unit of local government compared with another. The board should see that the reports and budgetary announcements are brought out at the same time and adequately publicized in the local press as paid advertising if necessary. In this way the reports of past and future operations can be brought to the attention of the citizens in a striking manner. Again, there is no reason why the department of local government should be confined solely to financial matters. It should also have under its jurisdiction a bureau charged with the study and control of local personnel problems. Recent experience has shown the repeated difficulties encountered

⁴⁹ I.e., to the one able to supply service meeting conventional standards at the lowest average total unit cost.

⁵⁰ The board was to have power to prescribe budget systems and accounting procedures; require periodic audits; approve bond issues in excess of specified amounts; approve tax rates in excess of certain percentages; prescribe assessment procedure; publish statistical material; make efficiency studies at the request of local units; and withhold State aid in event that local units fail to comply with the limitations imposed by the board (pp. 13-14).

as a result of vesting control over personnel policies in the hands of the Legislature. Instead of setting maximum and minimum salaries by legislative action, the division should have power to classify workers, ascertain comparable wages paid in industry for similar services, determine the nature of the work to be performed, make comparisons of living costs between sections of the State, compute average wages paid, and on the basis of these findings set the limits within which a locality might move. It is also possible that this board should be charged with the responsibility of investigating the personal conduct of any local official and clothed with power to remove dishonest or incompetent officials from office after hearing.

3. Summary

After an examination of the structure and administrative machinery of local government in New York, none but a zealot for the *status quo* would seriously attempt to defend it. The circumstances as drawn do not conform to community areas as determined by unifying economic and social forces. The machinery of government is both cumbersome and archaic. It encourages shifting of responsibility and, accordingly, demands an excessive amount of citizen interest to effectuate even a modicum of control. Numerous levels of governments are attempting to perform functions incommensurate with their capacities; in other instances certain localities are prohibited from ordering their own affairs in a way to maximize social advantage. State and local relationships, though reasonably well developed in New York, come far short of effectuating the integration of fiscal systems demanded by an industrialized economy.

Readjustments in local government to be effective must be as comprehensive as the dislocations. To the extent that non-conformity of political boundaries with economic regions interferes with effective government, these readjustments must be made. Or where population densities are exceedingly low all semblances of local governmental activity should be discontinued. Where community life does exist, government should be coextensive with the region of forces making for that solidarity.

Within the areas thus defined there should be but one government besides the State. The existing hierarchy of county, town, village, or city and uni-functional governments must give way to a revitalized unit of local government charged with responsibility for all those functions limited in their implications and amenable to administration by governments with narrow jurisdictions.

The managerial principle, calling for a sharp differentiation between those elected to outline policies and the officials charged with the administrative duties, appears to offer the most promising form of administrative organization. Now a reality in only a few cities, the form should be universalized.

The work to be done by public agencies should be divided between the local governments and the State on the basis of ability

to perform economically the service required. Inability to finance a given function should not be interpreted to mean unsuitability to administer. The assessment and collection of revenue may in some instances be done more expeditiously by a State agency. Those revenues derived from ability levies and certain types of business taxes should be expended directly by the State or through local instrumentalities so as to equalize social opportunities. Benefit levies may be returned in whole or in part to the point of origin, depending upon the agency or agencies rendering the service.²¹ A fuller development of these principles may provide a solution for numerous fiscal difficulties.

In this division of functional duties there is no work more appropriate for the central government than that of general oversight and direction.

It ought to keep open a perpetual communication with the localities—informing itself by their experience, and them by its own; giving advice freely when asked, volunteering it when seen to be required; compelling publicity and recordation of proceedings, and enforcing obedience to every general law which the Legislature has laid down on the subject of local management.²²

When local governmental units are made coextensive with sets of forces ordering commercial and social activities; when the work of these units is outlined by truly representative bodies and executed by competent administrators; when the central government allocates to its subdivisions the work they can perform expeditiously and assumes full responsibility for those rightly belonging to itself, the whole complexion of public affairs is altered. Multiplicity yields to simplicity; irresponsibility is replaced by accountability; decentralization is supplemented by integration; and standards of economy and efficiency are substituted for expediency. The attributes of the system transmute from chaos to cosmos.

²¹ Cf. *infra*, pp. 281-82.

²² Mill, *op. cit.*, p. 305.

PART II

**DISTRIBUTION OF GOVERNMENTAL FUNCTIONS
AMONG THE UNITS AND AN EXAMINATION OF
THEIR CAPACITY TO PERFORM THE VARIOUS
SERVICES**

CHAPTER IX

EDUCATION

A thorough examination of State and local relationships requires that the several functions commonly performed by local governments should be evaluated individually. Queries as to when a particular function passed from the realm of private to public responsibility, the division of this responsibility among the various levels of government, aid offered by the State, and the administrative restrictions growing out of this quasi-dependent position of the local governments on the State should all be answered. Considering the type of area required by the inherent characteristics of the function, can the units now rendering the service do so advisably? Using the criterion of ability to perform economically as the principal standard for allocating functional duties, what revision of central-local relationships might be suggested?

Of the several functions thus to be considered, none is more important than education. It marks the beginning of State intervention in affairs considered originally to be solely of local concern. It is of primary importance because of the social consequences growing out of the fact that 17 per cent of the population of the State is in attendance at public schools under the influence of trained teaching personnel. Education is a major item in the budget of both State and local governments. In 1934, local units in New York spent \$315,188,000, or 27.3 per cent of their total expenditures, for educational purposes.¹ Of this amount the State contributed \$103,456,000 or 29.0 per cent of its total budget.² Adding to this the cost of education offered in privately supported schools, and the amount spent by the State for its own institutions, the total cost to the people of New York for the year 1934 is estimated to be close to 400 million dollars.³ Again, a system of education administered through 8,434 school districts in a State the size of New York—one school district for every 5.4 square miles—should provide a fertile field for investigating the question of maximum social return for a given cost outlay.

1. Evolution of School System from Private to Public Function COMMON-SCHOOL SYSTEM

The most notable characteristic associated with development of the school system has been the struggle for a full recognition of public responsibility for providing educational facilities. Mile-

¹ See Table 3, pp. 15-16, and *Annual Report of the State Tax Commission, 1934*, p. 345.

² See Tables 3 and 31, pp. 15-16, 184.

³ Public expenditures, \$315,188,000; private, \$8,154,794; State institutions, \$9,911,771; total, \$406,254,565 (cf. *Annual Report of the State Tax Commission, 1934*, pp. 345, 347, 349).

stones of progress dot the way since 1795. It was at this time that the State made its first contribution; a public school organization was established in 1812; the State distributive fund was increased in 1851; rate bills were abolished in 1867; and notable improvements in the apportionment formulae were made in 1920 and 1925.

Kilpatrick, in a conclusion to his study of the Dutch educational era, says:

That the Dutch schools of America are properly called public seems unquestionable. They were open to all the children, were controlled by the duly constituted civil authorities, and were both housed and supported by the public moneys. It is true that direct tax levies for school support were not (as a rule) made, that tuition was regularly charged, and that the church had more or less voice in the management. There was, therefore, a failure in these results to reach the present conception of the American public schools; but neither one nor all of the defects can destroy their essential character as public schools.*

Upon assumption of control by the English in 1674 the interest manifested in developing the common-school system as exemplified in the Dutch period began to wane, and it was not until the establishment of State government that education began to acquire the same degree of significance that it had enjoyed under the Dutch.

John Sharpe, Chaplain of the King's forces [1713], thus summed up the status of education in the Province: "There is hardly any thing which is more wanted in this Country than learning, there being no place I know of in America where it is either less encouraged or regarded."

The first provision made for education following the English occupation of the Province, was the extension of the educational requirements of the apprenticeship system which was then in force in England.

*W. H. Kilpatrick, *The Dutch Schools of New Netherland and Colonial New York* (Washington, 1912), p. 230. Though he says the tax levies were "as a rule" not made, various orders and acts indicate that efforts were made to make the localities bear some part of the burden through the raising of public revenues. By an act of 1629 the company required the colonists to support by some means a school master and a minister (*Laws and Ordinances of New Netherland*, June 7, 1629, Art. 27). Some nine years later the first tax measure for educational support appeared. Each householder was required to bear a tax for the several necessary purposes, among which was the support of a school master (*Documents Relative to the Colonial History of the State of New York*, E. B. O'Callaghan, ed. [Albany, 1856], I, 112; cf. D. J. Pratt, *Annals of Public Education in the State of New York* [Albany, 1872], pp. 3-5).

In addition to the safeguarding of apprentices, schoolmasters who desired to set up schools were required to have the license of the governor.

The first proposal for education by means of legislative enactment was made in 1691. A bill was proposed in the Assembly "to appoint a schoolmaster for the educating and instructing of Children and youth, to *read and write English*, in every town in the Province."⁶

Since this measure failed of enactment, it may generally be said that "No effective governmental action in behalf of these [elementary schools] was carried out during the entire period of English occupation."⁷

Though the government was apathetic toward public education, the Society for the Propagation of the Gospel in Foreign Parts played an important role in providing charity schools. From 1710 to 1776 the Society supported between five and ten elementary schools. These schools were not free to the extent that no pupils paid tuition. Support usually involved assurances from schoolmasters that a specified number should be taught gratis. Since those who were financially able and had the inclination to educate their children relied on the private school and tutor, the Society's school must be said to have "furnished the nearest approach to a public school system that was to be found among the English colonists in New York."⁸ In general, the period was one of private responsibility.

The stages through which the common-school system passed during the ensuing years were as follows: public schools supported, in part, by rates levied against the patrons, free public schools, State aid denied to private schools, constitutional declaration of the responsibility of the State for providing educational facilities, and finally the extension and renewed significance of State financial support. As a result of this growing financial dependence, an important function of local government has been subjected to an increasing degree of central control.

The encouragement of effort toward the establishment of a public school system came from the State in 1795. In that year £20,000 was to be appropriated for a period of five years "for the purpose of encouraging and maintaining schools in the several cities and towns in this State."⁹ Reports from sixteen of the twenty-three counties organized at that time indicated that by 1798 some 1,352 schools had been organized as a result of the assistance provided.⁹ When the grant expired in 1800 it failed of renewal and from that

⁶ W. W. Kemp, *The Support of Schools in Colonial New York* (New York, 1913), pp. 68-70.

⁷ *Ibid.*, p. 76.

⁸ *Ibid.*, pp. 276-77.

⁹ *Laws*, c. 75.

⁹ *Annual Report of the State Superintendent of Public Instruction* (1904), p. 18.

time until the establishment of the district system nothing was done except the authorization of occasional lotteries for the aid of common and secondary schools.¹⁰

The establishment of a more definite public school system in 1812 grew out of a step taken by the Legislature in 1805,¹¹ when 500,000 acres of land were set apart to provide for a fund for the support of education. In the second year of the operation of the act the participation by the localities in the program was made obligatory.¹² The schools established under the district system were not, however, "free schools." "Rate bills" were levied against the patrons to make up the difference between expenditures and receipts from public revenues.¹³

As a result of the agitation arising out of the efforts of the various State superintendents and others interested in furthering educational developments in New York, the Legislature passed an act in 1849 authorizing the establishment of free schools throughout the State upon favorable referendum.¹⁴ Though the vote in favor of the change was decisive, hostility of sufficient proportion developed to cause the Legislature to re-submit the question to the electorate, who again sustained their former decision. In spite of these popular mandates the Legislature brought about virtual repeal in 1851 by introducing into the school appropriation act of that year the provision that revenues needed in excess of the yield from the property tax levy and the school fund were to be raised by the imposition of rate bills on all those attending school except indigents.¹⁵ The complete obliteration of the free-school act came about in 1853 when the court of appeals declared the act of 1849 unconstitutional.¹⁶ Thus free schools which twice had received a

¹⁰ "In 1801 an enactment for the raising by lotteries of the sum of \$100,000 was made. \$12,500 thereof were to be paid to the regents, by them to be distributed to the academies, and the remaining \$87,500 were to be deposited in the treasury, to be disposed of for the benefit of the common schools in such manner as the legislature should determine" (*ibid.*). This method of partial school support was prohibited by constitutional provision in 1821 (Art. VII, § 11).

¹¹ *Laws*, c. 86.

¹² *Annual Report of the State Superintendent of Public Instruction* (1904), pp. 18-19.

¹³ The odium attached to the "bills" and the inequalities arising in the apportionment of the school burden led to a discarding of the device in the cities before it was prohibited in the system generally. New York City had enjoyed free schools as early as 1842. By 1848 free schools were operating in Brooklyn, Buffalo, Rochester, Williamsburg, and Poughkeepsie, and shortly after, Syracuse, Lansingburg, Flushing, Newton and Bushwick were added. "Albany, Troy, and Utica were substantially free, although not so by force of law" (*ibid.*, p. 38).

¹⁴ *Laws*, c. 140

¹⁵ *Ibid.*, c. 151.

¹⁶ *Barto v. Himrod*, 8 N. Y. 483 (1853). The act was declared void on the ground that its validity was dependent upon result of a popular vote of the people, and that the Legislature was not able to divest itself of its responsibility.

substantial majority vote of the people were not actually realized until 1867.

The last two steps marking a complete recognition of education as a public function appear simultaneously with the adoption of the Constitution of 1894. The article dealing with common schools stipulates that "the Legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this State may be educated."¹⁷ Public aid to denominational schools was denied by section 4 of the same article.¹⁸

It is out of the growth of grants-in-aid that the supervisory power of the State over the educational program has been constantly augmented. The office of superintendent of common schools was created in 1812 to assume responsibility for the distribution of State funds soon to be available.¹⁹ The State department of public instruction was organized in 1854,²⁰ just three years after the first important State tax was levied for school support. The tax was increased in 1856²¹ and again more thorough supervision followed, providing for superintendents for each assembly district.²² As the importance of the State's participation in the public school program made itself felt both in the lower and higher branches of training, a unification of the division responsible for academic training with that of the common-school division became imperative. Though the establishment of a unified department in 1904²³ was not the direct result of any increase in State aid, yet it was an indirect product of the overlapping jurisdiction and conflicting efforts growing out of two divisions of State government administering financial aid to the localities for functions having identical characteristics.

SECONDARY SCHOOL SYSTEM

The development of secondary education in New York parallels very closely that of the common schools so far as the stages of progression from private to fully tax-supported institutions free to all those eligible for admission are concerned. First, the private schools received State aid and, in some instances, revenue from local taxes. This situation continued, in general, until the enactment of the union free-school, or high-school law of 1853.²⁴

¹⁷ Art. IX, § 1.

¹⁸ "Neither the State nor any subdivision thereof, shall use its property or credit or any public money, or authorize or permit either to be used, directly or indirectly, in aid or maintenance, other than for examination or inspection, of any school or institution of learning wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine is taught."

¹⁹ *Laws*, c. 242.

²⁰ *Ibid.*, c. 97.

²¹ *Ibid.*, c. 180.

²² *Ibid.*, c. 178.

²³ *Ibid.*, c. 40.

²⁴ *Ibid.*, c. 433.

This act opened the era of public schools for secondary purposes, although not as yet entirely free. The final move toward the complete realization of a free public high-school system came about in the abolition of the rate bills in 1867.²⁵

The Latin schools of the Dutch and English colonial era were frequently established through the efforts of the church or an individual.²⁶ The academies also belong to those educational institutions classed as quasi-public. They were incorporated either by special acts of the Legislature or by action of the board of regents. The academies were recipients of State funds, enjoying, in some instances, revenues from local taxes and other valuable considerations.²⁷

Though the academies had been developing quite independently of the common school, under the leadership of the board of regents another system offering a parallel type of training was beginning to appear based on the district form of organization. Some of the more progressive communities, by means of special legislation, had secured enlarged powers of taxation, authority to establish free schools, and the power to establish public secondary schools.²⁸

Out of these special acts came the union free-school act of 1853—a measure setting in motion a train of forces eventually responsible for uniting the common and secondary branches of education under the board of regents in 1904. In the legislation creating this new type of school, boards of education were permitted to organize academic departments or to assume the trusteeship of established academies. This is the step marking the definite establishment of public high schools.²⁹

²⁵ *Ibid.*, c. 406.

²⁶ In the act of 1732, designed to encourage a Latin school in the city of New York, a section stated that "Mr. Alexander Malcolm has, by the keeping of private School within the said City given a satisfactory Proof of his Abilities to teach Latin Greek and the Mathematicks; . . ." (*Colonial Laws*, c. 594).

²⁷ "In 1810 the custom of local town taxation for the support of the academy was probably first practiced, the instance being that of Washington Academy at Salem after the burning of the academy building.

In 1814 the Erasmus Hall Academy was permitted to receive the public school moneys of the Old Town of Flatbush on condition that free instruction be given the indigent children of the district and that reports be made to the school commissioners thereon" (W. J. Gifford, *Historical Development of the New York State High School System* [Albany, 1922], pp. 53-54).

Various other academies were given the privilege of building on the village square, in some cases a part of the building being used for public meeting purposes and serving as a town hall. "In the case of Ogdensburg Academy, the act of incorporation provided for a town tax of \$2,000 in order to furnish a lot and building. The town supervisor, the town clerk and the clerk of the board of village trustees were made ex officio members of the academy board of trustees and the local districts were accredited in scholarships with their proportionate amount of taxes toward the academic education of the children of these districts" (*ibid.*, p. 54).

²⁸ *Ibid.*, p. 39.

²⁹ *Laws*, 1853, c. 433. They became free when rate bills were abolished in 1867 (*ibid.*, c. 406).

After 1904 the breach between the board of regents and the superintendent of schools, following the enactment of the high-school act of 1853, was definitely closed by the unification of the two divisions. The determination of the whole educational program of the State was placed in the hands of the board of regents and the commissioner of education was made the chief executive officer.²⁰

2. Division of Responsibility

Since 1812 the major share of the responsibility for providing common and secondary educational facilities has fallen upon an *ad hoc* agency. However, for various reasons other units of government have come to play a more or less important rôle in the provision of educational opportunities. Prior to 1812, from 1812 to 1856, and for a brief period of one year beginning in 1917, the town was the chief administrative unit in carrying out the design of the State. As a result of these earlier obligations the town is still part of the public school system. Changing conditions have caused other units to assume responsibility for specialized types of educational training; the State has maintained institutions of higher learning and cared for certain classes of unfortunates; and the county has established agricultural and technical schools. With the development of cities in the latter part of the nineteenth century, the relationships growing up between the school districts and the corporate organization have led to arrangements varying from unity to virtually complete separation depending upon the charter provisions.

Closely akin to the formal educational system is the library organization of the State. Responsibility for it, like the school system, has been diffused throughout all the levels of government only in a more loose fashion.²¹

THE TOWN AS AN EDUCATIONAL UNIT

When the unappropriated lands of New York were ordered to be laid out in townships and one lot to be set aside as a gospel and school lot,²² the town became a more or less definite part of the administrative machinery for carrying on educational activities.²³ With the enactment of the district system the work of the town officers was not supplanted but merely supplemented by the activities of the school trustees. According to the provisions of the law of 1812, three commissioners were to be elected in each town, who,

²⁰ *Ibid.*, 1904, c. 40.

²¹ Cf. *infra*, pp. 179-81.

²² *Lesser*, 1786, c. 67. An earlier law set aside eighty acres out of each township for the benefit of schools (*ibid.*, 1785, c. 66).

²³ Before the advent of the *ad hoc* district the town was the fiscal agent and unit for administering the funds of the State appropriated for common schools. The \$100,000 set aside in 1795 was to be distributed to the towns on condition that they would raise half as much as that received from the State. To direct the work, three to seven commissioners were to be elected annually in each town (*ibid.*, c. 75).

with another group of individuals not in excess of six, were to be known as the board of inspection with competence to examine teachers, issue certificates of approval, and to divide the towns into districts.²⁴

A special town functionary was provided in 1843 to replace the board of inspectors.²⁵ This office had not been long in existence when its *effective* powers were materially increased through abolition of the county superintendent. Business of every sort, ranging from fiscal matters to determination of teacher qualifications, cleared through the town superintendent.²⁶

When the office of town superintendent was abandoned in 1856, the era of school administration by town officials was definitely closed, save for a brief period sixty-one years later. By one bold stroke an attempt was made in 1917 to remedy, in part, the defects of the district system by making the town the unit for purposes of common-school administration.²⁷ This then laudable move was short-lived, encountering stout resistance and repeal the following year. The farmer's grange, and in some cases mothers' organizations, denounced the system as one that would destroy local government, make taxes higher, introduce salaried trustees, cause debt-free districts to assume debts contracted by others, endanger the life of the pupils through the establishment of transportation systems, and finally that it would introduce unnecessary fads and frills into the schools.²⁸

Because of this traditional position the town is still interjected between the State and the school trustees in the handling of many routine matters. The clerk is responsible for preserving school records, preparation of reports and the filing of sundry official

²⁴ *Ibid.*, c. 242.

²⁵ In 1841 a bill was passed providing for the appointment by the county board of a county superintendent who was to act in a supervisory capacity over the schools of the county (*ibid.*, c. 260). As a result of this move the number of town inspectors was reduced to two. Two years later the offices of commissioner and inspector were abolished and the office of town superintendent was created instead (*ibid.*, 1843, c. 133; cf. *The Common School System of the State of New York*, State Department of Public Instruction [Troy, 1852], pp. 50-51).

²⁶ This officer, elected biennially by the voters, was given power to regulate and alter the boundaries of school districts, acting in conjunction with the clerk and supervisors of the town when necessary; to receive moneys for school purposes from the county treasurer and the town collector; to apportion all money coming to the town among the respective districts; to designate the sums applicable to the payment of teachers' salaries; to examine candidates for teaching certificates; to visit and inspect the schools of their respective districts; and to make such reports to the county clerk as the superintendent of instruction might indicate. Further, the town superintendent could appoint persons to fill vacancies of trustees and pass on tax levies for buildings when the aggregate amount was in excess of \$400 (*Low*, 1847, c. 486).

²⁷ *Ibid.*, c. 328, § 331.

²⁸ *The Township System*, Fourteenth Annual Report of the State Education Department, 1918 (1921) I, 78-84.

instruments.³⁹ Tax collections in first-class towns are made by the town receiver of taxes.⁴⁰ The supervisor handles all school moneys and manages certain school properties.⁴¹ The town board is authorized, with the consent of the district superintendent, to appoint an attendance officer.⁴² The town also provides the personnel to choose the district superintendent of schools.⁴³ Still more important relationships arise between the town and the school district, since the rolls for purpose of general property taxes are usually prepared by town assessors.⁴⁴

SCHOOL DISTRICTS

The school district originally grew out of cooperative efforts required in the educational enactments of the year 1795.⁴⁵ Three to seven school commissioners were to be chosen in each town, and persons living in different parts of a town might associate together and elect trustees for every such school. The revival of the effort to establish public schools in 1812 reincorporated the idea of dividing the towns into districts to provide a separate

³⁹ The town clerk is to be responsible for keeping all books, papers, maps, and records of his office regarding the common schools; to receive from the supervisor the certificates of apportionment of school moneys to the town and record them; notify trustees of the several districts of the filing of such certificates; furnish the school commissioner with names of school-district officers reported to him by the clerk; distribute books, blanks, and circulars received from the commissioner of education; receive from the supervisor the annual account of receipts and disbursements of school moneys required to be submitted to the auditors, and send a copy of the action of the auditors to the commissioner of education; receive the supervisor's final account of school moneys received and disbursed and deliver a copy to his successor; file the county treasurer's certificate that the bond of the supervisor has been approved; file any tax lists and warrants returned by collectors to trustees of any school district; receive, file, and record description of school lots; act when legally required in erection or alteration of school districts; preserve the records of any dissolved school districts; and to perform any other duty required by school law (*Education Law*, 1934, §§ 340, 439).

⁴⁰ *Cahill's Supplement*, 1935, 63:20.

⁴¹ It is the duty of this officer to distribute school moneys; keep a record of receipts and disbursements; sue for and collect all penalties and forfeitures, reporting the balance to the school commissioner; and hold possession and lease the school lots (*Education Law*, § 360). When a district is dissolved the supervisor sells at auction the property of the district and collects all money due the dissolved district (*ibid.*, §§ 138-39). The supervisor is also required to file an annual report with the district superintendent showing the amount of school money in his hands, not paid over; the district to which such money is credited; and if any money remains, it is not to be paid over until the new certificates of apportionment are received (*ibid.*, § 365).

⁴² *ibid.*, § 640.

⁴³ Each town elects two school directors who meet with the directors of other towns comprising the supervisory district, at a place designated by the county clerk, for perfecting their own organization. After organization they are known as a board of school directors meeting every fifth year for the purpose of electing a district superintendent of schools (*ibid.*, §§ 382-83).

⁴⁴ *Y. infra*, p. 231, note.

⁴⁵ *Loose*, c. 75.

school organization.⁴⁶ The law provided that State aid was to be available to those communities organizing their townships into school districts and electing the necessary officers. As a result of this stimulant, and the generally recognized need for schools, the system, so far as number of districts is concerned, had developed by 1830 to proportions commensurate with the present, though the variety of types of districts has greatly increased since that time. There is no longer just a school-district organization, but there are city school districts, union free-school districts, common-school districts, central rural school districts, and central high-school districts, each varied in a way to meet a special need or local condition.

Each of these types of districts provides for a full retinue of officers. Common-school and central high-school districts have a clerk, collector, and one or three trustees and a treasurer as the district shall determine.⁴⁷ The number of trustees in the union free-school district ranges from three to nine in accordance with the wishes of any particular locality.⁴⁸ Central rural school districts have a board of education of five members.⁴⁹ Though each of these districts provides for a school clerk charged with keeping all records, calling meetings, and taking care of other numerous duties, there are also obligations imposed on the clerk of the town with respect to the records arising out of distributing the State fund and recording names and addresses of elected school officers.⁵⁰ There is a similar duplication of effort in the handling of school money. The school treasurer is custodian of all funds, yet the supervisor is responsible for all State aid allotted to the towns in his district and all funds pass through his hands before they are turned over to the treasurers of the respective districts.⁵¹

The trustees in charge of these *ad hoc* districts, whether they be located in the most populous region or in a rural community, are generally considered to be distinctive governmental agencies. To carry out adequately the ends for which they are made responsible they are given power to call special meetings, make out tax lists, purchase and lease school sites and equipment, oversee school property, employ teachers, make rules for disciplinary standards, prescribe courses of study, collect the district tax, maintain records of account, purchase supplies and books, establish temporary or branch schools, provide for physically handicapped children, and to borrow money in anticipation of taxes.⁵² The boards of districts other than those providing common schooling have additional powers granted to meet special problems arising in connection with

⁴⁶ *Ibid.*, c. 242.

⁴⁷ *Education Law*, §§ 220, 206.

⁴⁸ *Ibid.*, § 220.

⁴⁹ *Ibid.*, § 183.

⁵⁰ *Ibid.*, § 250; cf. § 340.

⁵¹ *Ibid.*, § 251; cf. § 360.

⁵² *Ibid.*, § 275.

their intended purposes.⁵³ Power to determine land values, levy taxes, prepare the budget of local school expenditures,⁵⁴ are about as extensive grants of power as the general government is capable of delegating.

Since the State has entrusted to these 8,434 uni-functional districts the responsibility for spending the largest item in the public budget, of which almost one-third comes directly from State funds, chief consideration will be directed toward this unit in an analysis of State and local educational relationships.

PLACE OF THE CITY IN THE SCHOOL SYSTEM

"During the early period of statehood, in many of the cities, the mayor and the members of the legislative body were constituted as the educational authority of the municipality, in other words, education was regarded as one of the regular municipal departments."⁵⁵ The detachment of education from the regular functions associated with the corporate powers of cities came about as part of a more general movement current after the middle of the eighteenth century to set up independent boards charged with the responsibility of administering the various functions of government. Though many other functions have again been brought within the control of the regular corporate authorities, education still is generally provided by an independent office.

In all cities of the State the boards of education are, for all practical purposes, independent bodies. The supreme court has ruled that city boards of education are not a part of the city government. It

is itself a local school corporation, like every board of school-district trustees throughout the state, and is, like every such board, an integral part of the general school system of the state. It is a state and not a city agency, doing state and not city work and functions.⁵⁶

Further, the courts have held that since the department of education belonged to the administrative department of the State, it has full power to manage and control the educational institutions of the municipality, and to appoint all subordinate employees.⁵⁷

In twenty-nine New York cities, municipal government is connected with the board of education through mayoralty or council

⁵³ *Ibid.*, §§ 310-13.

⁵⁴ *Ibid.*, §§ 413, 410, 323.

⁵⁵ "This was true in New York City at various times; in Buffalo from 1837 to 1914; in Rochester from 1833 to 1841; in Hudson from 1841 to 1881; and in a number of other cities" (*Fiscal Problems of City School Administration*, Report by the Special Joint Committee on Taxation and Retrenchment, Legislative Document No. 66 [1928], p. 39).

⁵⁶ *Ridenour v. Board of Education of the City of Brooklyn*, 37 N. Y. S. 110 (1896).

⁵⁷ *Hamm v. Meyer*, 70 N. Y. 459 (1877); *Donovan v. Board of Education of City of New York*, 85 N. Y. 117 (1881).

appointments. In thirteen cities, the final authority to fix the budget (except teachers' salaries) is vested in the board of estimate and apportionment. In eighteen cities, the mayor may veto items in the school budget, which may be restored by a two-thirds, four-fifths, or unanimous vote (as the law may provide) of the board of education. There are twenty-seven cities in which the corporate officers have nothing to say with respect to making the local school budget.⁵⁸

Further relationships between the cities and school districts arise through the use by the school boards of the regular machinery of government to collect revenue for operating the schools. In fourteen cities of the State, school districts are non-coterminous with the incorporated limits and the levy and collection of school taxes is separate. A few cities, having coterminous limits with school districts, separate the levy and collection of taxes, but in the majority of cases the two are handled together.⁵⁹

Corporate authorities of any incorporated city or village in which a union free-school district is located have imposed upon them the duty of raising by tax such sums as the board of education may deem necessary for maintenance of the school system.⁶⁰

VILLAGE-DISTRICT RELATIONSHIPS

Village government in general does not alter the setup of the rural educational program of the State. All villages having less than 4,500 population are under general supervision of the district superintendent and therefore are considered as part of the rural system. Villages having a population in excess of 4,500 employ their own superintendents and are, therefore, somewhat more independent than the ordinary district school.⁶¹ As in the case of cities the school boards are independent of village government.⁶² A current statute provides that any village in which a union free-school district is located shall levy such sums for educational purposes as the board of education shall declare necessary.⁶³ All money raised for the support of education and all money paid over by the State to any union free-school district coterminous with the boundaries of a village, shall be paid into the village treasury and placed to the credit of the board of education.⁶⁴

⁵⁸ *Report of the Special Joint Committee on Taxation and Retrenchment*. Retrenchment Section, Legislative Document No. 80 (1920), pp. 29-30.

⁵⁹ *Fiscal Problems of City School Administration*, pp. 41-42.

⁶⁰ *Education Law*, § 327.

⁶¹ *Twenty-seventh Annual Report of the State Education Department* (1931), p. 15.

⁶² As early as 1852 the village of Newburgh established a free school. In this case the trustees were required by statute to levy such taxes as thought necessary by the board of education (*Laws*, c. 156).

⁶³ *Education Law*, § 327.

⁶⁴ *Ibid.*, § 315.

Boards of education in school districts whose limits correspond with that of an incorporated city or village are to be elected at the regular charter election in such municipality, but by separate ballot marked "school trustee."⁶⁶ When school bonds are sold by a union free-school district coterminous with that of an incorporated village or city, the bonds are to be delivered to the treasurer of the village or city, who shall countersign them and give notice of sale. The proceeds from the bonds are then deposited in the treasury of the village or city to the credit of the local board of education.⁶⁷

EDUCATIONAL ACTIVITIES ENGAGED IN BY COUNTIES

When John C. Spencer became superintendent of the common-school system in 1839, agitation was immediately begun to increase the efficiency of school inspection and supervision. He hoped to bring this about through the establishment of county boards of visitation. As a result of his recommendations, the Legislature provided for a county superintendent and board of visitors. Reports received from these boards led the superintendent to believe that the town inspectors and commissioners were an unnecessary adjunct of the system. Thus in 1843 the offices of commissioner and inspector were abolished and the office of town superintendent was created instead. Through this same act authority of the county superintendent was increased to the extent that certain appellate powers were placed in his hands.⁶⁸

Opposition began to develop in the townships as a result of the curtailment of their prerogatives and the augmenting of the powers of the county. As a result, the county school administrative unit was short-lived. In November, 1847, the Legislature abolished the office, and all appeals were to be made directly to the State superintendent. By this move the town superintendents again became the chief local school officers, making their contacts directly with the State.⁶⁹

This terminated the participation of the county directly in educational affairs until after the turn of the twentieth century when the Legislature further divided responsibility for providing educational facilities by allowing counties outside New York City to set up schools of agriculture, homemaking, and industrial arts.⁷⁰ The board of supervisors was made responsible for financial support of the institutions established,⁷¹ and the administrative policies were to be determined by a board composed of all city, village and district superintendents of schools in the county plus such other

⁶⁶ *Ibid.*, § 302.

⁶⁷ *Ibid.*, § 460.

⁶⁸ *The Common School System of the State of New York*, p. 51.

⁶⁹ *Levy*, c. 358.

⁷⁰ *Ibid.*, 1916, c. 307.

⁷¹ *Education Law*, § 612.

members of the community as may be necessary to provide a personnel of five.⁷¹

In 1931 the supervisors of Westchester county were given power to establish within the county an education district to provide training of a specialized nature.⁷² The direction of the work rests in the hands of a board of five appointed by the supervisors. The board is to determine the educational needs of the district; provide classes for physically handicapped children; and establish vocational schools giving instruction in agricultural, industrial, commercial, technical, and homemaking subjects. The actual direction of the work is to be carried out by a director of special education who is to be the executive officer and secretary of the commission. Courses of study are to be approved by the commissioner of education, and all teachers must meet the standards imposed by the board of regents.

THE SCOPE OF STATE ACTIVITIES

The State directly entered the field of higher education in 1784 when the board of regents of the University of the State of New York was created. The act to establish a common-school system in 1812 made provision for a State superintendent—an officer charged with responsibility for the management of the school fund, better organization of the school system, and the administration of all matters in connection with the public school lands.⁷³ In 1821 the office was abolished and the duties placed on the secretary of state.⁷⁴ The increasing importance of the work of the educational division and the fact that the State department was engaged in other interests made it necessary to create the office of deputy in 1841.⁷⁵ Thirteen years later (1854), the importance of the State's participation in the common-school program was given its proper recognition when a separate department was organized and the office of superintendent of public instruction created.⁷⁶

Among the problems with which the State concerned itself during the formative period of the educational program was inducing local boards to employ trained personnel, and providing facilities so that those desiring to teach might have adequate training. As early as 1834 the regents were authorized to spend a portion of the

⁷¹ The board has power to employ a superintendent, teachers, and the necessary assistants (*ibid.*, §§ 612-13). Where the attendance is fifteen or more, school is maintained for a period of thirty-six weeks, and the organization and course of study is approved by the commissioner of education, the State stands ready to give each school \$1,000 annually plus \$200 for each teacher employed on full time for a period of thirty-six weeks (*ibid.*, § 616). So far as administrative control by the State is concerned the farm schools are deemed to be a part of the regular school system of the State (*ibid.*, § 619-b).

⁷² *Laws*, c. 677. City school districts with a population of 50,000 or more may be excluded from the provision of the act if they so desire.

⁷³ *Ibid.*, 1812, c. 242.

⁷⁴ *Ibid.*, c. 240.

⁷⁵ *Ibid.*, c. 260.

⁷⁶ *Ibid.*, c. 97.

literature fund in providing educational facilities for teachers.⁷⁷ In 1843 the first State-supported teachers' institute was held. The following year the State Normal School was opened at Albany.⁷⁸

A State school levy was authorized in 1851 adding \$800,000 to the apportionment fund as an inducement to districts to abandon the rate system.⁷⁹ The abolition of tuition charges was achieved in 1867⁸⁰ and grants to localities were greatly increased to make up for the consequent deficiency in revenue. The State further extended its power in common-school affairs when the town superintendent system was abolished and district supervisory officers installed. In this same period the regents began to exert an influence on secondary education by setting up uniform examinations for secondary school pupils.

The most recent venture of the State in the field of education arises in connection with "emergency education." In 1932, \$117,873 and in 1933, \$545,014 were allocated to the State department of education by the State temporary emergency relief administration. This measure, of course, is primarily one properly classed as relief, the object being to care for professional people who were without employment and to provide educational opportunities for unemployed adults.⁸¹

The seven and one-quarter million dollars, spent by the State department of education for universities, teacher training, and other educational institutions,⁸² is in reality a minor part of its educational program. Grants to the localities for common and secondary schools have now reached proportions exceeding \$100,000,000 annually. This aspect of State participation is of special significance so far as State and local relationships are concerned.

3. Libraries

Closely connected with the formal education program is the public library system of the State. Like the structure of the primary and secondary educational system, responsibility for providing these facilities is divided among all levels of government. By a majority vote at any election, any public body authorized to levy and collect taxes may establish a public library. It is not even necessary that the subject be submitted to referendum. The same end may be accomplished by a vote of the board of supervisors, common council, board of estimate or trustees of a village, or by vote of the town board of any town.⁸³ A more complete dispersion

⁷⁷ *Ibid.*, c. 241.

⁷⁸ *Ibid.*, 1844, c. 311.

⁷⁹ *Ibid.*, c. 151.

⁸⁰ *Ibid.*, c. 406, p. 976.

⁸¹ *Thirtieth Annual Report of the State Education Department (1934)*, I, 164.

⁸² *Ibid.*, p. 162.

⁸³ *Education Laws*, § 1118.

of responsibility for providing public facilities could hardly be imagined. Not only are all units included, but all possible combinations are allowable.

In virtually all cases the direct management of free public libraries rests in the hands of a specially elected or appointed board of trustees having "all the powers of trustees of other educational institutions of the university."⁸⁴ In the cities they are appointed by the mayor and confirmed by the common council; in counties, by the supervisors; in villages, by the village trustees; in towns, by the town board; and in school districts, they are elected by the legal voters.

School libraries are under the supervision of the educational department as are the other free circulating libraries of the State. However, it is more or less of an independent system. Except in those instances where no free public library exists, the school library is to be kept in the school building and made accessible only to students. When no free public library exists, the commissioner of education may prescribe rules regulating general use by the public.⁸⁵ This lack of coordination between the efforts of the school library system and the general library of the city has been pointed out in previous connections.

In the majority of cases, however, the bodies are independent and there is a tendency on the part of the city librarian to pay little or no attention to the library requirements or needs of the schools, and a tendency on the part of the schools to develop their own libraries without the aid of the public library.⁸⁶

As in the general field of education proper, the State has extended its supervision over the activities of the localities in the matter of providing library facilities. In the first place, authority has been given to the regents to establish library extension service with a broad grant of power including the encouragement of the extension of service; the promotion, organization, and supervision of free libraries; and finally, the offering of information, advice, assistance or instruction.⁸⁷ If the local authorities become negligent in providing support for libraries aided by State money,⁸⁸ the regents have power to draw up a bill of particulars, indicating

⁸⁴ *Ibid.*, § 1123.

⁸⁵ *Ibid.*, § 1135.

⁸⁶ *Fiscal Problems of City School Administration*, p. 19.

⁸⁷ *Education Law*, § 1131.

⁸⁸ The State makes grants to free public libraries out of the proceeds of the United States deposit fund provided that the sums are spent for books approved or selected by the regents. The maximum amount that any library shall receive is \$100 annually. This grant is contingent upon the locality raising at least that much from local sources (*ibid.*, § 1133). The 856 public libraries expended \$6,793,622 in 1932 of which \$57,752 was State aid (*Thirtieth Annual Report of the State Education Department* [1934], p. 303).

what the board must do to satisfy the requirements of the State. If, in due time, the request has not been complied with, the State may remove the defaulting trustees and appoint others, close, or transfer the equipment of the library, as may appear expedient.⁸⁰ All school libraries must make their purchases, keep their records, and provide for the safekeeping of the books in accordance with the procedure laid down by the department of education.⁸¹ All museums or libraries other than school libraries are to make out reports as required by the State department.⁸²

4. State Support for Education

COMMON SCHOOLS

Financial assistance has been the principal tool employed to achieve the degree of centralization in school administration existing in New York today. The foundations for this central source of revenue were laid when provisions for schooling were still a private matter. The State in the eighteenth century was "rich" as far as unappropriated lands were concerned, and it was out of this wealth that the nucleus of State aid grew.

Following a proposal of the governor, the Legislature in 1805⁸³ supplemented the enactment of 1786 setting aside one lot in each township for "gospel and school" purposes,⁸⁴ by appropriating 500,000 acres of the public domain, proceeds from which were to be distributed for the support of common schools.

The revenue from this fund, plus the proceeds from the literature and United States deposit fund, constituted the sole source of State aid for schools down to 1851, with the exception of an annual State grant of £20,000 during the period 1795 to 1800,⁸⁵ and occasional lotteries between 1800 and 1821. From 1800 to 1814 the State was virtually inactive, as the accumulation of interest from the common-school fund was not large enough to meet the requirements for distribution. Apportionments were soon to be made and it was necessary to organize some sort of administrative machinery in the localities to represent the State in its educational activities and account for the employment of State funds. Thus the district school system and the office of State superintendent of instruction were created in 1812. In 1814 the first allotment to the localities was made out of the receipts from the common-school fund. These receipts, plus the funds raised locally and the rate bills, provided the sole source of revenue for schools until 1851 when the Legislature passed an

⁸⁰ *Education Law*, § 1130.

⁸¹ *Ibid.*, § 1135.

⁸² *Ibid.*, § 1126.

⁸³ *Laws*, c. 66.

⁸⁴ *Ibid.*, 1786, c. 67.

⁸⁵ *Ibid.*, 1795, c. 75.

appropriation of \$500,000.⁹⁵ This tax of a flat sum was changed to a three-quarter mill levy in 1856 greatly increasing the amount of aid given to the support of schools.⁹⁶

This, in brief, has been the history of the emergence of the State into the field of aiding common-school development. It still remains to note the absolute and relative importance of these contributions to the administrative development contemporary with the growth of State grants.

SECONDARY SCHOOLS

A manifest interest in the development of academies by State support appears earlier than in the case of common schools. When the university was created in 1784 the regents were authorized to hold funds to be used for the benefit of the associated academies.⁹⁷ As in the case of common schools, the early grants to academies consisted mainly in setting aside public lands to be applied toward educational support. The first move in this direction occurred in 1786 when the surveyor general was directed to lay out unappropriated lands into townships and set aside two lots one of which was to be used for the support of "literature."⁹⁸ Since the adoption of the Constitution of 1846 the employment of the fund has been restricted to the support of academies engaged in training teachers.⁹⁹

Money appropriations were used in supplementing the funds in the year that the literature fund was created. In 1790, the treasurer was authorized to pay to the regents out of unappropriated money in the treasury the sum of £1,000 to aid Columbia College and the academies until the revenue from land allotments was available.¹⁰⁰ These allowances were renewed and increased in 1792 when £2,250 was donated to Columbia College for a period of five years, £1,500 of which was to be used for the maintenance of academies and the remainder to be applied toward the payment of professors' salaries.¹⁰¹ In 1826, \$6,000 was appropriated for the use of academies; 1830, \$10,000; 1835, \$12,000; 1840, \$40,000; and by 1898 the grant was increased to an amount in excess of \$200,000.¹⁰² Beyond this date it is difficult to differentiate between the amounts appropriated for common and secondary schools. The

⁹⁵ *Ibid.*, c. 151; cf. Table 31, and Figure 12, pp. 184-85.

⁹⁶ *Laws*, c. 180.

⁹⁷ *Ibid.*, c. 51; cf. Gifford, *op. cit.*, p. 117.

⁹⁸ *Laws*, c. 67. In 1790 the lands of Lake George region and Governor's Island were added to the fund (*ibid.*, c. 38), to be followed by annual appropriations, lottery grants, quit rents, and canal stock until by 1830 it amounted to \$256,344 (*Sowers, op. cit.*, p. 267). In 1934 the aggregate of the fund was \$273,300, representing chiefly a portfolio of State and local obligations of New York State (*Annual Report of the Comptroller, 1934*, p. 305).

⁹⁹ Art. IX, § 2.

¹⁰⁰ *Laws*, 1790, c. 33.

¹⁰¹ *Ibid.*, 1792, c. 60.

¹⁰² Gifford, *op. cit.*, pp. 18, 126.

legislation dealing with apportionment provides that certain of the funds under the caption of "common schools" are to be used for purposes which unavoidably are of benefit to the secondary system as well.¹⁰³ The two methods of apportionment became still less distinctive with the adoption of the Cole Law of 1925 when the major part of State aid was to be apportioned on the basis of elementary and academic teaching units.¹⁰⁴ The last step in obliterating the lines of differentiation came about in 1930 when the "academic quotas" and the allowances for books and apparatus were discontinued.¹⁰⁵ On account of these overlapping relationships and the method of State reporting, the following discussion of State aid will include both common and academic branches.

IMPORTANCE OF STATE AID

It is estimated that between 1796 and 1825 \$13,301,000 was spent in New York State for common schools. Of this amount 7.22 per cent was raised by the State, 23.41 per cent was raised locally by taxes, and the remainder, 69.37 per cent, was raised by means of personal contributions.¹⁰⁶ A graphical picture of total tax receipts for primary and secondary education and the growth of the amount contributed by the State is shown for the past 104 years on the semi-logarithmic chart (Fig. 12). Beginning in 1830 with total receipts of \$619,000, the amount has grown until in 1932 it reached a peak of \$332,394,000. Periods of more than normal growth in the appropriations of the State are evidenced between 1850-55, 1865-70, 1915-21, and from 1925 to 1932. The first of these was a result of a move on the part of the State to discourage the charging of tuition. The second grew out of abolishing the rate bill system in 1867 and an attempt on the part of the State to make up the deficit in the local budgets as a result of cutting off this customary source of revenue. State contributions grew at about the same rate as the total until 1885 when local expenditures began to grow much faster than revenue from the permanent school funds and

¹⁰³ An example of such a condition is to be found in the "supervisory quotas." This provision introduced by legislative enactment in 1894 made an allowance of \$800 to each city, to each village of 5,000 population, and to union free-school districts of the same population employing superintendents (*Laws*, c. 556, p. 1188). It was the intention of the framers of the union free-school act, however, that all money appropriated to the common schools should be applied to departments below the academic level, and that all money from the literature fund, or otherwise appropriated for the support of "academical" departments, should be applied to the latter (*ibid.*, 1853, c. 433). The additional teachers' quotas introduced in 1920, which are classed as a part of the common-school fund, took into account the maintenance of a high school (G. D. Strayer and R. M. Haig, *The Financing of Education in the State of New York* [New York, 1923], pp. 99-100).

¹⁰⁴ *Laws*, c. 675.

¹⁰⁵ *Ibid.*, c. 171.

¹⁰⁶ *Sowers, op. cit.*, p. 193.

appropriations by the Legislature. It was not until 1920 that the State increased its efforts to appoint where the contributions bore a position of significance corresponding to that in 1885 and 1890. It was at this time that the State set about to raise the standard of teachers' salaries. Between 1925 and 1932 the contributions of the State were again increased with the objective in view of bringing about a more equitable distribution of the educational cost through-

TABLE 31

LOCAL TAX RECEIPTS FOR PUBLIC SCHOOLS IN NEW YORK AND THE AMOUNT SUPPLIED BY THE STATE, 1814-1934*

(Thousands)

YEAR	Local Tax Receipts (including Rate Bills)	State Contribution (including Federal Aid)	Total	Per Cent of State Contribution to Total
1814.....		848		
1820.....		80		
1825.....		80		
1830.....	8519	100	8619	16.2
1835.....	639	100	739	13.5
1840.....	867	275	1,142	24.1
1845.....	958	275	1,233	22.3
1850.....	1,580	285	1,865	15.3
1855.....	2,435	1,110	3,545	31.3
1860.....	2,436	1,320	3,756	35.1
1865.....	4,156	1,379	5,535	24.9
1870.....	6,847	2,452	9,299	26.4
1875.....	8,328	2,800	11,128	25.2
1880.....	7,050	2,999	10,049	29.8
1885.....	9,712	3,001	12,713	23.6
1890.....	13,407	3,499	16,906	20.7
1895.....	13,866	3,857	17,723	21.8
1900.....	22,566	3,958	26,524	14.9
1905.....	32,716	4,538	37,254	12.2
1910.....	44,421	5,297	49,718	10.7
1915.....	60,317	6,078	66,395	9.2
1920.....	90,031	12,847	102,878	12.5
1921.....	112,433	33,619	146,052	23.0
1922.....	129,890	36,571	166,251	22.0
1923.....	132,783	38,380	171,163	22.4
1924.....	139,177	40,100	179,296	22.4
1925.....	148,363	41,377	189,740	21.8
1926.....	158,425	43,531	201,956	21.6
1927.....	190,712	56,124	246,836	22.7
1928.....	194,114	72,113	266,227	27.1
1929.....	212,600	79,048	292,648	27.0
1930.....	220,689	89,059	309,748	28.8
1931.....	222,366	99,161	321,527	30.8
1932.....	228,101	104,293	332,394	31.4
1933.....	199,959	104,271	304,230	34.3
1934.....	199,341	103,456	302,797	34.3

* Data from 1814 to 1890 taken from *Annual Reports of the State Education Department*. Subsequent figures published in *Annual Report of the State Tax Commission, 1934, p. 343*

† Data for rate bills not available.

• Includes \$22,959,634 of State aid due cities but paid in subsequent fiscal year.

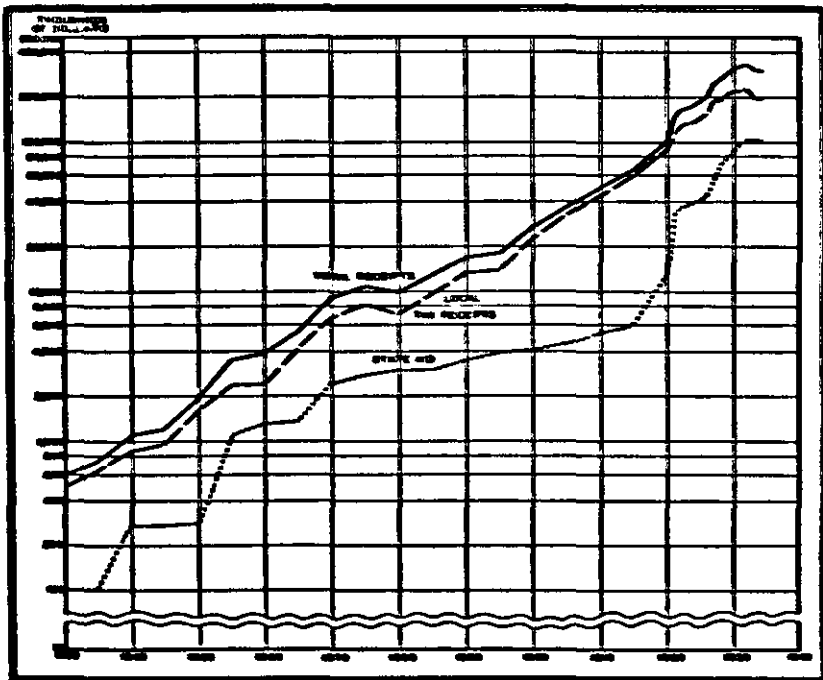


FIG. 12.—LOCAL TAX RECEIPTS FOR PUBLIC SCHOOLS IN NEW YORK AND THE AMOUNT SUPPLIED BY THE STATE

out the State, and the equalization of educational opportunity by raising the standards of instruction in districts struggling with conditions of limited resources. Retrenchment policies made necessary by the business recession beginning in 1929 has caused at least a temporary set-back in the rate of growth of State aid for public school support. Had the existing schedule of increases been followed the school budget for State aid in 1932-33 would have been about \$107,800,000¹⁰⁷ instead of \$104,271,000,¹⁰⁸ the amount actually appropriated.

Not only is it important to know the relationship which the total amount of State aid bears to the total common and secondary school bills of the State, but it is also important to note the relationship between the amount that the State contributes and the amount raised for school support in the various sections of the State.

Table 32 indicates that in 1930 the State's share ranged from 23.3 per cent in Nassau county to 162.1 per cent in Delaware. Ten coun-

¹⁰⁷ *Thirtieth Annual Report of the State Education Department (1934)*, I, 161.

¹⁰⁸ See Table 31.

ties received an amount from the central government that was less than half as great as their own contribution. On the other hand, twenty-one of the fifty-eight counties received more from the State toward the support of schools than they levied in that year for school purposes. The geographical position of counties falling within certain State-aid groups is set forth graphically in Figure 13. In general, the counties forced to rely largely on their own resources are those ranking first in an array according to economic means.¹⁰⁰

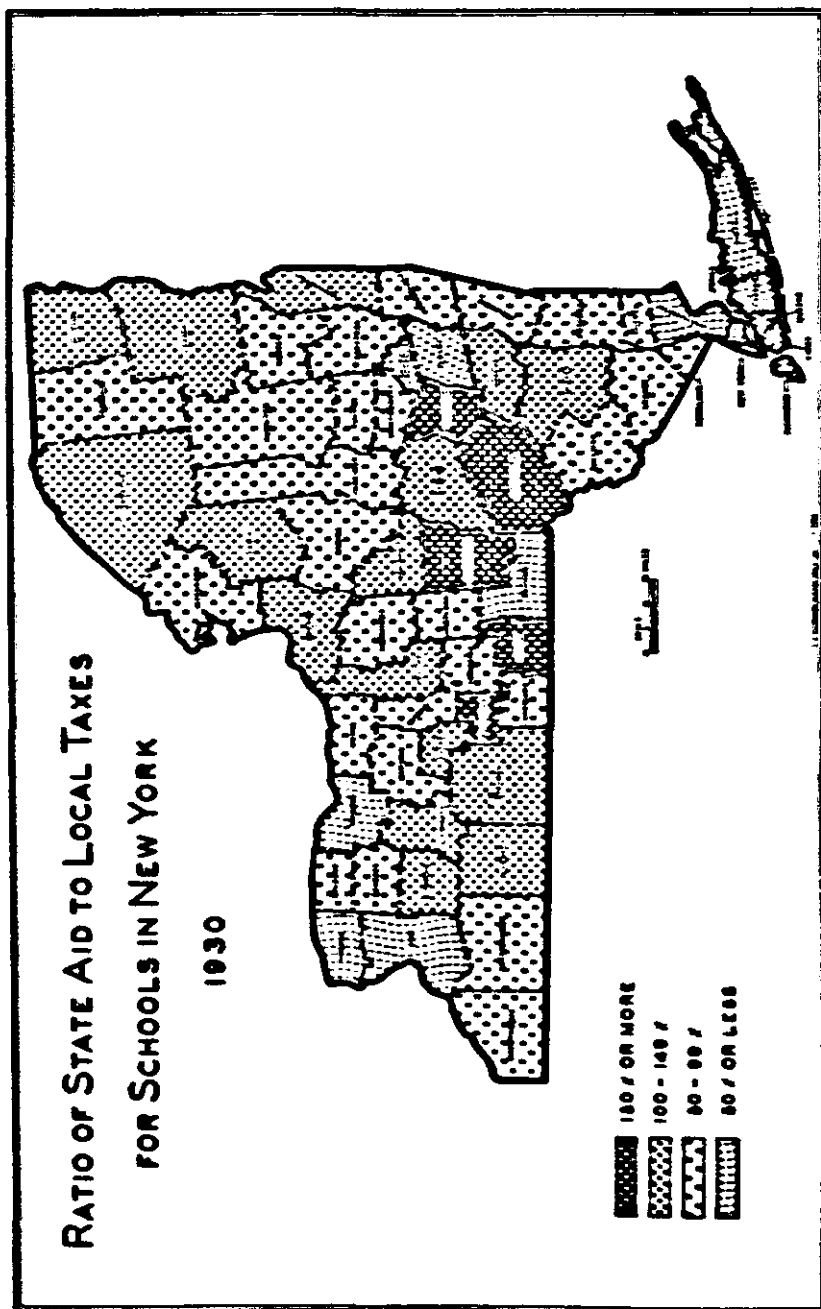
TABLE 32

RATIO OF STATE AID TO TAXES LOCALLY LEVIED FOR EDUCATION IN NEW YORK, 1930 -

RANK	County	Ratio of State Aid to Local Taxes	RANK	County	Ratio of State Aid to Local Taxes
1	Nassau	22.3	30	Tompkins	88.9
2	Westchester	23.3	31	Cattaraugus	90.8
3	Eric	26.0	32	Herkimer	92.8
4	New York	30.8	33	Columbia	93.6
5	Suffolk	31.4	34	Orleans	94.7
6	Monroe	33.7	35	Wayne	95.3
7	Albany	41.3	36	Fulton	96.0
8	Schenectady	45.7	37	Franklin	96.4
9	Niagara	45.8	38	Steuben	104.0
10	Bronx	46.2	39	St. Lawrence	105.6
11	Putnam	52.2	40	Ulster	109.8
12	Ontario	53.6	41	Renss.	113.3
13	Hamilton	55.0	42	Livingston	116.3
14	Oswego	56.2	43	Cinton	118.7
15	Rockland	57.4	44	Cayuga	121.0
16	Montgomery	58.9	45	Oswego	122.8
17	Bennington	66.6	46	Allegany	134.1
18	Orange	71.0	47	Greene	134.5
19	Dutchess	71.4	48	Yates	138.1
20	Warren	72.3	49	Otsego	139.1
21	Cortland	72.4	50	Madison	134.8
22	Chautauque	74.3	51	Washington	137.1
23	Genesee	75.0	52	Wyoming	147.7
24	Chemung	77.4	53	Lewis	148.0
25	Jefferson	84.1	54	Chenango	155.2
26	Seneca	84.3	55	Schoharie	155.6
27	Saratoga	84.7	56	Schuyler	157.9
28	Ontario	86.5	57	Tioga	158.1
29	Sullivan	88.3	58	Delaware	162.1

^a Annual Report of the State Tax Commission, 1930, Table 23, pp. 344, 346.

¹⁰⁰ See *infra*, pp. 271 ff. for a discussion of conformity of the State aid program to local fiscal ability.



The change brought about by the depression years is indicated in Table 33. In 1933 only six counties received contributions from the State amounting to less than half of the amount levied locally. Ten counties located in the north-central and south-central portions of the State received more than twice as much as was levied locally for school support. The ratios prevailing in the various counties for this year may be compared readily by observing Figure 14.

TABLE 33

RATIO OF STATE AID TO TAXES LOCALLY LEVIED FOR EDUCATION IN NEW YORK,
1933 -

RANK	County	Ratio of State Aid to Local Taxes	RANK	County	Ratio of State Aid to Local Taxes
1.....	Westchester.....	27.1	30.....	Sullivan.....	125.7
2.....	Nassau.....	32.9	31.....	Columbia.....	137.1
3.....	New York.....	39.0	32.....	Orleans.....	143.7
4.....	Suffolk.....	42.3	33.....	Ulster.....	145.1
5.....	Monroe.....	46.6	34.....	Washington.....	153.6
6.....	Albany.....	49.1	35.....	Cattaraugus.....	153.7
7.....	Erie.....	54.2	36.....	Wayne.....	159.2
8.....	Putnam.....	59.4	37.....	Livingston.....	162.2
9.....	Schenectady.....	63.1	38.....	Cortland.....	169.1
10.....	Broome.....	64.2	39.....	Cayuga.....	172.9
11.....	Hamilton.....	70.6	40.....	Franklin.....	173.9
12.....	Rockland.....	75.1	41.....	Essex.....	174.4
13.....	Montgomery.....	77.4	42.....	Greene.....	175.7
14.....	Rensselaer.....	87.2	43.....	Herkimer.....	179.8
15.....	Niagara.....	87.9	44.....	Allegany.....	186.1
16.....	Dutchess.....	93.3	45.....	Steuben.....	189.4
17.....	Orange.....	95.6	46.....	Clinton.....	189.8
18.....	Warren.....	100.5	47.....	Yates.....	191.2
19.....	Oneida.....	107.5	48.....	Wyoming.....	197.4
20.....	Onondaga.....	109.6	49.....	St. Lawrence.....	200.5
21.....	Chautauque.....	112.0	50.....	Madison.....	215.4
22.....	Genesee.....	119.3	51.....	Oswego.....	217.3
23.....	Saratoga.....	125.0	52.....	Otsego.....	227.5
24.....	Seneca.....	127.5	53.....	Schoharie.....	242.2
25.....	Tompkins.....	128.0	54.....	Delaware.....	255.3
26.....	Fulton.....	128.6	55.....	Chemung.....	261.8
27.....	Chemung.....	128.8	56.....	Lewis.....	265.4
28.....	Ontario.....	129.7	57.....	Tioga.....	276.1
29.....	Jefferson.....	134.2	58.....	Schuyler.....	331.3

* Annual Report of the State Tax Commission, 1933, Table 33, pp. 334, 337.

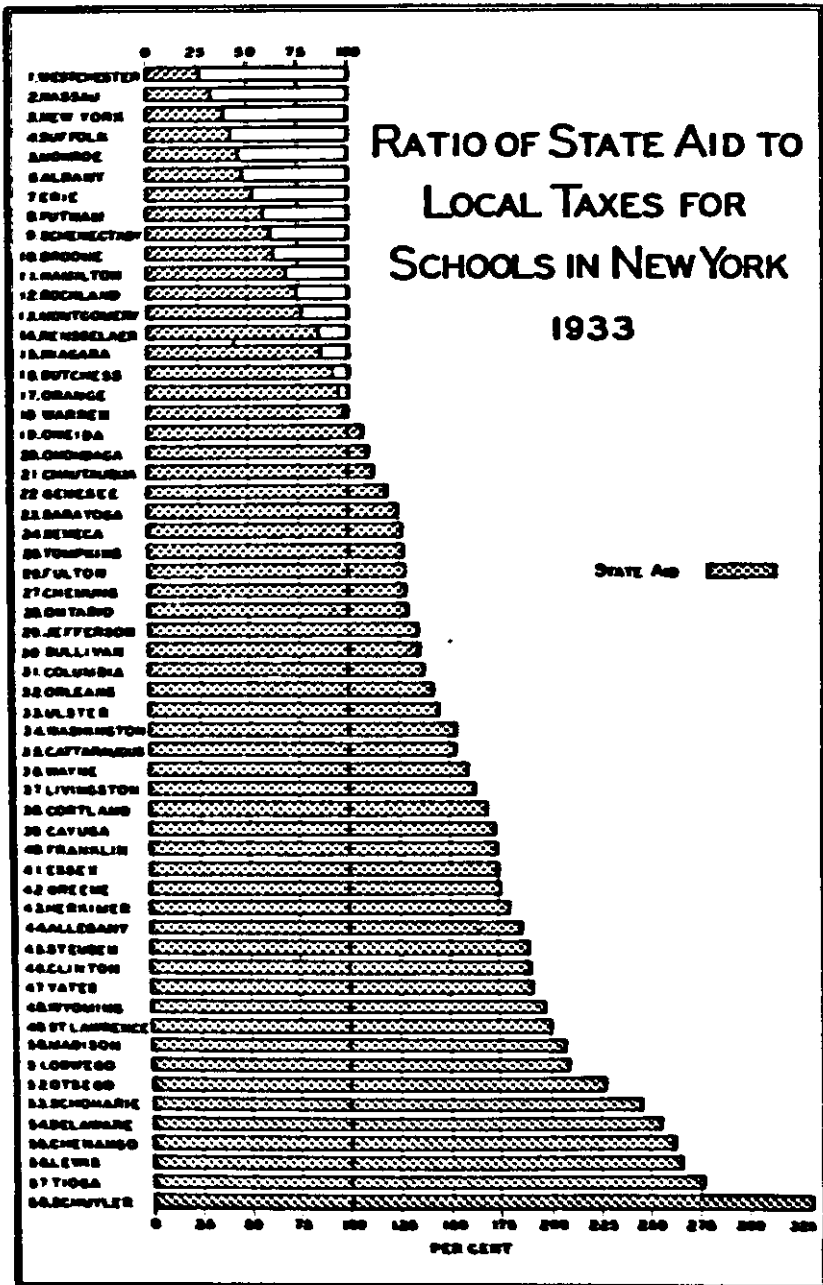


FIG. 14

OBJECTIVES OF GRANTS-IN-AID

Common schools.—Starting out with a system of education financed almost entirely by private contributions and passing progressively to a stage where the State contributes about a third of the total public school bill, one would naturally expect to see significant changes in the philosophy underlying State support and control. As the condition of the arts has changed and the resources of the State have been developed, new objectives have evolved and emphasis has shifted from one to another as the exigencies of the day dictated. The chief objectives which have appeared at one time or another, or collectively, are: providing "general relief," stimulation of local effort, extension of administrative controls, equalization of tax rates, equalization of educational opportunity, and the shifting of the tax burden from the holders of real property to other classes of taxpayers.

It is apparent that the objectives as exemplified in the method of apportioning the first State funds for common schools were three in number. First was that of "general relief." This sort of objective is associated with a conception of school support confined to local communities in the narrowest sense. The State made no attempt to ascertain the adequacy of the sums it apportioned together with what was raised locally but, rather, the grant was considered strictly as a gratuity.¹²⁰ One might say that this situation prevailed in New York so long as the "rate bills" were condoned. The State was making a contribution, leaving to the localities the responsibility of raising the remainder in any way that they thought expedient. In the first apportionment act of 1795 it is also evident that there were two other objectives besides that of general relief, namely, stimulation of local effort and the exercise of some administrative control. The first of these ends was sought by providing that State grants were to be available to those counties raising a sum equal to one-half of the allotment made by the State. The second was to be achieved by stipulating that no funds were to be available if the moral character of the teacher was not satisfactory, or if the term of school was not of appropriate length.¹²¹

No new objective appears in the apportionment of school funds until the middle of the nineteenth century. Conditions were changed with respect to the relative amounts to be contributed by the State and the localities, and the administrative controls were extended and strengthened, but equalization in the sense in which it is thought of today was unknown. Methods of raising revenue for school purposes and devices for apportionment, beginning to take on characteristics relating to equalization, appear shortly after 1850. Before pointing out the specific changes introducing this new element, it may be well to consider what the term "equalization"

¹²⁰ P. H. Swift, *Federal and State Policies in Public School Finance in the United States* (Boston, 1931), p. 182.

¹²¹ *Ibid.*, c. 75.

connotes. It has a two-fold meaning. In the first place proponents of this program want the State to insure a tolerable minimum of facilities to all the school population within its jurisdiction. The other aspect of the matter relates to tax burden. It is held, *e.g.*, that providing equally good facilities should impose equal fiscal burdens on all citizens in relation to their taxpaying ability. A program of this character involves essentially the following:

(1) A local school tax in support of the satisfactory minimum offering would be levied in each district at a rate which would provide the necessary funds for that purpose in the richest districts.

(2) This richest district then might raise all of its school money by means of the local tax, assuming that a satisfactory tax, capable of being locally administered, could be devised.

(3) Every other district would be permitted to levy a local tax at the same rate and apply the proceeds toward the cost of schools, but—

(4) Since the rate is uniform, this tax would be sufficient to meet the costs only in the richest districts and the deficiencies would be made up by state subventions.¹¹²

"Equality of burden" as the term is used by most writers in the field of educational finance means, in the strict sense of the word, equality of *effective* tax rates on general property. Thus equalization is introduced into the program of aid as soon as the State begins to lay a property tax on full-value assessments. In 1851 a State tax was imposed by the Legislature (\$800,000) for the support of common schools.¹¹³ To the extent that this amount contributed to the support of the educational system, it had been achieved by an equal rate on all property. In this same act "need" was taken into account in a more articulate manner in that part of the funds were to be apportioned on a district basis instead of the usual population criterion. As the "teacher unit" recognizes that adequate support for a school cannot be ascertained by allotments on a per pupil basis, so the district quota as a measure for an apportionment of part of the funds was a move in the direction of "equality of opportunity." As a result of these adjustments the city of New York paid \$129,972 to other counties for the support of schools in excess of what it received from the State distributive fund.¹¹⁴ "Equality of opportunity" was accorded considerable recognition in the thinking of the educators of this period. The State superintendent in his report for the year 1853 set forth his point of view in the following statement:

If the property of the State is required to support the education of the State, it follows, that the benefit received by

¹¹² Strayer and Haig, *op. cit.*, p. 174.

¹¹³ *Idem*, c. 151.

¹¹⁴ *Free Schools*, Fifteenth Annual Report of the State Education Department, 1919 (1921), I, 422.

it being everywhere the same, its burthens should in like manner be the same. And another important principle came into operation. When the State determined that education should be supported by public contribution, it gave to every citizen a common and equal right to the benefits accruing therefrom. The spirit and theory of the law was, not to aid parents in educating their offspring by dividing a particular sum of money between them, but that the State should assume the whole expense of such education, and raise whatever sum was necessary therefor.¹¹⁵

From the time of these early gestures toward equalization as the term has been defined, the revisions of the law down to the time of the enactment of the Cole Law were all directed more specifically toward the achievement of this end. In 1856, the district apportionments were changed so that every district where two or more qualified teachers were actually employed was entitled to as many district quotas as there were teachers.¹¹⁶ In 1881, the usual amount of one-third which was apportioned to the districts was changed to one-half.¹¹⁷ "Need" was further recognized in this act in that the other half was apportioned on the basis of average daily attendance, instead of the usual basis of population. Improved administration was sought in 1894 when grants amounting to \$800 were offered to certain districts on condition that superintendents be employed.¹¹⁸ In 1903 the ability of the various districts to support their school systems was taken into account in the apportionment. Districts with a valuation of \$40,000 or less were given \$150, while all other districts and cities were allowed \$125. In both cases \$100 was granted for each additional teacher.¹¹⁹ The State set about to raise the salaries of the teachers in 1920 by providing that "additional teachers' quotas," were to be allocated according to assessed valuation or population.¹²⁰ The most recent move towards equalization occurred in 1925 with the enactment of Cole's Law.¹²¹ As the law stands at the present time (1934) every school district in the State is entitled to \$1,500 for an elementary teacher and \$1,900 for a high-school teacher, less the equalization levy, provided a minimum local tax is imposed for school purposes.¹²²

¹¹⁵ *Ibid.*, p. 428.

¹¹⁶ *Laws*, c. 180.

¹¹⁷ *Ibid.*, c. 492.

¹¹⁸ *Ibid.*, c. 556, p. 1188.

¹¹⁹ *Ibid.*, c. 598, p. 1298.

¹²⁰ *Ibid.*, c. 630. In the case of one-teacher districts the grants varied from \$200 for districts with valuations in excess of \$100,000 up to an amount determined by adding \$2.00 for each entire \$1,000 under \$100,000 valuation in districts having an assessed valuation of \$100,000 or less. In the case of cities, the apportionment was made to vary with the population. Cities of the first class with a population of over a million were given \$600 per teacher ranging down to \$350 for the smaller cities of the State.

¹²¹ *Ibid.*, c. 675.

¹²² *Education Law*, § 491; cf. *infra*, p. 216.

The program of the State in the equalization of educational opportunity has been made more articulate by the removal of many conflicting elements in the apportionment formula. At the time of the Strayer-Haig report (1923) there were thirteen criteria conditioning the apportionment of aid.¹²² In 1930 these provisions were simplified by eliminating district quotas; teachers' quotas; additional teachers' quotas; academic quotas for books and apparatus; and special quotas, including physical training, agriculture, homemaking, nurses, medical inspectors, dental hygienists, nutritionists, other health employees, and for teachers of special classes of mental and physical defectives.¹²⁴ It was pointed out in the Strayer-Haig report and also in Mr. Mort's report of 1924¹²³ that reward for effort and equalization are diametrically opposed and mutually inconsistent. It is not improbable that the influence of these writings is in part responsible for the simplification of the apportionment formula, the declaration for the "equalization" principle, and the implementation of procedures in a way that it can in a measure be achieved.

It is within the last decade that another objective has become more or less prominent in the matter of State school support; namely, the shifting of the burden from the holders of real property to other classes of persons with taxpaying ability. The State has developed many new and lucrative sources of revenue not related to tangible wealth as a measure of contribution. These newer considerations have, in reality, grown out of recognizing that real property is not an adequate measure of taxable capacity. Special consideration of the problem of tax relief, that is relief for real property, was made in the recent study by Mr. Mort for the Commission for the Revision of the Tax Laws in its 1932 report. Mr. Mort says: "Finally and of no small degree of importance has been a consideration of the potential effect of state school aid as a vehicle of local tax relief in concurrence with the support of a satisfactory educational program."¹²⁵

Though the principle of equalization has been adhered to with increasing tenacity since the enactment of the Cole Law of 1925, and though many of the old quotas have been rescinded, yet one must recall that there are many types of districts, and these acts do not apply to all in the same manner. The changes inaugurated in 1930 do not apply to central rural and consolidated districts. Transportation quotas are still available to those districts having academic pupils receiving instruction in another district. Also there were certain modifications affecting the contracting districts. Table 34 sets forth in a summary manner the kinds of administrative units and the types of apportionments allotted to each. The

¹²² *Op. cit.*, p. 97.

¹²³ *Twenty-seventh Annual Report of the State Education Department (1931)*, II, 2.

¹²⁴ Paul E. Mort, *The Measurement of Educational Need* (New York, 1924).

¹²⁵ Mort et al., "State Support for Public Schools in New York as Related to Tax Relief and Educational Expansion," Memorandum No. 2, p. 2.

TABLE 34
TYPES OF APPORTIONMENTS MADE TO VARIOUS ADMINISTRATIVE UNITS, 1930^a

UNIT	Equalization (two or more teacher districts)	Equalization (one-teacher districts)	Non-resident tuition, \$60	Training class quotas	Central rural school (special), \$ 185	Consolidated districts (alternate), \$ 124	Transportation within district	Transportation of academic pupils outside district	Building quotas	Contracting district quotas, \$ 585	Conference expenses	County board quota	School hygiene quota	Orphan asylum quota
City school district.....	X		X	X										
Union free-school district.....	X		X	X										
(a) Villages under superintendent.....	X		X	X	X		X	X						
(b) With academic department.....	X		X	X										
(c) Without academic department.....	X		X	X										
Common-school district.....	X		X	X										
Central rural school district.....	X		X	X	X		X	X	X					
Consolidated district.....	X		X	X		X		X		X				
Contracting district.....	X		X	X						X				
Central high-school district.....	X		X	X								X		
County vocational board.....												X		
School hygiene.....													X	
Incorporated orphan societies.....														X

^a Twenty-seventh Annual Report of the State Education Department (1931), I, 147.
^b On account of dissolved one-teacher districts in centralized unit.

retention of these old quotas in the enlarged districts indicates clearly that there are still other objectives operative in the school apportionments besides equalization. Inducements are held out to stimulate the formation of larger districts, and, also, special aids and general equalization grants are conditioned upon the locality exerting itself within certain measures. Any locality failing to levy the required 5 mills will find that in the course of time its State apportionment will decline until it reaches the minimum amount provided per teacher unit.¹²⁷

Secondary schools.—In general the same set of objectives have been present in the program of aid to secondary schools as those that appeared in the elementary division. The first objective to appear was that of granting "general relief." The regents sought to accomplish this objective by making distributions in accordance with what appeared to them to be the greatest need.¹²⁸ This attempt to render "general relief" was later measured in terms of the number of pupils attending, or the number of pupils completing certain prescribed courses of study and satisfactorily passing the examinations prepared by the board of regents.¹²⁹ Stimulation of local effort appeared in 1834 when provision was made that the regents would make appropriations for school supplies on condition that the individual academies spend a like sum.¹³⁰ Almost from the inception of the academic system, it was recognized as an important adjunct of the common school system, in that it must be the chief agency for training teachers. As a result of this general feeling of dependence upon these institutions, a legislative act of 1838 stipulated that any academy receiving as much as \$700 from the literature fund must establish a teacher-training department.¹³¹ Equalization appeared much later in the apportionments made by the regents than in the case of the common schools under the superintendents. In 1895 provision was made that \$100 should be granted to each school of academic grade.¹³² No other action was taken of importance with respect to grants of this character until 1925. The Cole Law included secondary teachers in the basis of apportionment, taking into account the fact that the costs per teacher unit in a secondary division are higher than those of common grade.¹³³

GEOGRAPHICAL DISTRIBUTION OF STATE AID

Since so much of the discussion about State grants runs in terms of aid to the less wealthy sections, it is entirely possible that the impression could be left that the major part of the apportionments are allocated to those sections where the population is sparse and

¹²⁷ See Mort *et al.*, *op. cit.*, p. 61.

¹²⁸ Gifford, *op. cit.*, p. 19.

¹²⁹ *Ibid.*, pp. 19, 120 ff.

¹³⁰ Laws, c. 140.

¹³¹ *Ibid.*, c. 237.

¹³² *Ibid.*, c. 341.

¹³³ *Ibid.*, c. 675.

the wealth per given area is rather low. This is, however, far from an accurate description of its distribution. According to Table 35, one-half of the State school money is paid out in two of

TABLE 35
PERCENTAGE DISTRIBUTION BY COUNTIES OF STATE AID FOR EDUCATION IN NEW YORK, 1933 *

COUNTY	Per Cent of Total State Aid	COUNTY	Per Cent of Total State Aid
New York.....	44.776	Wayne.....	.673
Erie.....	5.370	Cayuga.....	.661
Westchester.....	3.980	Allegany.....	.657
Monroe.....	2.766	Essex.....	.647
Onondaga.....	2.703	Washington.....	.629
Nassau.....	2.609	Montgomery.....	.593
Oneida.....	2.067	Ontario.....	.588
Broome.....	1.587	Franklin.....	.571
Chautauque.....	1.410	Tompkins.....	.558
Niagara.....	1.395	Fulton.....	.551
Suffolk.....	1.303	Rockland.....	.542
Orange.....	1.226	Genesee.....	.497
Schenectady.....	1.226	Clinton.....	.488
Albany.....	1.219	Cortland.....	.485
Steuben.....	1.144	Columbia.....	.484
St. Lawrence.....	1.124	Livingston.....	.468
Jefferson.....	1.091	Sullivan.....	.457
Cattaraugus.....	1.005	Schoharie.....	.428
Oswego.....	.899	Lewis.....	.424
Dutchess.....	.884	Tioga.....	.420
Rensselaer.....	.854	Wyoming.....	.404
Herkimer.....	.838	Warren.....	.400
Oneida.....	.835	Orleans.....	.339
Delaware.....	.791	Greene.....	.329
Chenango.....	.790	Schuyler.....	.218
Ulster.....	.770	Seneca.....	.216
Saratoga.....	.745	Yates.....	.216
Chenango.....	.723	Putnam.....	.124
	.702	Hamilton.....	.103

* Annual Report of the State Tax Commission, 1933, p. 337.

the local divisions of the State, namely, Greater New York and Erie county. Of these two units the City of New York gets the lion's share amounting to 44.8 per cent of the total for the State; and Erie 5.4 per cent.¹³⁴ The remainder goes to the other 56 counties of which only sixteen get 1 per cent or more. The other forty get amounts ranging from 0.9 per cent of the total down to as little as 0.1 per cent for the county of Hamilton. Viewing the per capita distribution set forth in Table 36, however, gives a picture more in harmony with the objectives of the distributive plan. Though New York City (Greater) gets 44.8 per cent of the total, yet the per capita allowance amounts to only \$6.70. Hamilton county, on the other hand, got \$26.80 as its per capita allowance in 1933, an amount four times larger than the per capita grant to New York City.

¹³⁴ Cf. *infra*, pp. 271-74.

TABLE 36

PER CAPITA STATE AID FOR EDUCATION IN NEW YORK COUNTIES, 1933*

COUNTY	Amount	COUNTY	Amount
Hamilton.....	\$26.80	Orleans.....	\$12.12
Schoharie.....	22.19	Columbia.....	11.96
Chenango.....	20.81	Saratoga.....	11.91
Madison.....	20.50	Genesee.....	11.72
Delaware.....	19.99	Chautauque.....	11.61
Essex.....	19.74	Ontario.....	11.30
Lewis.....	19.12	Broome.....	11.20
Schuyler.....	18.86	Oneida.....	10.78
Otsego.....	18.43	Clinton.....	10.77
Allegany.....	17.95	Chemung.....	10.66
Tioga.....	17.41	Cayuga.....	10.55
Cortland.....	16.79	Montgomery.....	10.25
Cattaraugus.....	14.68	Schenectady.....	10.18
Wyoming.....	14.45	Orange.....	9.78
Steuben.....	14.30	Niagara.....	9.71
Washington.....	14.18	Ulster.....	9.66
Tompkins.....	14.12	Onondaga.....	9.64
Wayne.....	13.96	Rockland.....	9.37
Herkimer.....	13.88	Putnam.....	9.20
Sullivan.....	13.56	Seneca.....	8.94
Jefferson.....	13.47	Nassau.....	8.93
Oswego.....	13.32	Dutchess.....	8.74
Yates.....	13.20	Suffolk.....	8.40
Franklin.....	13.16	Westchester.....	7.93
Greene.....	13.12	Rensselaer.....	7.38
St. Lawrence.....	12.81	Erie.....	7.32
Livingston.....	12.78	Monroe.....	6.77
Warren.....	12.21	New York.....	6.70
Fulton.....	12.16	Albany.....	5.97

* Annual Report of the State Tax Commission, 1933, p. 337.

Subventions for educational purposes are as old as the public school system itself. Almost continuously since the first gospel and school lots were set aside, the State has been sharing with the localities burdens incident to school finances. The passing of time has not wrought marked change in the proportion of the costs borne by the State, but the objectives sought have been broadened as social relationships have become more complex and inter-related. Beginning with "general relief" as a criterion of apportionment, State consciousness has gradually broadened to include the concept of equalization, not in the sense of fiscal burdens alone, but educational opportunity as well. How effectively these latter objectives are being achieved still remains to be considered.

5. Growth of the State Educational Organization

The creation of the various educational funds was the prime factor responsible for the setting up in 1812 of State machinery to administer and control the distribution of their proceeds. That the office of superintendent grew out of the responsibility devolving upon the State in the administration of State aid is clearly indicated in a section of the act outlining the duties of the new officer. It provided that the superintendent was to manage the common school fund, provide for better organization of schools, make esti-

mates of school moneys, supervise collections, and manage the sale of school lands.¹²⁵

In 1822 the superintendent of instruction was granted judicial power to be exercised in an ancillary way in the administration of the duties devolving upon that office.¹²⁶ This apparent violation of tripartite tradition is justified

on the ground that the State's interest in education has become so extensive and so technical that if the State's policies are to be carried out effectively, a method of settling controversies that is cheaper, more expeditious, and more cognizant of professional intricacies, than either the courts or the legislature can afford, must be found. No one is more competent to fill this rôle than the commissioner of education.¹²⁷

Certainly the success it has met in solving the problems of nice adjustment between the centralization of authority in the State and the irate natures of local officials during the past 110 years amply justifies the step.

In view of the fact that the office of superintendent was abolished in 1821 and the duties placed on the secretary of State,¹²⁸ an office burdened with matters other than those relating to educational supervision, it became increasingly difficult for the State to acquire information as to the quality of educational activities it was sponsoring. Accordingly, after repeated efforts an act was passed in 1841¹²⁹ providing for a deputy superintendent of schools and the appointment by the supervisors in each county of a county superintendent who was to receive half of his salary from the State and be subject to the rules of the State department. These county superintendents were to inspect the schools; advise with the trustees as to the choice of books, courses of study, and the selection of teachers; examine and grant certificates; and sit as a court of appeal. This move was subjected to stout resistance by the local officials who felt their authority was being usurped. Accordingly, the county superintendent system remained in operation only six years.¹³⁰

The thesis, that State supervision followed financial aid, is further supported by the creation of the department of public instruction in 1854¹³¹ following what might be properly called the first State tax for schools in 1851.¹³² The tax was again increased in 1856¹³³ and the power of the State was further extended by providing for election of a superintendent for each assembly district.

¹²⁵ *Laws*, 1812, c. 242.

¹²⁶ *Ibid.*, c. 254.

¹²⁷ John S. Bruincher, *The Judicial Power of the New York State Commissioner of Education* (New York, 1927), p. 11.

¹²⁸ *Laws*, c. 248.

¹²⁹ *Ibid.*, c. 260.

¹³⁰ Abolished in 1847 (*ibid.*, c. 358).

¹³¹ *Ibid.*, c. 97.

¹³² *Ibid.*, c. 151.

¹³³ *Ibid.*, c. 150.

Though elected locally they were State officers since they received the full of their compensation from the State. Their authority, similar to that of the county commissioners, extended to all schools except those of the city.¹⁴⁴ This system of a State department contacting the localities through subordinates in each assembly district constituted the administrative arrangement until 1910.

The school law was revised in 1864 and the power of the superintendent generally strengthened.¹⁴⁵ This office was authorized to appoint unsalaried visitors in each county of the State, and to remove school commissioners and other local officials for failure faithfully to perform their duties. Indirectly, more power was concentrated in the hands of the superintendent in that through the district officers he could condemn school buildings, require local officials to make necessary repairs, etc. Under the provisions of this law, the organization of an institute for teachers was made obligatory, and financial aid was made a matter of State concern.¹⁴⁶

It should be noted that throughout the period just surveyed and continuing down to 1904 the machinery was of a dualistic character, the board of regents assuming responsibility for secondary and higher education and the department of instruction heading up the elementary education program. Agitation for a change, beginning in 1836, culminated in a consolidation in 1904 when the regents were constituted a legislative body and the commissioner of education, selected by them, was to act in the capacity of an administrative officer.¹⁴⁷ Further development of the administrative machinery occurred in 1910 when the assembly district areas were divided into supervisory districts with a district superintendent in charge of each.¹⁴⁸

6. Controls Growing out of State Fiscal Policy

As State grants have come to mean more than a mere doling out of funds for educational purposes, the conditions imposed on the beneficiaries have been made correspondingly more exacting. Even the first grants made in the five-year period following 1795 imposed requirements as to teaching personnel and funds raised locally. If, in the judgment of the commissioner, the character of the teacher did not provide a wholesome influence for the youth, aid from the State was not to be allowed until the condition was corrected. The second condition required the locality to vote a sum equal to one-half that given by the State.¹⁴⁹ The law of 1812 provided that State aid was to be dependent upon steps taken by the localities to organize their towns into school districts and to elect the necessary officers and inspectors.¹⁵⁰ By an act of 1867 the

¹⁴⁴ *Ibid.*, c. 173.

¹⁴⁵ *Ibid.*, c. 555, pp. 1214-15.

¹⁴⁶ *Ibid.*, pp. 1281-83; cf. also 1856, c. 173.

¹⁴⁷ *Ibid.*, 1904, c. 40.

¹⁴⁸ *Ibid.*, c. 607.

¹⁴⁹ *Ibid.*, c. 75.

¹⁵⁰ *Ibid.*, c. 242.

laws pertaining to public school instruction were codified.¹⁵¹ In this act noticeable extension was made in the various fiscal controls as compared with the earlier periods discussed above. Power was granted to the commissioner of each district to grant permission to erect school houses costing over \$1,000, and to limit the payment of school moneys solely to qualified teachers. A further provision was imposed to the effect that State funds would be withheld from any county holding any educational funds not paid over to the State. Though the foregoing regulations were operative at a time slightly past the middle of the nineteenth century, yet they have quite a modern note in the extent and range of their implication. Today, however, they have been greatly extended, and are undoubtedly more effectively enforced.

RECEIPT OF AID CONDITIONED ON COMPLIANCE WITH STATE REQUIREMENTS

The most potent device now employed by the State to secure local conformity to standard practices is the power to withhold State aid. Funds may be withheld from any county that has failed to raise the required funds for the support of schools.¹⁵² Schedules and schedule conditions with respect to the amount and payment of teachers' salaries must be complied with and statements filed to that effect before eligibility for State appropriations is established.¹⁵³ Further restrictions provide that State aid is to be denied in cases of non-compliance with the attendance laws,¹⁵⁴ failure to follow prescribed courses of instruction,¹⁵⁵ violation of the health laws,¹⁵⁶ and if the teacher is not legally qualified or school is not maintained for the required 190 days.¹⁵⁷ Finally, State aid may be withheld by the commissioner of education when any district willfully disobeys any law, decision, order, or regulation.¹⁵⁸ Considering the ordinance-making power of the commissioner and the finality of his decisions in matters coming up for review, this latter law clothes him with potential dictatorial power.

MANDATORY EXPENDITURES

The State definitely shapes the fiscal policies of local governments through mandatory expenditure legislation. The most outstanding in this regard is that pertaining to teachers' salaries.¹⁵⁹ For example, in 1933, \$194,149,143, or 73.1 per cent of the total

¹⁵¹ *Ibid.*, c. 406, pp. 966-69.

¹⁵² *Education Law*, § 500.

¹⁵³ *Ibid.*, § 492 (1).

¹⁵⁴ *Ibid.*, § 643.

¹⁵⁵ *Ibid.*, §§ 643, 691, 700, 706.

¹⁵⁶ *Ibid.*, § 576.

¹⁵⁷ *Ibid.*, § 492 (8).

¹⁵⁸ *Ibid.*, § 95.

¹⁵⁹ *Ibid.*, Art. 33-B.

current expenses for education, was spent for this purpose.¹⁶⁰ The law not only provides for minimum salaries that the localities shall pay their teachers in any one year, but also stipulates mandatory increases for each additional year of service.

The State program requires that the curriculum for the first eight grades shall provide for instruction in at least ten common school branches,¹⁶¹ plus instruction regarding the humane treatment of animals,¹⁶² instruction in patriotism and citizenship,¹⁶³ dangers of alcoholism,¹⁶⁴ and the necessity for fire prevention.¹⁶⁵ Certain districts having as many as ten retarded children must provide special classes for them.¹⁶⁶

Mandatory expenditures apply not only to teachers' salaries and the provision of a well-rounded curriculum, but to matters of pupil health as well. Compulsory features of this work have been broadened to include medical inspection for all pupils, and the employment by certain districts of a competent physician to handle the work.¹⁶⁷ Believing that exercise is a requisite for good health the State has required that physical training shall be provided for all pupils of the State above eight years of age. All districts employing twenty or more teachers must engage a special instructor licensed for physical education work.¹⁶⁸

The localities must do more than provide adequate school facilities; they must also spend such sums as may be necessary to transport certain pupils. All districts not maintaining high schools must provide transportation for students of their respective district; ¹⁶⁹ also, the commissioner may require a district to provide transportation for any pupils living beyond a reasonable walking distance from the school building.¹⁷⁰

APPROVAL AND ORDERS

Relationships of only slightly less fiscal significance than those arising out of "shall" and "must" measures occur where approval must be secured to validate local action. For example, all plans in connection with the construction of new school plants and repair costs in excess of a specified sum must receive approval of the department of education.¹⁷¹ A district superintendent may condemn a school building indicating the time that the order is to be effective, and suggesting the sum which in his opinion will be

¹⁶⁰ *Thirtieth Annual Report of the State Education Department* (1934), II, 11.

¹⁶¹ *Education Law*, § 620.

¹⁶² *Ibid.*, § 700.

¹⁶³ *Ibid.*, § 705.

¹⁶⁴ *Ibid.*, § 690.

¹⁶⁵ *Ibid.*, § 736.

¹⁶⁶ *Ibid.*, § 578.

¹⁶⁷ *Ibid.*, §§ 670-71.

¹⁶⁸ *Ibid.*, § 695.

¹⁶⁹ *Ibid.*, § 493 (6).

¹⁷⁰ *Ibid.*, § 186.

¹⁷¹ *Ibid.*, § 451. Applies to cities of the third class or a school district.

necessary to erect a school building suitable to the needs of the district. The amount appropriated for this purpose shall not be less than such sum by 25 per cent.¹⁷² When borrowings by a school district are necessary, rather explicitly defined rules are laid down as to the conditions of the loan. The rate of interest, sale price, ratio between debt and assessed valuation, and the maximum date of maturity are all established in the law. Bonds that have been issued by local authorities but not in strict compliance with the law may be validated by the commissioner of education if the error is not substantial.¹⁷³ All contracts for the purchase of supplies involving sums of \$1,000 or more are to be let by bid only.¹⁷⁴ The law provides, also, that all boards of education not wholly independent of corporate authority must comply with the common budgetary practice and file statements for the ensuing year as other departments of the city.¹⁷⁵ Transportation contracts,¹⁷⁶ courses of study for county vocational and extension work,¹⁷⁷ physical education courses,¹⁷⁸ and accounts of boards of education with respect to non-resident tuition fees¹⁷⁹ are all subjected to approval by the State department. The commissioner of education may issue orders directly or through his district officers ordering the trustees to repair the school building, to abate minor nuisances,¹⁸⁰ and to provide transportation for pupils living in remote parts of the school district.¹⁸¹ Rulings thus made by the commissioner are of special significance in that they form a code of law supplementing the statutes.

REPORTING

The fiscal relationships evolving through the growth of State grants have made necessary reporting from a great many sources and rather carefully prescribed rules of procedure. Every town supervisor must make a report to the commissioner of education as to whether there is a school and gospel lot, how it is employed, and the income derived therefrom.¹⁸² The county treasurer must render an annual financial statement showing the disposition of State funds.¹⁸³ School trustees must account for any trust funds held by them¹⁸⁴ and such other matters as the commissioner may require.¹⁸⁵ School records must be adequately protected from loss

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- 172 *Ibid.*, § 456.
 - 173 *Ibid.*, § 480.
 - 174 *Ibid.*, § 875 (8).
 - 175 *Ibid.*, § 877.
 - 176 *Ibid.*, § 206 (18).
 - 177 *Ibid.*, § 591.
 - 178 *Ibid.*, § 697.
 - 179 *Ibid.*, § 493.
 - 180 *Ibid.*, §§ 395-96.
 - 181 *Ibid.*, § 186.
 - 182 *Ibid.*, § 523.
 - 183 *Ibid.*, § 495.
 - 184 *Ibid.*, § 522.
 - 185 *Ibid.*, § 98.

by fire and permission must be secured before old files are destroyed. The foregoing rules may be made effective by subjecting any official guilty of violation to a pecuniary penalty.¹⁸⁶

PERSONNEL

Casually, it may appear that matters of personnel administration are only of remote fiscal significance but it is probable that this avenue of regulation is more frequently employed than that of withholding State aid. Rather than embarrass the whole community by restraining the issuance of funds, defaulting officials may be removed from office.¹⁸⁷ In addition to revoking teachers' licenses, the department of education may remove any member of a board of education, clerk, collector, treasurer, or superintendent for disobeying orders, or neglecting to perform their scheduled duties.¹⁸⁸

OTHER CONTROLS

The remaining ways in which the State may mould the educational policy pursued by localities are through the right to inspect the work of teacher training classes,¹⁸⁹ the class room, financial practices of any school district, and through the licensing and inspection of industrial, trade and agricultural schools.¹⁹⁰ It is the duty of the commissioner of education to advise with the local trustees as to building maintenance and the employment of teachers,¹⁹¹ and to inform the local officers of their functions and the best practices of school management.¹⁹²

7. Defects of the Present Educational System

Plausible arguments might be set forth substantiating the position that education is of such a character as would warrant the State directly assuming complete and final responsibility for its financing and administration. In the first place, the State has declared by constitutional and legislative enactment that it has a special interest in providing adequate educational facilities. When a sovereign State feels that the performance of any particular function is essential to its perpetuation presumably the only factor limiting its efforts will be the amount of resources which it can place at the disposal of the service. Secondly, the technical character of modern school administration, growing out of both the financial and instructional aspects of the problem, lends much weight to the argument that a unit of no less size than the State

¹⁸⁶ *Ibid.*, § 1199-a.

¹⁸⁷ *Ibid.*, § 95.

¹⁸⁸ *Ibid.*, §§ 94, 95, 309, 558.

¹⁸⁹ *Ibid.*, § 395.

¹⁹⁰ *Ibid.*, §§ 94, 97.

¹⁹¹ *Ibid.*, § 395.

¹⁹² *Ibid.*, § 94 (2).

possesses the instrumentalities essential to sound coordinated administration. This is particularly true as regards the matter of school finance. The changes occurring in the character of wealth, as the State has passed from a rural to an urban economy, make it imperative that tax imposts be laid by a superior unit of government, if the "faculty" principle of taxation is to become a reality. The significance is no less marked in the field of instruction—teachers must be uniformly well trained; mobility of population makes necessary the maintenance of equally high educational standards in all sections of the State; and if standards are to be developed and measures of achievement evolved, a high degree of centralization appears entirely reasonable.

In contradistinction to the principles generally recognized as being sound from an administrative viewpoint, one must take into account the innate character of the people composing the governmental unit under consideration. The English tradition of freedom from autocratic forms of government precludes the adoption of governmental devices too "continental" in character. The similarity of English and American characteristics is, in all probability, a reasonable explanation for following the English grants-in-aid system. England has employed this device for more than a century as a means of solving her problems, and with marked success.¹⁹³ Though the development has not been carried as far in this country as in England, New York, however, has embarked on such a program with respect to her schools. Contributions from the State for the support of education in 1930 were \$7.04 per capita, or an amount representing 38.6 per cent of the total budget. This amount places the State fourth from the highest in per capita aid for education as compared with the other commonwealths of the Union.¹⁹⁴

In general then, the present educational arrangement in the State of New York cannot be successfully attacked. It is adapted to the peculiar bent of American tradition; it allows a degree of freedom necessary for the exercise of local initiative and experimentation; it has attempted to place a minimum of educational facilities at the disposal of every child of school age in the State; and it has placed a part of the burden of school support on others than owners of real property. The indictment rests, not against the general scheme, but rather against specific features. Changes are needed which will make for "equality of opportunity," for rational apportionment of public funds between education and other functions of government, and for efficiency and dispatch in school administration.

¹⁹³ Sidney Webb, *Grants in Aid: A Criticism and a Proposal* (Rev. ed., New York, 1920).

¹⁹⁴ Cf. Table 37.

TABLE 37

PER CAPITA STATE CONTRIBUTION TO LOCAL SUBDIVISIONS FOR SUPPORT OF EDUCATION, 1930 *

RANK	State	Per Capita State Aid for Education	RANK	State	Per Capita State Aid for Education
1	Wyoming	\$8.64	25	Arkansas	\$2.35
2	Delaware	7.79	26	South Carolina	2.22
3	Utah	7.20	27	Kentucky	2.18
4	New York	7.04	28	North Dakota	2.13
5	Washington	5.76	29	North Carolina	2.04
6	New Jersey	5.37	30	Missouri	2.03
7	Nevada	5.14	31	Tennessee	1.95
8	Texas	5.11	32	Maryland	1.85
9	Arizona	4.90	33	Vermont	1.57
10	California	4.74	34	Oklahoma	1.48
11	Michigan	4.68	35	Indiana	1.45
12	Minnesota	3.91	36	New Hampshire	1.30
13	Florida	3.59	37	West Virginia	1.25
14	New Mexico	3.43	38	Connecticut	.98
15	Montana	3.35	39	Nebraska	.96
16	Pennsylvania	3.16	40	Ohio	.83
17	Mississippi	2.82	41	Rhode Island	.76
18	Maine	2.82	42	Colorado	.75
19	Alabama	2.69	43	Massachusetts	.63
20	Virginia	2.65	44	Oregon	.50
21	Wisconsin	2.65	45	Illinois	.49
22	Louisiana	2.59	46	Iowa	.34
23	South Dakota	2.48	47	Kansas	.33
24	Georgia	2.38	48	Idaho	.01

* Financial Statistics of States, 1930, Tables 1, 11.

UNIT OF SCHOOL ADMINISTRATION

The principal barrier to the attainment of a better school organization is, in the last analysis, the smallness of the school unit. If the State is to be cut up into numerous districts with taxpaying capacities ranging from abundance to wretched poverty, the burden of supporting even the most modest sort of educational program will result in a crushing weight on certain parts of the State. Inadequate plant facilities, meager educational offerings, and poorly qualified teaching personnel are usually associated with one-room schools. On the other hand, if the function were regarded as one exclusively belonging to the State, these problems of inequality would largely disappear. Balancing the apparent advantages of unification are the alleged benefits: Schools are divorced from politics, local interest is stimulated in school affairs, *ad hoc* districts make possible the formation of unified functional areas, etc. These advantages are of no concern for the moment, but rather attention will be directed to an examination of the undesirable features of the *ad hoc* system. The survey will be concerned with the ill-apportionment of resources due to lack of administrative coordination; overlapping of functional responsibilities between boards of education and other municipal authorities in respect to health, library facilities, recreation, and assessment and collection of revenue; scattering of public funds; maldistribution of taxable

resources; multiplicity of units too small to offer complete educational programs; redundancy of elected officials; and an undue complexity of inter-governmental relationships.

Results of decentralized administration.—Maximization of satisfaction requires that all localities should have the privilege of determining how much of the resources in any particular community should be devoted to public services, and further that the citizenry, through its duly chosen representatives, should have the right to say how these resources set aside for public uses are to be divided among the various functions of government. This exercise of initiative applies only to *local functions*. To the extent that the State declares an interest in any function, *e.g.*, education, and accordingly supplies the funds to finance the achievement of its objectives, apportionment assumes broadened aspects. With governmental agencies set up to carry on educational activities independently of the regular corporate authorities and the courts affirming that even in the cities the boards of education are not a part of the city government, it is impossible to integrate the planning of community problems. A strong school board may conceivably press its claims to the point where other governmental functions are impoverished, or the total public expenditures may be increased to the point where there is not an optimum apportionment of resources between private and public uses. In addition, the State imposes certain requirements which it does not stand ready to finance. These requirements may be desirable if the community were an area the size of the State, but they may lead to disproportionate commitments when looked at from the standpoint of a unit the size of a typical school district.

The disadvantageous way in which this division of governmental responsibility operates may be clearly illustrated in the case of the cities in New York. Most of them have only a modicum of control over school fiscal policies. In some instances a measure of control is exercised through the appointment of personnel; the board of estimate may have authority to fix the budget; the mayor may have veto power with respect to certain items in the budget; or the corporate officers may have no power whatsoever over making the local school budget. Though the case may be more strikingly inconsistent in the cities, the problem is not essentially different in any local unit capable of supporting any of the essential services of government. The humblest hamlet, in the same manner as the city of New York, should have the privilege and its organization should be so devised that a decision can be made as to whether the net marginal social utility derived from a dollar spent on any number of local needs would be greater, equal to, or less than a dollar spent on enriching the local school program.

Overlapping of functions.—Closely allied to the subject of apportionment of resources is that of the overlapping of functions growing out of dividing the responsibility for public services among *ad hoc* officers and departmental heads of other civil divisions.

These conflicts of jurisdiction are especially important in connection with the activities carried on by school boards and the regular municipal authorities, particularly since the schools have extended their activities to include the care of child health, provision of recreational facilities, and library services. Probably the greatest duplication of effort lies in the fiscal machinery for the collection of school revenue.

Towns, villages, counties, cities, health districts, and the State all engage in one or more phases of health conservation. School authorities became responsible for the health of the school child in 1913, at which time medical inspection was made mandatory for all pupils attending the public schools of the State.¹⁹⁵ At the present time boards of education in cities and union free-school districts and trustees of common-school districts must employ a competent medical inspector and may provide such number of nurses, dentists, and nutritionists as may be required.¹⁹⁶ The county entered into school health activities in 1924 when provision was made whereby county boards, with the consent of the commissioner of education, might establish school-hygiene districts.¹⁹⁷ The county also deals with the problem of school health in still another connection. The supervisors of any county, except one constituted as a general health district, may provide such nurses, dentists, dental hygienists and clinic physicians as it may deem proper.¹⁹⁸ The cities, likewise, have certain obligations imposed upon them with respect to the care of the health of school children. All pupils in cities of 50,000 or more inhabitants shall not be admitted to a school without vaccination.¹⁹⁹

Hygiene is an important part of any health program, and as such there is no better place to carry it on than in the public schools of the State. Communicable diseases generally make their appearance first among school children, and it is the nurse or the teacher that may first detect signs of contagion. Physically handicapped children and persons in need of rehabilitation frequently are brought to the attention of teachers in various ways. It is apparent from these observations that the school, because of its intimate relation with the daily lives of a large percentage of the population of school age, is admirably fitted to carry on an important part of health protection and conservation work. However important the place of the school may be, if its work is to be effective, coordination must be brought about between the school health service and the home life of the child. Health problems are more than individual matters; the smallest unit amenable to effective supervision is that of the *family*. As responsibility is now divided, local health

¹⁹⁵ *Laws*, c. 627. Prior to this time health care devolved upon the local health officers and the State department of health with the cooperation of the department of education (*Public Health in New York State*, p. 302).

¹⁹⁶ *Education Law*, § 571.

¹⁹⁷ *Laws*, c. 194; *Education Law*, § 577-b.

¹⁹⁸ *Cahill's Supplement*, 1935, 11:12(44-a).

¹⁹⁹ *Public Health Law*, 1933, § 310.

officers frequently take the attitude that what is done in the school toward health conservation is of no significance to them; and on the other hand, the school health officers have little to say about rectifying bad conditions in the home of the child. Children sent home from the schoolroom because of illness resulting from a contagious disease, may be followed up with proper quarantine by the local health officer, or they may be permitted to go at large in a way that conditions are actually made worse instead of better. About the only phase of the education law dealing with these joint problems states that pupils showing symptoms of contagious diseases are to be excluded from school by the school authorities, and notification given to the local health officer. If the child does not present a certificate of health made out by the local health officer or a physician, when reporting for school after illness, then the medical inspector shall make such examination.²⁰⁰ It is obvious that what is needed is one agency to coordinate these two important aspects of health activity. The work carried on in the schools is important and indispensable. Likewise, the safeguarding of the health of adults by means of enforcing sanitary measures, food inspection, and treatment and prevention of disease is an integral part of health conservation. To get the maximum return for a given outlay of effort the two must be made to function together.

Through unification of the health program of the community the costs could be lowered and the service improved. The most economical organization requires that approximately 1,000 to 2,000 pupils be assigned to one nurse, and from 2,000 to 4,000 pupils for one medical inspector.²⁰¹ Criteria such as the above require that school health administration should be based on some unit larger than that of the individual school. The service rendered at the present time, outside of the larger cities, usually emanates from fee officers. Fifty-two of the larger school systems employ full-time physicians, but there are 1,300 rural school medical inspectors, who are in most cases practicing physicians, 80 per cent of whom are also town and village health officers, operating on fees ranging from twenty-five cents to one dollar per pupil. Award of contract is frequently made to the lowest bidder, giving no regard to the character of the service rendered.²⁰² In the rural regions it is especially important that school health problem be combined with other health activities of the community, such as child health, maternity care, communicable disease control, and tuberculosis cure, in order that the overhead costs may not be disproportionate to the total outlay.²⁰³

Public libraries are provided by cities, villages, and towns. In fact, any taxing jurisdiction may levy money for the establishment and maintenance of library facilities.²⁰⁴ In 1933 schools located in

²⁰⁰ *Education Law*, § 575.

²⁰¹ *Public Health in New York State*, p. 304.

²⁰² *Ibid.*, p. 306.

²⁰³ *Ibid.*, p. 317.

²⁰⁴ See *supra*, pp. 179-80.

towns, cities, and villages spent \$1,294,581 on school libraries, as is shown in detail in Table 38. The school law is rather closely drawn to prohibit school libraries from being used for general circulation purposes. When no free public library exists then the commissioner of education may prescribe rules regulating the conditions under which they may be used by the public.²⁰⁵ However, in some of

TABLE 38
EXPENDITURES FOR SCHOOL LIBRARIES, 1933 *

CHARACTER OF EXPENDITURES	Cities	Villages	Towns	Total
Salaries	\$488,931.18	\$170,456.11	\$100,308.91	\$859,796.20
Repair and replacement of books ..	57,013.02	43,098.50	130,102.03	230,214.15
Other expenses	89,126.69	70,711.31	45,742.71	205,580.71
Total	\$635,070.89	\$293,265.92	\$366,244.25	\$1,294,581.06

* *Thirtieth Annual Report of the State Education Department* (1934), II, 113.

the cities the library is directly connected with the board of education, the superintendent is an ex officio member of the library board, the public librarian is selected by the school board to supervise the school library, or there are no bonds between the two whatsoever, the school and the public library developing quite independently of one another.²⁰⁶ This dual development is indicated in the fiscal data for New Rochelle, a city of 50,000 inhabitants, and one in which control over the school board by the city government consists only in the limited veto power of the mayor with respect to specific items in the school budget.²⁰⁷ The education department spent \$12,447 for librarians' salaries and \$1,705 for books, repairs, etc., in 1932.²⁰⁸ At the same time the public library of the city spent \$41,659 for salaries and a total for all purposes including salaries of personnel amounting to \$59,598.²⁰⁹

Another instance of the disadvantageous situation arising out of a division of responsibility for the library and school systems appears in the development of adult education. Where shall the responsibility for continuation-school work be placed? The libraries are without doubt best supplied with course material, but they do not have the teaching personnel or the physical equipment. For the personnel and equipment one must look to the school system. Conditions such as this point to the necessity of integration of

²⁰⁵ *Education Law*, § 1135.

²⁰⁶ *Fiscal Problems of City School Administration*, p. 19.

²⁰⁷ *Ibid.*, p. 41.

²⁰⁸ *Annual Report of the Director of Finance of the City of New Rochelle*, 1932, p. 38.

²⁰⁹ *Ibid.*, Schedule 9, p. 32.

functions in order that community problems may be contemplated in all of their aspects.

Provision of recreational facilities presents no exception to the rule of divided responsibility. Voters when assembled in district meeting, trustees, and boards of union free-school districts have power to lease or purchase sites for playgrounds or social centers.²¹⁰ They are further authorized to purchase equipment and employ personnel for supervision and instruction. As a result of this enabling legislation the school system spent \$1,069,361 for recreational facilities during the year 1933.²¹¹ In addition, villages may also acquire lands for parks, athletic fields, and playgrounds;²¹² cities may establish playgrounds;²¹³ towns may acquire lands for any public purpose;²¹⁴ and the General Municipal Law provides that any county, town, second- or third-class city, or village may operate and maintain playgrounds and recreational centers.²¹⁵ The Special Joint Committee on Taxation and Retrenchment in reporting on the duality of responsibility for recreational facilities in the cities, states

that there is cooperation between municipal and school authorities in a few cities, that cooperation is lacking or is not very effective in others, and that in some cities where recreation is under the supervision of the municipal officials, school recreation facilities are not used during the summer vacation. . . . This overlapping of authority is producing unsatisfactory, wasteful, and complicated conditions in many municipalities. It is further complicated by the fact that in some municipalities, school district and city boundaries are not coterminous.²¹⁶

Eight thousand four hundred and thirty-four assessment and collection districts, in addition to the already too numerous cities, towns, and villages performing similar services, is indeed an anomalous situation. Trustees are to assess taxes, make out the lists and annex their warrants for collection.²¹⁷ Valuations fixed by the town assessor are to be used "so far as possible," but the trustees are given power to ascertain the true value under specified conditions.²¹⁸ The warrants drawn by the trustees are turned over to the school-district collector to be executed, and for this service he

²¹⁰ *Education Law*, §§ 206 (7-8), 275 (4), 310 (6), 868 (2).

²¹¹ *Thirtieth Annual Report of the State Education Department* (1934), II, 119.

²¹² *Cahill's Supplement*, 1935, 65:169.

²¹³ *Cahill's Consolidated Laws*, 1930, 22:20.

²¹⁴ *Cahill's Supplement*, 1935, 63:64 (2).

²¹⁵ *Cahill's Consolidated Laws*, 1930, 26:240-46, added in 1917 (*Laws*, c. 215).

²¹⁶ *Fiscal Problems of City School Administration*, p. 20.

²¹⁷ *Education Law*, § 410.

²¹⁸ *Ibid.*, §§ 412-13.

receives 1 per cent on cash received within thirty days from the date of the notice, while on subsequent payments the rate increases to 5 per cent.²¹⁹ To complete the "finance" staff of each district, the law provides for a district treasurer who receives tax revenues from the collector, and State subsidies from the supervisor of the town.²²⁰ Union free-school districts not coterminous with an incorporated city or village are to appoint a treasurer and collector.²²¹

The cost of a ramshackle collection organization as has just passed in review is not fully realized since the officers serve on a fee basis and their deductions do not find their way into the fiscal reports. Special studies regarding collections reveal that this needless multiplication of officials results in inordinately high costs.

Among 50 school district collectors the range was between \$1.00 and \$155.80 [for collection fees], with an average of \$21.03. In spite of the low average fees of both classes, the costs per thousand dollars of taxes collected were nevertheless high. The average cost of collecting taxes in school districts and towns was estimated to be \$17.10 per thousand, as compared with an average of \$7.80 per thousand in 91 counties and 18 states for which the study presents figures.²²²

Scattering of public funds.—The policy of scattering public funds out in a large number of hands presents a problem of dissipated potential strength comparable to a decentralized management of bank reserves. Operating balances are increased in the aggregate,²²³ interest on balances in many cases is not required, surety is not provided for deposits, and the bonding companies do a thriving business selling protection to the localities against loss of funds due to absconding custodians. Not only is it necessary to bond the treasurers but also the collector and supervisor to the extent that they receive school funds apportioned by the State.²²⁴ Beach, after a survey of approximately one-half of the districts in the State, concluded "that the largest single factor affecting the safe and efficient management of school funds is the size of the admin-

²¹⁹ *Ibid.*, §§ 425-26.

²²⁰ *Ibid.*, § 251.

²²¹ *Ibid.*, § 254. The Kirkland Law of 1932 ameliorates the duplication of collection officials somewhat by abolishing the office of collector in all towns of the first class and creating the office of receiver of taxes and assessments. (*Cahill's Supplement*, 1935, 63:20.) This law, however, is not of wide application since there are only forty-four towns in the first-class category as defined in the terms of the act. Allowing for other towns which may change their classification, there probably will still be eight thousand school-district collectors.

²²² National Institute of Public Administration. "The Collection of Real Estate Taxes in New York," *Report of the New York State Commission for Revision of the Tax Laws* (1932), Memorandum No. 12, p. 11.

²²³ Cash on hand for all units July 1, 1932, amounted to \$77,506,187 (*Thirtieth Annual Report of the State Education Department* [1934], II, 83).

²²⁴ *Education Law*, § 363.

istrative unit.”²²⁵ In the common-school district, this same study reveals, information written on the check stub provided the only record of receipts and disbursements in 42 per cent of the cases. The law requires that all treasurers be bonded, yet more than 500 treasurers of the common-school districts provide no surety of any kind. Furthermore, 57 per cent of those who were bonded were found to be covered by a personal rather than a corporate surety bond. Only 0.3 per cent of the common-school districts provide for an external audit. On the basis of the facts gathered, it is estimated that approximately 350 treasurers do not keep school funds in banks. An additional 350 comingle school funds with their own personal bank accounts.²²⁶

Mal-distribution of taxable resources.—Since the school district is one of the tax-levying units small in geographical extent, it is here that mal-distribution of tax resources appears in its most acute form.²²⁷ These extreme differences are due to two conditions: first, those growing out of variations in the quality or use of the land which has constituted the primary taxable resource; and second, the scarcity or abundance of other things to tax. As the school law now stands the benefits of taxes levied against railroads and utilities accrue to the district in which the property lies.²²⁸ Updegraff presents some cases of inequality growing out of the operation of the legal set-up just reviewed.²²⁹ Two districts in the town of Ulysses in Tompkins county may be cited. District No. 16 had 2,259 acres of land valued at \$82,700 and property of public-service corporations to the extent of \$30,200. On the other hand, district No. 13 contained 995 acres of land valued at \$40,350 and only \$1,200 as the assessed value of public-service property. It is certainly impossible to justify the allocation of property taxes to school districts on the basis of the amount of utility property located within a given circumscription. Neither “service rendered,” “benefit derived,” nor “need” is in any way related to such an apportionment.

A revelation of inequalities of the tax base existing in school districts is probably seen at its worst by an examination of 123 districts located in thirteen “decadent” areas. According to Table 39, districts varied in area from 45 to 8,194 acres with total valuations ranging from \$300 to \$39,180 and tax rates per \$1,000 of assessed wealth going as low as \$1.97 and rising as high as \$35.

²²⁵ F. F. Beach, *The Custody of School Funds* (New York, 1933), p. 143.

²²⁶ *Ibid.*, pp. 86-96.

²²⁷ See *Annual Report of the State Tax Commission, 1923*, p. 494, for table showing the distribution of all school districts according to full value of taxable property.

²²⁸ *Education Law*, §§ 427, 430.

²²⁹ Harlan Updegraff, *Rural School Survey of New York State: Financial Support* (Ithaca, 1922), pp. 80-81.

TABLE 39

EXTREMES IN AREA, ASSESSED VALUATION, AND TAX PER \$1,000 OF VALUATION OF SCHOOL DISTRICTS IN FOURTEEN DECADENT AREAS IN NEW YORK STATE *

AREA *	Area of School Districts (Acres)		Assessed Valuation of School Districts, 1928-1927		School Tax per \$1,000 of Valuation	
	High	Low	High	Low	High	Low
Bald Mountain.....	2,003	149	\$23,800	\$1,500	\$20.00	\$9.00
Berne.....	2,468	90	11,850	500	10.00	1.97
Bull Hill.....	3,256	51	37,350	500	20.00	6.00
Connecticut Hill.....	2,174	715	18,500	5,225	35.00	5.00
Decatur.....	2,038	181	23,350	2,190	10.00	5.00
Ohio.....	8,194	373	23,160	900	11.25	3.70
Parish.....	1,639	115	6,635	800	20.00	5.00
Smyrna.....	2,519	139	22,010	1,100	23.00	6.00
South Bradford.....	2,076	70	18,100	300	28.70	5.00
Sugar Hill.....	1,734	100	10,700	600	15.80	6.00
Summer Hill.....	1,993	80	39,180	2,000	14.00	5.00
Summer Hill Turnpike.....	863	20	16,880	5,300	14.00	5.00
Swale.....	2,925	265	30,300	3,400	11.80	5.00
Virgil.....	2,169	45	20,105	500	20.00	5.00

* Compiled from L. M. Vaughan, *Abandoned Farm Areas in New York*, Cornell University Agricultural Experiment Station Bulletin 460 (1929).

* The towns and counties contained in the areas, in whole or in part, are as follows: Bald Mountain—Candor (Tioga), Caroline (Tompkins); Berne—Berne (Albany); Bull Hill—Newfield and Danby (Tompkins), Cayuta (Schuyler), Van Etten (Chemung), Spencer (Tioga); Connecticut Hill—Newfield (Tompkins), Cayuta and Catharine (Schuyler); Decatur—Decatur and Roseboom (Otsego), Seward and Richmondville (Scholarie); Ohio—Ohio (Herkimer); Parish—Albion, Wilkesbora, Parish and Amboy (Oswego); Smyrna—Smyrna and Otsego (Chemung); South Bradford—Bath, Campbell and Bradford (Stouben); Orange (Schuyler); Sugar Hill—Orange (Schuyler); Summer Hill—Locke, Moravia, Seneca and Summer Hill (Cayuga); Summer Hill Turnpike—Locke and Summer Hill (Cayuga); Swale—Cameron and Cassano (Stauben); Virgil—Cortlandville, Hartford, Lapeer and Virgil (Cortland).

Meagerness of educational offerings.—It is certainly not more difficult to demonstrate that the school district as now drawn in the State of New York is equally ill-adapted to the administration of a satisfactory school unit as for carrying out the fiscal responsibilities devolving upon it. In 1930, 21 districts had an average daily attendance of one pupil; 67, two; 171, three; 222, four; 268, five; 358, six; and 410, seven. Out of the total of 8,997 districts, 2,798 had an attendance of 10 or fewer.²³⁰ It is also significant to point out that 7,069 districts maintained schools with only one teacher. Though the quality of the teaching personnel in these districts might be of the highest order, yet the opportunities such an educational system offers its population is decidedly incomplete. In the one-teacher school with a school attendance of one, two, or three, the advantages of a larger school population fostering the art of "learning to live together" is generally lost, the curriculum contains only the most elementary offerings of subject material, and the advantages of functional specialization found in the multi-teacher school are entirely absent.

²³⁰ Twenty-seventh Annual Report of the State Education Department (1931), II, 6.

Also the cost of instruction in the smaller districts is inordinately high.

The excessive cost of the product of the rural schools as compared with that of the schools in union free school districts, cities and villages is sufficient cause for an inquiry as to the location of the waste and the means of its eradication. Broadly speaking, it may be found either in the way in which the State has divided itself up into local districts for the conduct of the schools, or in the administration of the schools as thus organized.

The first potent factor is that while rural schools cost most per pupil they cost least per teacher. . . . In the vast majority of cases the lower the salary paid, the poorer the instruction received by the pupils. There is thus a great difference in the quality of the product as well as the quantity of the product. In other words, the rural school pays the most and gets the least in quantity and the poorest in quality for the money that it spends.

. . . Teachers' salaries, although small, consume a larger proportion of the annual budget in rural school districts than in cities. This means that the proportion of total costs going for needed equipment and supplies is smaller in the rural districts than in the city schools. . . . Thus the rural school pupil has not only a poorer teacher from whom to learn, but poor tools and poor supplies and equipment with which to work.²²¹

Redundancy of elected officials.—The present district school system has a redundancy of elected school officials. Each district has from one to three trustees, a clerk, a treasurer, and a collector, the choice of the latter being optional.²²² Union free-school districts choose from three to nine trustees; central school districts, boards of five members; and city school districts, three to nine members.²²³ If it be assumed that in each of the 8,434 districts, outside of villages with superintendents and city schools, there are three trustees, a clerk, a collector, and a treasurer, the total number of school officials amounts to 50,604. The teachers in the same school districts number only 20,326.²²⁴ In other words, there are more than twice as many officials as there are teachers in the rural school system. Definite proposals for eliminating this overburden of officialdom are a part of the general problem of how a governmental circumscription is to be determined, and once it has been set up, the sort of machinery with which it is to be equipped. Suffice it to say at this time that the answer to the problem of numer-

²²¹ Updegraff, *op. cit.*, pp. 66, 68.

²²² *Education Law*, § 206.

²²³ *Ibid.*, §§ 183, 220, 865.

²²⁴ *Thirtieth Annual Report of the State Education Department (1934)*, II, 61.

ous elected officials lies in bringing together all of the functions of government under one legislative body responsible directly to the people for all its decisions and acts. Advantages would accrue to the community through a simplification of the ballot, the substitution of full-time officers for those devoting only a part of their time to governmental affairs, and through a fusion of expertness into rural government which is now beginning to come to the fore in villages and cities under management forms of administration.

Complexity of inter-governmental relationships.—The superfluous operations entailed in carrying out educational routine matters are indeed amazing. The number of hands through which school moneys pass before being paid out for materials and services may be taken as a case in point. State moneys for the support of common schools are paid over to the county treasurer of each county on warrant of the comptroller or the certificate of the commissioner of education.²²⁵ Before the 15th of January in each year the district superintendent apportions the money to the several districts as indicated by the commissioner's certificate. After making the apportionment he then certifies to the supervisor of each town in his district the amount of school money apportioned to each district.²²⁶ The supervisor makes a copy of this certificate and files the original with the town clerk.²²⁷ Upon filing of proper bond and the receipt of the certificate of apportionment the county treasurer disburses to the treasurer or collector the amounts shown in the certificate.²²⁸ In event that there is no treasurer or collector in the district the money is then paid over to the town supervisor. It is also in the hands of the town supervisor that the management of the school lots rests. The sale, lease, and investment of proceeds from this source is a function of town government.²²⁹

The matter of record keeping and reporting is almost as cumbersome as is that of handling the public funds. The town clerk is charged with keeping a large number of reports, records, and certificates arising in connection with administering the common-school system.²³⁰ Similarly, the regular clerk of the school board is to keep various records of meetings, report to the town clerk and the school commissioner on various matters, and notify the county treasurer as to the treasurer or collector elected in his district.²³¹

EVALUATION OF EDUCATIONAL GRANTS-IN-AID

No single phase of State and local relationships has received such exhaustive analysis as has that of State educational finance. Within the past fourteen years no less than four reports have been prepared

²²⁵ *Education Law*, § 494.

²²⁶ *Ibid.*, § 498.

²²⁷ *Ibid.*, § 499.

²²⁸ *Ibid.*, § 494.

²²⁹ *Ibid.*, § 360.

²³⁰ *Ibid.*, § 340; cf. *supra*, pp. 172-73.

²³¹ *Education Law*, § 250.

dealing exclusively with New York problems.²⁴² Mr. Mort's survey made in 1932 pointed out that in the present apportionment formula²⁴³ the minimum standards now prevailing are too low; that the only justification for equalizing city districts above 0.6 mills and rural districts above 4 mills rests on grounds of administrative feasibility; that the measure of need should be refined by taking into account cost of living and transportation; and that the minimum program should be broadened to include kindergartens, capital outlay and extra cost of junior high schools.²⁴⁴ Mr. Haig, approaching the problem from a somewhat broad point of view, says:

The present system of state aid, with its emphasis on equalization, is superior to the older system. In so far as the older system attempted to equalize, the measures of ability and need used were inferior to those now in effect. The most serious criticism of the present system lies not in the manner in which aid is distributed but in the failure to reorganize the local school administration before granting such generous aid, and in the lack of adequate controls where the state is meeting the major part of the costs. The obligation of the state to contribute generously toward the support of education is clear. But subsidizing a system which is unreasonably costly for the level of education offered, and which cannot provide a high level of education at any cost, is questionable.²⁴⁵

In addition to these inherent defects, something may be said about the general concept of equalization as related to opportunity and fiscal burden. The ultimate ends sought ought to be unmistakably defined; some notion should be developed as to how far legislators have gone in accepting complete equalization; and finally, the results measured by goals currently acceptable, should be evaluated.

Meaning of equality.—Given a sufficiently large number of subjects, it is reasonable to expect that the distribution of capacities

²⁴² Updegraff, *op. cit.*; Strayer and Haig, *op. cit.*; Mort *et al.*, *op. cit.*; *Report of New York State Commission on State Aid to Municipal Subdivisions*, Legislative Document No. 58 (1936), pp. 103-24.

²⁴³ The essentials of the present formula are as follows: All multi-teacher districts receive \$1,500 and \$1,800 for elementary and academic classroom units respectively. From these amounts must be deducted equalization quotas of 0.6 mills on full value. Furthermore, such districts must levy a 5 mill tax on full value to be entitled to the full amount of State aid.

The basic expenditure for single-teacher districts is \$1,500. This amount is then subjected to an equalization quota determined by a 4 mill tax on full value. The amount apportioned cannot be greater than the amount of the excess of the total expenditures above the proceeds of a 4 mill tax on full value. The minimum apportionment for any district is \$425 per teacher (*Education Law*, § 491).

²⁴⁴ Mort *et al.*, *op. cit.*, pp. 27-30.

²⁴⁵ *Report of the New York State Commission on State Aid to Municipal Subdivisions* (1936), p. 123.

to respond similarly to given stimuli would conform to the normal curve. With this assumption, and the further one, that desirable results have been established, *e.g.*, "effective citizenship,"²⁴⁶ and that these objectives could be measured, then providing equal educational opportunity would involve getting the same results out of reasonably large groups, regardless of what the costs might be.

Though the above criterion might be set up as the ultimate measure of equality of opportunity, it is obvious that this concept does not, in general, prevail. Educational equality parallels more closely the idea as it is supposed to exist in a competitive system. Consideration is not given to measurement of results, but rather interest is directed toward seeing that the rules of the game are carried out, and that all those who wish to participate are given an equal chance. Guided by such an objective, legislators and administrators feel that the State has filled its obligation quite completely if through financial assistance it has provided equally good educational facilities accessible to all the educable population of the State—equally good in the sense that equal expenditures per teacher unit, or some other unit, prevail throughout the State.

As a practical matter the goal that actually determines the policy of the State, in its apportionment of funds for education, is something less than either of the two mentioned above. The program does not call for "equal opportunities," but rather its objective is to place a "minimum" of facilities at the disposal of every eligible school child in the State. This is quite another thing from equality. Equality would require that the State give to every child of school age opportunities commensurate with those obtaining in the wealthiest and best-equipped school unit. If the State were to determine that the offerings were to be uniform throughout, then the minimum established would also have to be the maximum. This notion apparently has never been entertained seriously in the minds of the makers of school codes. Even in those states where the central government has assumed full financial responsibility for support of the school system, some provision has been made allowing the localities to supplement State offerings.

If it may be conceded that the usual meaning of "equality of educational opportunity" means placing at least minimum facilities at the disposal of all those eligible for school enrollment, there is still something to be said about the method of determining when these requirements have been satisfied. As the law is drawn at the present time the level of the program offered is measured in the amount expended for each elementary and high-school teaching unit. It is assumed that \$1,500 for each elementary and \$1,900 for each high-school teaching unit will insure equal minimum offerings in every school unit in the State. To what extent do these "dollar per teacher unit" measures even guarantee an average opportunity for the children of the Empire State? There are many elements entering into the determination of the qualitative opportunities

²⁴⁶ Cf. Henry C. Morrison, *School Revenue* (Chicago, 1930).

offered the school—the adequacy of the school plant, recreational facilities, school equipment, and size of school population are all significant factors. There is still another, and one that is probably the most important of all—the teacher. It is on the theory that the teacher is the most significant measure of educational opportunity that the index used in the subsequent computations was designed. It is further assumed that there is a relationship between the amount of formal training and the character of the instruction a teacher may be able to offer.²⁴⁷

In the case of rural schools—that is, all schools not under superintendents—a fair degree of association was found between the amounts expended per teacher and the measure of teacher training. Although the correlation (+.460) is high enough to say that a relation exists, yet there are many cases with an inverse relationship. Livingston, a county ranking forty-fourth in relative fiscal ability²⁴⁸ and having a density of population of 59.5 persons per square mile, ranks fiftieth in the amount spent per teacher, but, on the other hand, stands sixth in the order of counties ranked according to the percentage of teachers having three or more years of training in advance of high school. Cattaraugus presents a similar picture of disparity. In expenditures per teacher unit this county ranks forty-seventh, but as to teacher training, ninth. On the other end of the array, widely dissociated instances are also in evidence. Schuyler county, ranking twenty-second in amount spent per teacher, stands fifty-fifth in the provision of “opportunity.”²⁴⁹ In villages a measure of +.191 gives a case still less clear than that of the rural schools. As an example, Scotia may be brought to attention—a village of 7,437 population, located in Schenectady county, stands third in the array of the ninety villages under superintendents when measured according to the degree of “opportunity” provided, yet it stands sixty-eighth in rank according to current expenditures per teacher. The ranking and correlation of results for cities give a negative measure of correlation (—,151).²⁵⁰

Another measure of educational “opportunity” may be found in the percentage of the total teaching staff classed as “special” teachers, including those engaged in conducting physical training, draw-

²⁴⁷ On the above assumptions the various counties, villages and cities were ranked according to the percentage of teachers who had received training in excess of three years beyond high school to the total of all teachers. The percentages were computed for teachers holding college certificates, and for those holding normal certificates. These percentages were weighted by four and three respectively and the two combined into an index. These indices were then ranked and correlated with the ranking of the same units according to the amount of current expenditures per teacher (see Tables 73-76, Appendix, pp. 397-403).

²⁴⁸ See Table 53, pp. 272-73.

²⁴⁹ See Table 73, Appendix, p. 397.

²⁵⁰ It is felt, however, that not much weight can be given to this group since the method classifying teachers according to training is considerably modified, compared with the practices prevailing in village and rural schools. It is particularly true with respect to those teachers classed as “special.”

ing, music, kindergarten and health classes. The percentage relationship which this group of teachers bears to the total teaching staff, would in some measure indicate the richness and variety of the educational offering. A correlation was made only for villages, but in this case the relationship between amounts expended per teacher and this index, "opportunity", was only +.22—virtually no association.²²¹ Westchester and Nassau, subur-

TABLE 40
CURRENT EXPENDITURE PER TEACHER IN NEW YORK RURAL SCHOOLS, 1930-31 *

RANK	County	Expenditure per Teacher	RANK	County	Expenditure per Teacher
1	Westchester	\$3,539.17	30	Wayne	\$2,016.47
2	Nassau	3,100.58	31	Columbia	2,012.79
3	Hamilton	3,049.54	32	Greene	2,011.40
4	Buffalo	2,838.84	33	Ulster	2,009.40
5	Putnam	2,713.17	34	Chautauque	2,005.10
6	Rockland	2,634.71	35	Delaware	2,000.14
7	Franklin	2,404.84	36	Schoharie	1,987.81
8	Essex	2,384.74	37	Montgomery	1,982.61
9	Orange	2,383.45	38	Washington	1,937.47
10	Onondaga	2,367.83	39	Orleans	1,930.16
11	Monroe	2,310.08	40	Allegany	1,901.38
12	Warren	2,247.75	41	Rensselaer	1,899.51
13	Schenectady	2,227.99	42	Ontario	1,888.73
14	Erie	2,201.39	43	Seneca	1,866.24
15	Madison	2,163.92	44	Lewis	1,854.53
16	Dutchess	2,162.51	45	Genesee	1,851.28
17	Tioga	2,133.96	46	Cattaraugus	1,847.42
18	Onondaga	2,107.22	47	Niagara	1,843.72
19	Albany	2,100.96	48	Jefferson	1,840.17
20	Sullivan	2,100.49	49	Livingston	1,838.27
21	Saratoga	2,084.39	50	Cortland	1,825.10
22	Schuyler	2,078.37	51	Oswego	1,820.67
23	Otsego	2,059.30	52	Cayuga	1,798.62
24	Herkimer	2,050.01	53	Wyoming	1,759.79
25	Clinton	2,031.26	54	Steuben	1,759.37
26	Chemango	2,029.93	55	St. Lawrence	1,746.28
27	Chemung	2,026.19	56	Yates	1,702.44
28	Tompkins	2,021.70	57		1,673.60
29	Fulton	2,019.55			

* Twenty-eighth Annual Report of the State Education Department (1932), II, 60, 120.

ban counties of New York City, and Hamilton county, a mountainous region of the Adirondacks, are the three counties having the highest expenditure per teacher in those schools not under superintendents, amounting respectively to \$3,591, \$3,165, and \$3,025.²²² Certainly it could not be assumed that because the per teacher expenditure of Hamilton county for its rural schools was only \$51 below that of Nassau, that the opportunities measured in terms of a complete school offering were virtually equal. Hamilton county, ranking first in sparsity of population; Essex, second; Franklin, fourth; Schuyler, tenth; and Putnam, twenty-second²²³—all have average expenditures for teachers in rural schools above

²²¹ See Table 76, Appendix, pp. 402-3.

²²² See Table 40.

²²³ See Table 23, p. 142.

the median of \$2,020 for the State, yet it is unlikely that their offerings are above the median standards which exist in the State.

The prevalent notion that the quality of the educational offering can be determined by the amount of money spent per teacher or per pupil is very tenuous. Correlations must be found between amount expended per teacher and various indices of the "opportunity" provided that are considerably larger than the ones revealed in the cases just instanced before predictions can be made as to the results of a given outlay.²⁵⁴ If the State is interested in maintaining a minimum educational standard for all the educable population of the State other criteria must be set up in addition to the amount available for expenditures. Money measures need to be pushed more into the background and indices based on teacher qualification, results of regents' examinations, equipment per pupil for academic and physical-training purposes, plant equipment in terms of floor space per child, and other standards developed by the State department of education given more consideration. Considering the wide variations in the cost of providing similar services in different parts of the State owing to topographical features of the country, the distribution of the population, and regional price levels, there is little possibility that equality of "opportunity" can be achieved by any formula based on monetary terms and arrived at by arm-chair strategy. These peculiar situations call for the vigorous application of administrative supervision implemented with sufficient power to correct deficiencies as they appear. Appropriations for school aid, so far as determining what the amount shall be, are properly a function of the Legislature, but the apportionment of the funds, in order to achieve the objective of an equally good minimum offering to every educable person in the State, is an administrative problem of the first order. Once the standards have been decided upon which appear reasonable of achievement under prevailing conditions, then the administrator's duty is to see that these minimum facilities are provided and he should be made the sole arbiter as to whether the costs of those services are reasonable or excessive.

There is probably greater unanimity of thought as to the connotation of "equality," in the sense of "fiscal burden," than exists in the case of "opportunity." But here, too, there is a wide gulf between ultimate ends and workaday objectives. All that is usually meant by equality of burden is equality of *effective* tax rates on property, thereby disregarding the implications of capitalization and tacitly assuming that property is a proper measure of ability to support governmental institutions. Discussions of the subject cover the administrative problems, particularly under and over-assessment, but in few instances are the theoretical defects brought to the reader's attention. Suffice it to say, that to assume property

²⁵⁴ See *Fiscal Problems of City School Administration*, pp. 61 ff., for a review of various devices for measuring educational "opportunity," and a criticism of the methods.

as a measure of taxpaying ability ignores completely the impermanence of the values of wealth, excludes labor and service incomes, disregards the size and distribution of land holdings, fails to take into account differences between industries employing much property and others using practically none, makes no distinction between income and non-income producing properties, assumes that all properties are not encumbered with debt obligations, takes no account of the fact that property is not homogeneous, and assumes that taxes on all kinds of property are shifted in an equally facile manner.²⁶⁶ Equality of burden involves more than an equal *effective* tax on property—it involves sacrifice, and suggests the need for an integrated revenue system built around taxes devised to accord with the principles of minimum, proportional, or equal sacrifice.

Not only does the program of equal effective tax rates not go far enough as a criterion of equalization, but it has within it elements tending to cause a mal-apportionment of resources. To say that every community must spend an equal millage for educational purposes before the State will lend its full assistance is to ignore completely the other obligations pressing for public attention. In order to achieve the point of maximum social advantage, every locality should have the privilege of determining whether it is to its advantage to apportion a given amount of local resource to the support of education, or whether the net marginal social utility might not be increased by allocating this sum, or part of it, to other functions of government.

Assuming that the objective of "equality of burden" means nothing more than equal effective tax rates, what can be said of the situation in New York? Effective school tax rates computed on the basis of the amount levied for local school purposes and full valuation of taxable real property for the year 1932 are far from equal between different sections of the State.²⁶⁶ In Schenectady county the rate of 9.44 mills is over twice as large as that of Putnam. The counties surrounding Schenectady have school rates ranging from 9.38 mills in Montgomery to 5.32 in Albany county. On the other hand, Cayuga, a county with a comparatively low rate of 4.92 mills, has bordering counties, Wayne and Seneca, with respective rates of 6.44 and 6.65. Tompkins has a rate of 6.99 mills, and Onondaga and Cortland, 6.75 and 7.45 respectively. The rate on full value necessary to raise the local funds for educational purposes in Schenectady county was more than 100 per cent greater than the rates of either Greene, Sullivan, or Putnam counties. Certainly equalization is far from realization when effective tax rates vary as much as two to one.²⁶⁷

²⁶⁶ Leland, *The Classified Property Tax in the United States* (New York, 1928), pp. 12 ff.

²⁶⁶ See Table 41 and Figure 15.

²⁶⁷ Maintenance of a superior school system might account for the higher rate in Schenectady and Montgomery counties. An examination of Table 73 indicates, however, that so far as expenditure per teacher and teacher training

TABLE 41

EFFECTIVE SCHOOL TAX RATE ON FULL VALUE OF REAL PROPERTY IN NEW YORK COUNTIES, 1932 *

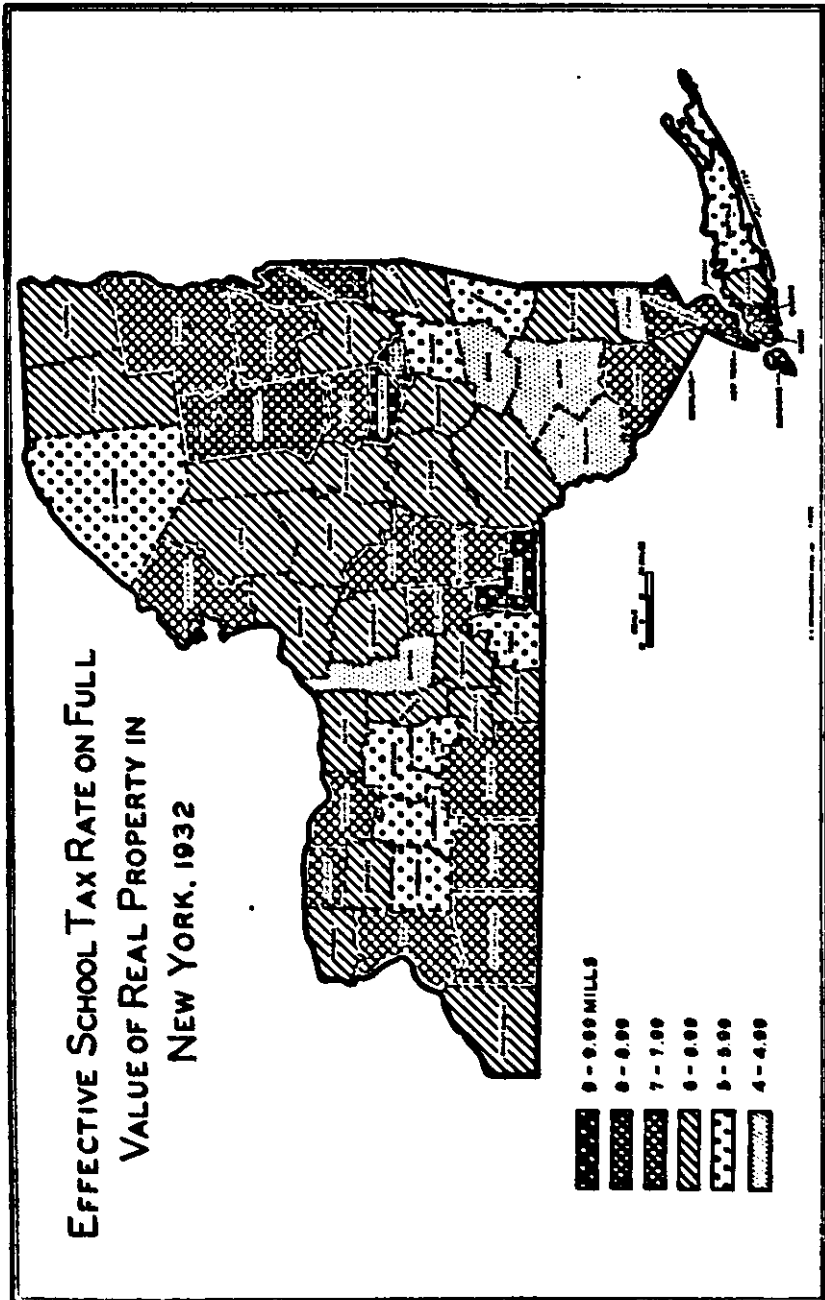
COUNTY	Mills	COUNTY	Mills
Schenectady.....	9.44	Franklin.....	6.57
Montgomery.....	9.28	Niagara.....	6.57
Broome.....	9.12	Saratoga.....	6.55
Washington.....	8.40	Delaware.....	6.53
Hamilton.....	8.30	Nassau.....	6.50
Cattaraugus.....	7.98	Schuyler.....	6.44
Erie.....	7.96	Wayne.....	6.44
Warren.....	7.96	Rensselaer.....	6.41
Essex.....	7.79	Chilton.....	6.39
Madison.....	7.79	Herkimer.....	6.39
Chemango.....	7.78	Otsego.....	6.25
Jefferson.....	7.57	Schoharie.....	6.24
Cortland.....	7.45	Oneida.....	6.17
Fulton.....	7.44	Chautauque.....	6.13
Orleans.....	7.43	Genesee.....	6.09
Albany.....	7.36	Ontario.....	5.90
Steuben.....	7.23	St. Lawrence.....	5.89
Monroe.....	7.16	Wyoming.....	5.87
Orange.....	7.04	Tioga.....	5.80
New York.....	7.00	Albany.....	5.23
Westchester.....	7.00	Columbia.....	5.31
Rockland.....	6.99	Livington.....	5.11
Tompkins.....	6.90	Suffolk.....	5.08
Chemung.....	6.93	Yates.....	5.07
Lewis.....	6.82	Ulster.....	4.93
Onondaga.....	6.75	Cayuga.....	4.92
Dutchess.....	6.69	Greene.....	4.70
Seneca.....	6.65	Sullivan.....	4.52
Oswego.....	6.60	Putnam.....	4.43

* Annual Report of the State Tax Commission, 1932, pp. 98, 343.

State grants and uneconomical school units.—Without doubt one of the most damaging indictments against the New York apportionment system is the way it succors ill-devised districts. It is hardly conceivable that a system of grants-in-aid, functioning in the most effective manner, would be so designed that ten districts continued to operate with an average daily attendance of only one pupil, or that seventy-one districts should continue to maintain formal classes for an average of two pupils per day. If it were not for the present policy of grants based on the teacher as a unit, it is quite unlikely that the number of schools with an enrollment of three or less pupils would be as great as 173.²⁵⁰ Consolidation has been going on quite steadily for some years. The number of school dis-

are concerned Putnam, with a rate of \$4.43, ranked ahead of Schenectady, with a rate of \$9.44. Sullivan county, with a rate of \$4.52, ranked seventeenth as to teacher training and twentieth as to amount spent per teacher, but Montgomery county, where rates are more than twice as high, was inferior in both of these regards. Greene county, with an effective rate of \$4.70, spends as much per teacher as does Montgomery and also has teachers equally as well qualified.

²⁵⁰ Thirty-first Annual Report of the State Education Department (1935), II, 5.



tricts has been reduced from 10,137 in 1920 to 8,434 in 1934.²⁵⁰ At the present rate, it would take some twenty-four years to eliminate the 2,287 districts having ten or less pupils.²⁵⁰ The advantages to be derived from larger school units are sufficiently great to warrant devising an apportionment formula that would hasten the elimination of these uneconomically sized units. The recent epoch-making reorganization of local government in North Carolina is exemplary so far as districting and organization of schools are concerned. Out of the changes initiated in 1931 has come the county unit under control of a county board of education supervised by the State school commission. With the State rests the power to initiate consolidation of schools or administrative units. The determination of these alterations rests on the basic assumption that a high school shall not be maintained with an average attendance of less than sixty pupils, nor an elementary school with less than twenty-five.²⁵¹

Tax relief.—There is still another defect, not so much related to the method of apportioning State aid, but more specifically with the thinking which accompanies the proposed reforms of State grants, namely, tax relief. The real emphasis of most of the discussions has been not so much the raising of educational standards as that of reducing the local millage contribution to school support. Recognizing the readjustment in values incident to the imposition of an *in rem* tax, the cogency of the argument for tax relief is materially weakened. Furthermore, relief granted is only a temporary palliative. Incomes, augmented by reduced tax requirements, will be capitalized and the same elements that brought pressure before tax relief will so narrow the margins after adjustment that the net position of the real estate owner will remain unchanged. Instead of seeking to give tax relief the State should concern itself with providing each educable child with at least the established minimum of educational facilities.

8. Ideal Central-Local Relationships in an Educational System

A discussion of the most advantageous relations for carrying out the educational program of a State involves first, a determination of the ideal governmental circumscription for the administration of the local school unit; second, the development of an administrative organization designed to effectuate the ends sought by local and central governments and tie together their work; and third, a division of financial responsibility so ordered that the special interest of the State may be satisfied, allowing at the same time ample latitude for local expansion in forward-looking communities.

²⁵⁰ See Table 2, p. 13.

²⁵⁰ In 1920 there were 3,611 districts with ten or less pupils (*Seventeenth Annual Report of the State Education Department* [1921], p. 22).

²⁵¹ Cf. Betters, "North Carolina Centralizes," *National Municipal Review*, XXI (1932), pp. 493-98; also *North Carolina Laws*, 1933, c. 562.

Area of government cannot be considered apart from wealth of resources and population density.³⁶³ In those regions where inhabitants are few and economic activity decadent, both reason and experience indicate that not only financial control but also administrative supervision of the necessary schools should be placed under complete State supervision. The State department should have a free hand to organize school units where deemed advisable, close others and transport children to neighboring schools, or even to require that children of any particular area be removed to sections where adequate school privileges are available.³⁶³ The policy pursued in Maine may indicate the direction which might be taken in New York. In all unorganized territory, elementary school privileges may be provided by the State commissioner of education, either by establishing and maintaining in the region elementary schools of a minimum term, or by sending children to a school located in any part of the State. In the event that the latter course is pursued the tuition charge is paid by the State, and transportation or board, in full or in part, may be paid for such pupils at the discretion of the commissioner. The State also has bound itself to pay the tuition of any pupil considered qualified to attend a school of secondary rank, provided the school is approved by the commissioner of education.³⁶⁴

In those portions of the State able to support governmental institutions, the principle that over one area there should be but one government and that its bounds should be determined by the extent of unified economic and social interests is in no instance more appropriately applicable than in the designing of a school unit. The *ad hoc* school district as now constituted must give way to a newly constructed unit of local government, with education taking its place alongside other functional responsibilities of the community. In metropolitan regions the unit of local government should take in all of the contiguous area related to the central city through the unifying forces of communication, travel, trade, recreation, and by common interest inherent in the problems of sanitation, sewage disposal, and water supply. Whatever the area may be as determined by the above criteria the school district should be made coterminous and coordinate with the other departments of city or metropolitan government. The same principles apply in rural and semi-urban communities. The school district should be set up in juxtaposition with the local governmental unit as determined by the economic interests and social solidarity of the people, and the physical topography. By making the school district coter-

³⁶³ Cf. *supra*, pp. 151 ff.

³⁶⁴ The educational problem in these sparsely settled areas cannot be considered apart from other basic problems, particularly that of land utilization. An aggressive policy directed toward the removal of marginal lands from the realm of private exploitation, would go far toward solving many of the problems not associated alone with schools, but with other aspects of local government in such areas.

³⁶⁵ Revised Statutes of Maine, 1930, c. 19, §§ 133-35.

minous with the unit of local government, the way is then opened to place the responsibility for school administration upon the same officers charged with determining all other functional policies. Through this reorganization of administrative machinery the duplication of effort now experienced with respect to tax administration, health, library facilities, playgrounds, etc., could be largely obviated and the ballot simplified through the elimination of a needlessly long list of elected public officials.

It may well be that the school community will form the nucleus around which the unit for rendering other governmental services may be defined. The unification necessary to generate community feelings can probably be supplied best by family interests in the school program. All attachments of this character must be utilized in giving vitality to local government and aiding the renaissance of country life.

Full financial support by the State of a minimum educational offering is not an untried venture. Three States²⁶⁵ thus far have attempted to provide a minimum of school facilities for every child regardless of what his economic environment may be. Delaware was the first State to take definite steps in this direction. In 1919, a law was passed making the county the unit for the administration of public schools. The benefits of the change to a larger district proved so great that in 1921 it was thought desirable to make the State the unit. Though the State is in reality the primary unit for school administration, certain types of school districts were nevertheless retained. The city of Wilmington is constituted as a district, thirteen of the larger towns in conjunction with their surrounding territories have been organized into districts, and in the remainder of the State school affairs are managed directly by the State department. Local initiative in school control and management is not destroyed since any one of the three classes of districts indicated above may, on favorable action of the local voters, augment the program offered by the State by levying local taxes on property and persons.²⁶⁶ Only Wilmington and four other districts of the total of 233 in the State took advantage of this provision in 1932.²⁶⁷ In 1930 Delaware augmented its State distributive fund to the point where only 11.9 per cent of the cost of education was derived from local school districts.²⁶⁸

Out of the attempts by North Carolina to extricate itself from a complete breakdown of school finance a plan similar to that described for Delaware was put into operation in 1931—similar in that the State assumed full financial responsibility for supporting the minimum offering for a minimum term for all schools of the State. Although the quest for tax relief has been the main objective in

²⁶⁵ Delaware, North Carolina, and West Virginia.

²⁶⁶ Swift, *op. cit.*, pp. 323 f.

²⁶⁷ *Annual Report of the Department of Public Instruction, State of Delaware, 1932*, p. 12.

²⁶⁸ United States Department of Interior, *Biennial Survey of Education, 1928-30*, II, 25.

bringing about this change, the developments are among the most forward looking in American school finance. The superintendent, in his report for the year 1932, stated that the change came about because of the rising costs of education, the inability of the counties to collect taxes, the large number of unpaid teachers, and the fact that in spite of attempts to equalize tax rates changing property values and school costs made it impossible to adjust the distributive fund in a way to make the rates equal. The way in which the State met this situation was first, to increase its budget for school purposes; and second, to reduce materially the local school budgets. That the first was actually done is evidenced from the fact that the appropriations by the State increased from \$2,500,000 in the biennium of 1923-25 to a total of \$26,000,000 for the years 1931-33. Most of these revenues are derived from indirect sources, only about four and one-quarter million being raised by ad valorem tax. The commissioner of education in his 1931-32 report pointed out that through making the support of education a State function, school opportunities had definitely been divorced from land values, the conception of education had been broadened, and the foundation had been laid for the development of a more substantial school system.²⁰⁹

It should be made perfectly clear that though the State assumes full financial responsibility for a conscionable school program, it is not, with the exception of those areas unable to support satisfactorily local governmental institutions, to extend its administrative controls materially beyond the bounds reached at the present time. The local governing boards should have the same powers as those usually associated with the district school boards. The people of any community through their duly elected officials should have the right to select their superintendents and teaching staff, and establish school policies as they have in the past. A plan of guaranteed full financial support for a minimum program would in no wise interfere with the usual duties and powers traditionally delegated to local communities. By permitting the localities to supplement the State minimum program with such levies as the wealth of the community will warrant, no limitations are imposed—only a minimum guaranteed.

9. Summary

That the public school system of New York as it exists today is vastly modified and far superior to that prevailing in 1812, no one can gainsay. However, so far as central-local relations are concerned, measurable modifications are indeed few. The State supplied as large a percentage of school revenues in 1860 as was supplied in 1934. Figure 12, showing the trend of State and local contributions since 1830, indicates that there has been no major change in matters of central financial support. True enough the State

²⁰⁹ *Biennial Report of the Superintendent of Public Instruction of North Carolina, 1930-32, I, 5-8.*

contribution is in excess of \$100,000,000, but local levies have likewise increased. Rather than any change in relationships, all that is evident is growth. In 1812 a State department of education was brought into existence to supervise and coordinate the work of a large number of more or less autonomous school districts. To what extent is the structural relationship different in 1934 than it was in 1812? There is still a department of education; there are still more than eight thousand school districts sufficiently autonomous that if the local treasurer wishes to comingle the public moneys with those of his own, no one dare object. Central controls are exercised today—so they were in 1812. State assistance was then dependent upon maintaining a school for the required term, employing a certified teacher, and using State funds solely for the payment of teachers' salaries. Present-day controls have gone little farther. If, for example, the State had assumed full responsibility for the financial support of a minimum school program; if the State department had authority to close uneconomical school units, or to redefine district bounds—then one could say a significant change in State and local relationships had taken place.

The fact that relationships between the State and the localities have not changed materially in over a century and a quarter does not mean that revision is not desirable. In fact, the pages dealing with ill-apportionment of economic resources, scattering of cash funds, mal-distribution of taxable resources, meager educational offerings, redundancy of elected officials, and complex inter-governmental relationships clearly indicate the need of change.

Most of the enumerated weaknesses could largely be obviated by introducing the following readjustments:

(1) In those areas where the sparseness of population and the paucity of wealth make the maintenance of local governmental institutions non-feasible, the State should assume *full financial* and *administrative* responsibility for the function of education. Complete freedom should be exercised by the State as to whether present schools should be operated, consolidated, or the children moved to other parts of the State for schooling. This program should be associated with that of removal of marginal lands from the field of private exploitation.

(2) In all other regions of the State the central government should assume *full financial* responsibility for the "minimum" educational offering. This responsibility should not be limited to providing current revenues but should be extended to include outlays as well. The standards should be set in objective terms, whenever possible, and the achievement of these ends should be made an administrative matter—not *equality of costs*, but *equally good facilities or opportunities*.

(3) The school unit should be made coterminous with a unit of local government determined by unified economic and social interests. This same principle applies in rural areas as well as city and metropolitan regions.

(4) The administration of school affairs should rest in the hands of the same officers charged with directing the policies of the community in all of its other common interests.

(5) Because a local governmental unit may appropriately maintain a common school, it does not follow that it can operate economically one of secondary rank. On the other hand, some urban communities might not only operate secondary schools, but institutions for advanced study as well. When local capacities have been fully exploited, the extent of their operations is determined. If a community cannot support a high school or a college, as the case may be, it then becomes an obligation of the State to provide such facilities through tuition arrangements or by direct maintenance of the necessary institutional facilities.

CHAPTER X

REVENUE ADMINISTRATION

Although providing revenue is not ordinarily considered to be functionally coordinate with highway building, health preservation, or provision of school facilities, there are, nevertheless, numerous characteristics obviating any basis for distinctive treatment. Procurement of trained personnel is equally as cogent in the divisions charged with tax administration as in any other department. Organization of operations so as to maximize economies is no less desirable in the assessment and collection of revenue than in rendering protection to persons and property, cleaning streets, or disposing of refuse. On the basis of number of employees required, revenue administration is by no means least in importance. Whether tax policies are wisely developed and uniformly executed are also matters of intricate and far-reaching social and economic concern. As government comes to command as much as 33.9 per cent of the national income,¹ it is a concern of the first order as to how a tax burden of such proportions is to be spread. Raising of revenue no longer involves just the question of appropriateness of method or equity of apportionment, but may also include problems of spreading the income stream through personal imposts laid at progressive rates, distribution of property rights through inheritance taxes, or organization of production through selective excise and classified *ad valorem* taxes.

In New York the importance of the divisions of government charged with the responsibility of assessing, equalizing, and collecting taxes is worthy of note because of the large number of persons engaged and the amount of money expended in the work. As a case in point, the State department of taxation and finance may be considered. In 1932 this division employed 1,642 persons and expended \$3,692,000.² The city of New York expended \$4,890,224 in 1932³ for the support of its finance and taxation department consisting of some 2,060 employees.⁴ All in all, there are probably no less than 71,000 elected taxing officials in New York.⁵ Revenue administration is also a ranking function so far as State and local relationships are concerned. In 1930 New York State gave to the localities a total of \$84,160,000 as shared revenues, a sum amounting to 24.3 per cent of the gross revenues of the central government and 9.5 per cent of all revenue receipts of the localities.⁶ Diminished

¹ Governmental expenditures, Federal, State and local, \$13,417,000,000 in 1932 (National Industrial Conference Board, *Cost of Government, 1923-1934* [New York, 1934], p. 3); see Table 4, p. 19 for national income.

² *Annual Report of the State Tax Commission, 1932*, p. 57.

³ *Annual Report of the Comptroller of the City of New York, 1934*, p. 7.

⁴ *New York Times*, December 12, 1932.

⁵ See *supra*, p. 147.

⁶ See Tables 5, 6, and 45, pp. 22, 31, 251.

as tax yields were during the depression, centrally collected revenues returned to local governments amounted to \$39,156,000 in 1934.¹

1. Division of Responsibility

The complexities of government's responsibility for the assessment, review, and collection of public revenues is as multifold as the agencies administering other functions of government. Assessments are made by the towns, villages, cities, counties, *ad hoc* districts, and the State. Duties of equalization, review, and collection rest on the same units that perform the assessment function. Standing over the whole of these operations is the court—an agency that at times becomes an important cog in the assessment and collection machinery. The principal taxes employed in the State, agencies responsible for their administration, and disposition of their proceeds are presented graphically in Figure 16.

ASSESSMENT

For a period extending over two hundred and seventy years, the town has been responsible for establishing a tax roll. The Duke's Laws of 1685 named the constable and over-seers as assessors, in 1691 special functionaries were provided,² and today assessors are elected or appointed in each New York town.³ Not long after the town was clothed with assessment prerogatives, similar powers were given to the cities. A revenue act of 1695 applicable to New York City named the taxing officials. By 1730 New York City's charter contained a provision relative to the election of assessors. Through statutory enactment similar provisions were made applicable to Albany and Hudson in 1733. Each of the sixty New York cities now possesses independent assessing organizations.⁴ Provision for village assessors was made in the special act of the Legislature in 1798 granting corporate privileges to Troy and Lansingburgh. Newburgh, organized in 1800, was given power to elect assessors, and the general village act of 1847 universalized the privileges granted in these earlier incorporations.⁵ School district trustees are authorized to assess taxes and issue their warrants to the collectors.⁶ Assessment duties were first assigned to the county in 1885 in connection with the administration of the inheritance tax

¹ See Table 6, p. 31.

² Cf. Table 16, p. 52.

³ Cf. Figure 6, p. 52.

⁴ Cf. Table 15, pp. 50-52.

⁵ Cf. Table 18, p. 129. In 1927 provision was made for villages to use the town roll (*Laws*, c. 659). However, it is still the practice for most villages to make independent assessments (*Annual Report of the State Tax Commission*, 1928, p. 155).

⁶ This note, in general, depends on the roll prepared by town assessors, the trustees making assessments only when necessitated by special circumstances (*Administration Law*, 1935, §§ 416, 417, 418).

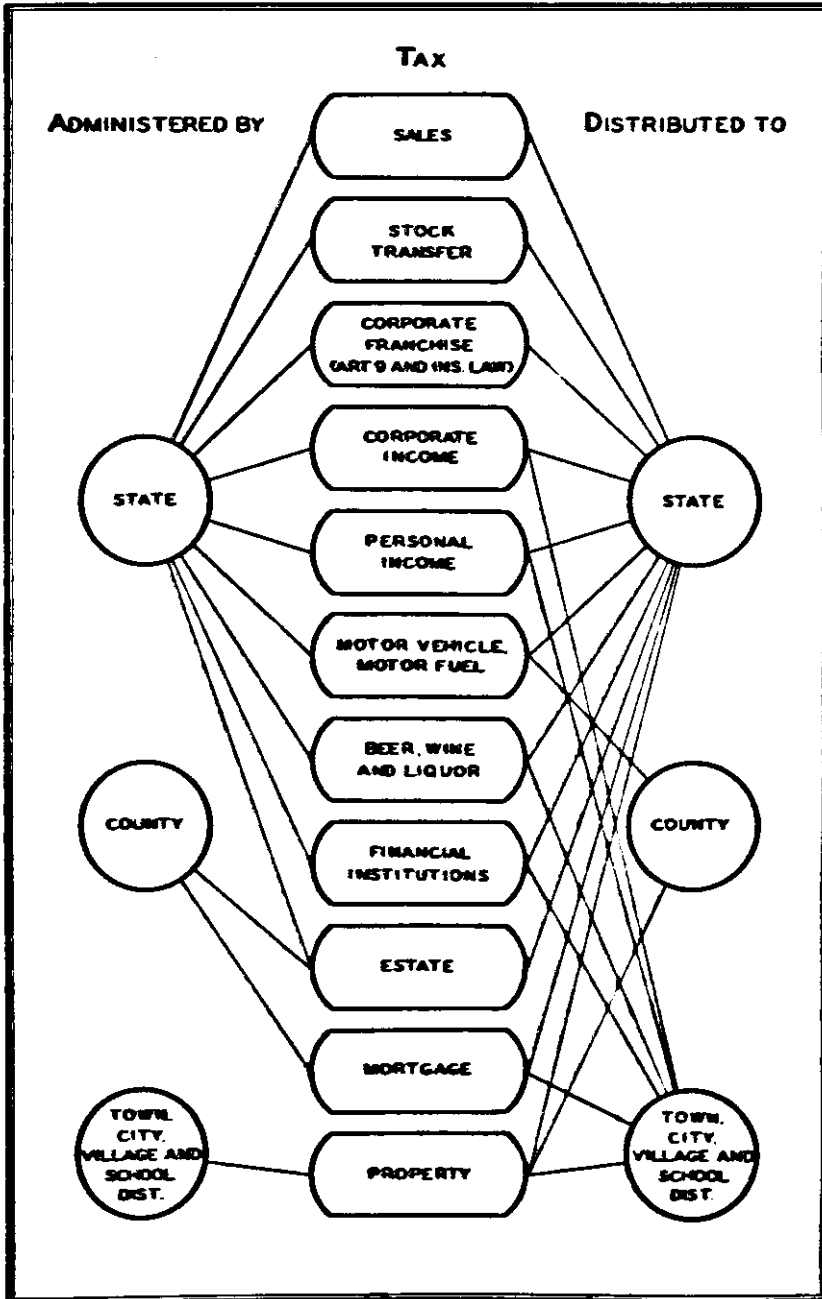


FIG. 16.—ASSESSMENT, COLLECTION, AND DISTRIBUTION OF TAXES IN NEW YORK STATE, 1924

The assessment of this tax still remains in the hands of county court officers.¹³ The mortgage registry tax, imposed as a result of removal of such intangibles from the general property tax, has been assessed by the recording officers of the counties since the time of its enactment.¹⁴

Taxes assessed by the State began to provide a sizable portion of the annual revenues after the development of corporate taxation in 1880.¹⁵ Subsequent to 1880 the accretion of State-administered taxes, each productive of a considerable amount of revenue, was rather constant.¹⁶ In addition to these major taxes, several minor licenses and taxes were enacted throughout the same period.¹⁷ The State tax commission now assesses nineteen taxes.¹⁸ Other State departments interested only incidentally in tax matters are responsible for the levy of minor imposita. For example, the secretary of

¹³ *Laws*, 1885, c. 483; cf. *Tax Law*, 1935, § 249-t.

¹⁴ *Laws*, 1906, c. 252.

¹⁵ *Ibid.*, c. 542. This act provided for the taxation of capital stock of all corporations, foreign and domestic, doing business in the State with the exception of savings banks, life insurance companies, foreign insurance companies, and manufacturing or mining corporations. Section 6 of the same act levied a tax on the gross earnings of transportation, telephone, and telegraph companies; and section 5 on the premiums of insurance corporations. In this same year premiums of life insurance became subject to taxation (*ibid.*, c. 534) and levies were made on the capital of foreign banks (*ibid.*, c. 596).

¹⁶ A corporation organization tax was provided in 1886 (*ibid.*, c. 143); license tax on foreign corporations, 1895 (*ibid.*, c. 240); liquor tax, 1896 (*ibid.*, c. 112); franchise tax on public utilities based on earnings, 1896 (*ibid.*, c. 908, § 186); special franchise taxes, 1899 (*ibid.*, c. 712); tax on trust companies and savings banks, 1901 (*ibid.*, chaps. 132, 117); motor vehicle license, 1901 (*ibid.*, c. 531); stock transfer tax, 1905 (*ibid.*, c. 241); corporate income tax, 1917 (*ibid.*, c. 726); personal income, 1919 (*ibid.*, c. 627); franchise tax on financial corporations and income tax on national banks, 1926 (*ibid.*, c. 296, §§ 219-q and 219-rr); motor fuel tax, 1929 (*ibid.*, c. 364); sales tax, 1933 (*ibid.*, c. 261); post-prohibition series of liquor taxes, 1933 (*ibid.*, chaps. 142, 808); and the unincorporated business tax of 1935 (*ibid.*, c. 23).

¹⁷ Secured debts (*ibid.*, 1911, c. 802); shellfish grounds (*ibid.*, 1912, c. 318, § 307); investments (*ibid.*, 1917, c. 707); real estate brokers and salesmen (*ibid.*, 1922, c. 672); billiard rooms (*ibid.*, 1922, c. 671); and filling stations (*ibid.*, 1932, c. 330).

¹⁸ Taxes now administered by the tax commission are: license, foreign corporations; franchise, domestic and foreign real estate corporations; franchise, transportation and transmission corporations; additional franchise, transportation and transmission corporations; additional franchise, elevated, subway, and surface roads not operated by steam; franchise on water, gas, electric or steam heating, lighting, and power companies; franchise, insurance corporations; franchise, holding corporations and agricultural cooperatives; franchise, savings banks (*Year Law*, §§ 181-89); franchise, domestic and foreign business corporations (*ibid.*, Art. 9-A); franchise, State banks, trust companies, and financial corporations (*ibid.*, Art. 9-B); income, national banks (*ibid.*, Art. 9-C); stock transfer (*ibid.*, Art. 12); motor fuel (*ibid.*, Art. 12-A); personal income (*ibid.*, Art. 16); unincorporated businesses (*ibid.*, Art. 16-A); beer, wine, and liquor (*ibid.*, Art. 16); registration of motor vehicles and licensing of operators (*Cubell's Consolidated Laws*, 1936, 64-a: 5, 11, 20).

State assesses the corporate organization fee¹⁹ and licenses of real estate brokers, real estate salesmen, and billiard rooms.²⁰ The superintendent of insurance makes an annual levy against foreign insurance corporations for the privilege of doing business in the State. This officer also makes a levy against underwriting profits on marine insurance.²¹ The levy against shellfish grounds is made by the department of conservation,²² and licenses for the manufacture and sale of alcoholic beverages are issued by the State liquor authority.²³

REVIEW AND EQUALIZATION

Ancillary to the work of assessment is that of review and equalization. As long as it is impossible for any assessing official to eliminate all inequalities from original appraisals, an agency must be provided to hear taxpayers' complaints and to scrutinize the tax roll. Inequalities may occur in placing proportionate values on various items of realty and personalty, properties may be omitted, or erroneous assessments made.

Since 1665 the town has provided some sort of machinery for hearing taxpayers' complaints. The Duke's Laws authorized justices of the peace to make abatements and in 1801 the assessors were named as a board to review their own work.²⁴ This arrangement still prevails except in those towns having one assessor, where the board consists of the justice of the peace, supervisor and the assessor.²⁵ The act of 1847 providing for the incorporation of villages indicated that the procedures for assessing and collecting taxes in the towns should be employed in the villages as well.²⁶ Village rolls are now reviewed by the trustees or a committee of the board meeting with the assessing officials.²⁷ In the principal cities of the State a variety of reviewing agencies is provided.²⁸

¹⁹ *Tax Law*, § 180.

²⁰ *Cahill's Consolidated Laws*, 1930, 51:441, 41:345.

²¹ *Ibid.*, 30:34 and 189-a.

²² *Ibid.*, 10:308.

²³ *Cahill's Supplement*, 1935, 2-a: 50-84.

²⁴ Cf. Table 10, pp. 50-51.

²⁵ Cf. Figure 6, p. 58.

²⁶ *Laws*, 1847, c. 426, § 33.

²⁷ *Cahill's Consolidated Laws*, 1930, 65:105.

²⁸ The officers charged with reviewing work in some of the cities are as follows:

Auburn	City manager, assessor, and corporation counsel.
Binghamton	Corporation counsel, director of finance, and city engineer.
Jamestown	Three members of council and two laymen appointed by mayor.
Lackawanna	Assessors.
Middletown	Appointed by mayor.
Mount Vernon ...	Comptroller, assessor, and president of common council.
New Rochelle	Appointees of mayor and director of finance.
New York	Board of taxes and assessments.
Niagara Falls ...	City comptroller, engineer, and assessor.

To the extent that school district trustees have authority to determine values they likewise have power to hear grievances and make revisions in their own valuations or those reported in the town assessment roll.²⁹ The county board may assume the prerogatives of a reviewing agency whenever the town officials fail to grant hearings as required by law.³⁰ In addition to the reviewing functions exercised by the town, county, village, city, and special districts, the power of the State to hear individual complaints through the courts must not be overlooked. After other remedies have been exhausted, a complainant may petition the supreme court to review an assessment as to legality, validity, or equality.³¹

An equitable spreading of the tax burden is as much dependent upon equalization as review. Various classes of property may receive differential treatment, and certainly subjecting two or more assessment areas to a common rate will inevitably lead to competitive undervaluation. The first attempt to overcome the inequities arising out of assessing property in various towns at differing proportions of its true value occurred in Ulster county in 1764. The act of this date provided that the assessors of the various towns were to meet and work out rules for calculating the true value of real and personal property.³² In 1816 the responsibility of equalizing the values established by the several towns was given to the board of supervisors. It is with this body that the duty still remains.³³ The matter of a rate for State purposes interested the central government in the problem of equalization at an early date. For a period of two years following 1799 the State named three commissioners in each county who were to make corrections for debasements in assessed values.³⁴ The State assumed appellate powers in matters of equalization in 1859 when the comptroller was authorized to hear complaints from any town or ward supervisor.³⁵ This duty, transferred to the State assessors in 1874, was finally

Poughkeepsie	Aldermen-at-large, commissioner of assessments, and corporation counsel.
Rochester	City council.
Rome	President of council, corporation counsel, and three assessors.
Troy	Commissioner of assessments, corporation counsel, treasurer, and comptroller.
Utica	Assessor, mayor, president of council, and chairman of council committee on taxation.
Watertown	City manager and corporation counsel.
White Plains	Appointed by mayor.
Yonkers	Corporation counsel, comptroller, and commissioner of taxation and assessments.

²⁹ *Education Law*, § 413.

³⁰ *Tax Law*, § 31.

³¹ *Ibid.*, § 290.

³² *Laws*, 1764, c. 1254, p. 809.

³³ *Laws*, 1816, c. 204; *Tax Law*, § 50. On action of the supervisors, the duty may be delegated to a board of three members (*ibid.*, § 51).

³⁴ *Laws*, 1799, c. 72.

³⁵ *Ibid.*, 1859, c. 312, § 13.

lodged in the tax commission at the time of its creation in 1896.³⁶ This agency still is authorized to hear appeals from equalizations made by a board of supervisors.³⁷

Equalization on a county-wide basis was first attempted in 1859 when a State board was created for this purpose.³⁸ The tax department, organized in 1915,³⁹ took over the duties of this earlier agency and for a period of time was particularly aggressive in assembling data essential to the solution of equalization problems.⁴⁰

COLLECTION

Provision for the collection of taxes is in as great a welter as that of assessment and review. Towns, villages, cities, *ad hoc* districts, counties, and the State—each collects one or more taxes. It is entirely possible that a village dweller wishing to pay his annual tax bill will find it necessary to locate three or four tax receivers—the school district collector for school taxes, the village collector for village levies, the town collector for general town, county, and State levies, and if his property happens to fall within the bounds of a special district, still another collector may have to be sought. There are in the State today no less than 10,972 collectors outside Westchester and Nassau counties.

This army of officials is scattered through 55 counties with an average density of more than 12 [collectors] per town. In spite of its size, this army is responsible for the collection of only about one-sixth of the property taxes levied for all purposes within the state. The remaining five-sixths are collected in less than 200 city, county, town and village offices.⁴¹

The policy of delegating collection duties to the various types of governments is as old as the units themselves. For example, the Duke's Laws of 1665 delegated collection duties to the constable. These officers continued to perform this duty over a period of twenty-six years until specially elected functionaries were provided.⁴² When the villages of Newburgh, Troy and Lansingburgh were incorporated collectors were included in the list of officers to be elected. The first general village act passed in 1847 followed the procedure established in special legislative acts of fifty years earlier.⁴³ The act of 1695 giving New York City authority to raise certain taxes named a collector. The charter of 1730 applicable to this same city provided for the election of collectors. In 1788

³⁶ *Ibid.*, 1874, c. 351; *ibid.*, 1896, c. 908, § 174.

³⁷ *Tax Law*, § 175.

³⁸ *Laws*, 1859, c. 312.

³⁹ *Ibid.*, 1915, c. 317.

⁴⁰ For the history of equalization among counties by the State, see National Institute of Public Administration, *op. cit.*, Memorandum No. 3, pp. 36 ff.

⁴¹ *Ibid.*, Memorandum No. 12, pp. 10-11.

⁴² Cf. Table 10, p. 50.

⁴³ Cf. Table 18, p. 120.

tax collectors were provided for in Hudson and Albany.⁴⁴ Chapter six of the colonial laws establishing the county board of supervisors authorized this body to appoint a treasurer.⁴⁵ Special collectors of taxes laid for educational purposes have existed since the formation of the district system in 1812.⁴⁶ In the case of the State, the date marking its entry into the field of revenue administration is more recent than that of local governments. True enough the central government had collected a few licenses as early as 1784,⁴⁷ but these sources of revenue were utterly inadequate to meet the budget requirements associated with the years following 1850. From the middle of the century until the State began to administer the capital stock tax in 1880, property taxes constituted the backbone of the State's fiscal system. The addition of other State-administered taxes not only reduced the importance of property tax levies as a source of State revenue, but has now obviated the necessity for a State rate. So important has the State now become as a fiscal machine that the whole flow of revenues has been reversed. Instead of the localities collecting and paying over to the State, the central government collects and redistributes to the various political subdivisions. Table 42 indicates the extent of this development over a period of thirty-five years. In 1934 the State collected 28.1 per cent of all tax revenues, both State and local.

Out of these historical antecedents the prevailing arrangements for the collection of property taxes have evolved. The town collects taxes for its own purposes, the county, State, and special districts. The village collects only taxes levied for village purposes. School and other *ad hoc* districts make no collections other than their own. A variety of inter-governmental arrangements prevails in urban centers. In New York City, Albany, Cohoes, Watervliet, and Yonkers one consolidated tax bill is sent to each taxpayer; Buffalo and Rochester collect city and school taxes, while the respective counties collect State and county taxes; Lackawanna collects local, county and State taxes on one roll, but bills the State and county levy separately from the city and school tax; Niagara Falls and Watertown send three separate bills; Ithaca collects taxes on three separate rolls at three different periods.⁴⁸ The county, through the recording officer, collects the mortgage registry tax and in those counties without salaried appraisers the county treasurer collects all taxes paid on resident estates.⁴⁹ Arrangements have also been made whereby the county may receive current tax payments from utility companies.⁵⁰ The county

⁴⁴ Cf. Table 15, pp. 83-84.

⁴⁵ Cf. Table 11, p. 71.

⁴⁶ *Laws*, 1812, c. 242.

⁴⁷ Auction duties.

⁴⁸ National Institute of Public Administration, *op. cit.*, Memorandum No. 12, pp. 8-9.

⁴⁹ *Fee Law*, §§ 257, 249-a.

⁵⁰ *Ibid.*, § 73.

TABLE 42

COMPARISON OF STATE-COLLECTED TAXES WITH TOTAL STATE AND LOCAL TAX REVENUE, 1900-1934*

(Thousands)

YEAR	State- Collected Taxes	Total State and Local Tax Revenue	Per Cent Collected by State
1900.....	820,252	\$138,818	14.6
1901.....	21,935	147,301	14.9
1902.....	22,128	165,099	13.4
1903.....	23,947	176,861	16.4
1904.....	30,190	191,778	15.8
1905.....	21,514	202,064	15.6
1906.....	30,012	238,220	17.2
1907.....	29,791	252,140	15.8
1908.....	28,910	277,174	14.0
1909.....	31,925	.....	.....
1910.....	42,803	249,890	17.1
1911.....	30,344	235,128	13.8
1912.....	47,751	276,297	17.3
1913.....	48,171	335,511	14.4
1914.....	46,165	296,030	16.1
1915.....	44,729	295,345	15.1
1916.....	42,506	320,038	13.3
1917.....	63,712	348,817	18.3
1918.....	75,074	394,514	19.0
1919.....	84,045	431,230	20.0
1920.....	128,353	496,050	25.3
1921.....	135,191	501,496	22.9
1922.....	118,401	594,711	20.2
1923.....	127,832	622,937	20.5
1924.....	133,977	673,642	19.9
1925.....	160,207	728,124	22.0
1926.....	175,518	794,974	22.1
1927.....	206,611	874,302	23.6
1928.....	237,773	970,617	24.5
1929.....	290,317	1,056,497	27.5
1930.....	340,231	1,145,458	29.7
1931.....	291,917	1,121,973	26.0
1932.....	249,342	1,034,957	23.0
1933.....	246,507	964,790	25.0
1934.....	295,192	1,050,169	28.1

* Based on Tables 43 and 45, pp. 244-45, 251.

† Data on general property taxes not available.

treasurer also collects all delinquent property taxes.⁵¹ The State collects all those taxes mentioned in the section dealing with assessments.⁵²

2. State and Local Relationships Arising out of Revenue Administration

The central-local relationships that have evolved out of administering the revenues needed for the support of government are indeed numerous. There have been times when the State denied certain of its political subdivisions the power to levy taxes. When authority to tax is given, usually the maximum amounts or rates are stipulated. Procedures to be followed in borrowing funds are likewise rather minutely drawn by the central government. Not

⁵¹ *Ibid.*, § 82.⁵² See *supra*, pp. 233-34; special franchise taxes are locally collected; cf. Tables 43 and 45, pp. 244-45, 251.

only are tax and debt limits established, but the central government has laid down rules governing the keeping of public accounts and the reporting of fiscal statistics. Any tyrannical propensities that local assessing or reviewing officials might have are definitely limited by action of the courts. Gross inequalities resulting from work of equalization boards may be corrected by the tax commission. When the revenues derived from excises were inadequate to meet State budgetary needs, the local taxing machinery was utilized for the raising of additional funds. Not long after the era of corporate taxation was opened the State began to share with the localities a portion of the revenues derived from these sources.

TAX AND DEBT LIMITS

The State has always been somewhat chary about granting general powers of taxation to its political subdivisions. To mention the name of New York City calls to mind the long struggle this municipality experienced before the requirement of legislative approval of the annual tax bill was abandoned. Even the town and county, units of government considered to be notably more "honorable" than the city, as late as 1800 could levy taxes only within narrowly prescribed limits. For example, in 1800, \$500 was the maximum tax that could be levied in any one year for the construction of a county jail;⁵³ from 1801 to 1832, \$250 was set as the limit for town highways;⁵⁴ and in 1847, \$2.00 per capita was set as the maximum levy for the construction of a town house.⁵⁵ Outside of the limitations imposed as to the amounts that may be levied for specific purposes,⁵⁶ the only general law bearing on tax limits is the 2 per cent rate applicable to villages.⁵⁷

The first constitutional limitation on taxes was indirect in character in that the Legislature was authorized to "provide for the organization of cities and incorporated villages, and to restrict their power of taxation, . . ."⁵⁸ While not pertaining to amounts of credit, the character of local loans was fixed by constitutional mandate in 1874. An amendment of that date prohibited local governments from incurring any indebtedness except for strictly public purposes.⁵⁹ The first direct constitutional limitation on property levies appeared in 1884. County and city levies

⁵³ *Laws*, 1800, c. 9.

⁵⁴ *Ibid.*, 1801, c. 186, § 23.

⁵⁵ *Ibid.*, 1847, c. 197.

⁵⁶ Cf. *Highway Law*, 1935, § 94.

⁵⁷ The *Village Law*, § 111-a states: "The amount of such budget after deducting funds on hand and funds to be received by the village other than by general village tax and also deducting the amount of the indebtedness of the village lawfully contracted and any proposition adopted by the electors which will become due and payable during the current fiscal year, shall not exceed two per centum of the total valuation of taxable property as shown on the assessment roll of such village."

⁵⁸ *Constitution*, 1846, Art. VIII, § 9, and *ibid.*, 1894, Art. XII, § 1.

⁵⁹ Amending Art. VIII, § 11; cf. *ibid.*, 1894, Art. VIII, § 10.

in all cities of 100,000 and over and the counties containing such cities were limited to 2 per cent of the assessed valuation, exclusive of debt charges. This limitation is still operative.⁶⁰

The prerogative given to the Legislature in the Constitution of 1846 and repeated in the present instrument relative to restricting taxes and debt has been exercised chiefly in limiting the latter.⁶¹ The first general act providing for the incorporation of villages in 1847 limited borrowing to anticipation of taxes.⁶² Limitations expressed as a percentage of assessed value were imposed on cities and villages in 1853.⁶³ Counties and towns were included in a percentage limitation act of 1892.⁶⁴ Limitations are now imposed on cities by statutory provisions found in the Second Class Cities Law, General Municipal Law and General City Law; on counties by provisions in the County Law; and on villages, towns and school districts by their respective laws. These measures cover not only debt limits, but they also, in many instances, prescribe the type of bond, maturity, interest rates, etc.⁶⁵ The first debt-limitation clause to be written in the Constitution appeared in 1884 and was applicable only to cities of 100,000 population and counties containing these cities.⁶⁶ In 1894 the provision was extended to all cities and counties in the State exempting certain classes of debt. Under the Constitution as it is now drawn, the borrowing power of all cities, counties, villages and towns is restricted to 10 per cent of the assessed valuation.⁶⁷

SUPERVISION OF LOCAL ACCOUNTS

No system of central fiscal control can be any more effective than the completeness of the records on which its operations are based. At the present time the State through one or more of its departments may scrutinize the fiscal operations of either a city, village, county, town, or any agency authorized to receive funds in which the State has an interest. Steps were first taken in this direction by amending the Code of Civil Procedure in 1892.⁶⁸ As a result of this change the supervision of court and trust funds was transferred from the various courts to the State comptroller who was required to designate depositories for the funds and to conduct an examination of the accounts. Central reporting of financial sta-

⁶⁰ *Ibid.*, 1884, Art. VIII, § 11; cf. *ibid.*, 1894, Art. VIII, § 10.

⁶¹ *Ibid.*, Art. XII, § 1.

⁶² *Laws*, 1847, c. 426.

⁶³ *Ibid.*, c. 603. This act, including all cities and villages, was repealed in 1892 (*ibid.*, c. 685, § 2) and in its place the substitute measure included only cities of over 100,000 population and counties containing such cities. Villages were again included in 1897 (*ibid.*, c. 414, § 130).

⁶⁴ *Ibid.*, c. 686, § 13.

⁶⁵ For further restrictions recently imposed cf. *Laws*, 1936, c. 509.

⁶⁶ Amending Art. XIII, § 11.

⁶⁷ Art. VIII, § 10. These limitations usually exclude debt incurred for providing water supply, tax anticipation warrants, and special assessments.

⁶⁸ *Laws*, c. 651.

tistics by local governments was first instituted in New York in 1905.⁶⁰ The act as drawn at that time included all counties (except Greater New York), cities of the second and third classes and the larger villages.⁶¹ In 1907 all incorporated villages were required to file reports relative to receipts and disbursements;⁶² the towns of the State were included for reporting, examination and supervision in 1911;⁶³ and in 1920 the system was extended to include the accounts of a city or union free-school district having a population of 5,000 or more.⁶⁴ At the time compulsory reporting was provided the duty of furnishing forms essential for the reports was placed upon the bureau of municipal accounts. In addition to outlining the form of the report this same agency was authorized to audit municipal accounts. The short experience of two years indicated definitely that the degree of success to be achieved in both reporting and fiscal regularity depended on the adequacy of original books of entry. Formulations of systems of account became a duty of the State in 1907.⁶⁵ By 1913 provision was made for standardization of town accounts and uniform systems set up for use in second-class cities.⁶⁶ An accounting system for third-class cities was formulated for installation in 1916,⁶⁷ and for villages in 1925.⁶⁸ An amendment requiring all authorized agencies to file reports on funds received in which the State had any interest was passed in 1919. For this purpose the position of auditor of revenues was created and a system of monthly reports inaugurated requiring all courts and magistrates to report the fines and penalties collected for the State.⁶⁹ An examination of the rent accounts kept by the clerks of the twenty-six municipal courts embraced in the city of New York was required of the bureau in 1921.⁷⁰

The bureau of town highways, formerly a part of the department of public works, was placed under the direction of the bureau of municipal accounts in 1924, and additional examiners were employed to audit the highway accounts of supervisors and town superintendents of highways. The preparation of new forms and supervision of the county road fund were undertaken in 1930.⁷¹

The extent of progress made by the bureau is indicated, among other things, by the number of examinations conducted and yearly reports received. During the year following the enactment of the

⁶⁰ *Ibid.*, c. 705.

⁶¹ Villages having a population of 3,000 or more.

⁶² *Laws*, c. 215.

⁶³ *Ibid.*, c. 544.

⁶⁴ *Ibid.*, c. 838. Reports by New York City, Buffalo and Rochester are made voluntarily.

⁶⁵ *Ibid.*, c. 215.

⁶⁶ *Annual Report of the Comptroller*, 1913, pp. xxvii f.

⁶⁷ *Ibid.*, 1917, pp. xx f.

⁶⁸ *Special Report of the Comptroller on Municipal Accounts*, 1925, p. x.

⁶⁹ *Laws*, 1919, c. 306.

⁷⁰ *Ibid.*, c. 434.

⁷¹ *Annual Report of the Comptroller*, 1929, p. xxv; cf. *Highway Law*, §§ 17, 18, 108.

law, one county and two villages were examined; in 1910, 25 examinations were made;⁶¹ and the report for 1932 shows 91 examinations completed and 39 in process. In 1907 only 518 municipalities reported, while in 1932 there were 1,581 reports received.⁶² It was not until 1920 that the *Special Report of the Comptroller on Municipal Accounts* contained data for all the municipalities from which reports were required.⁶³

The wisdom of establishing the bureau has been thoroughly substantiated, principally by the fact that it has been instrumental in recovering large sums of money for the municipalities due either to speculation or to a misunderstanding of the law on the part of local officials. For the year 1932 alone—twenty-seven years after the system of examination was inaugurated—\$362,000 out of a total of \$791,000 of misappropriated funds was recovered. These amounts were spread among thirty-one municipalities.⁶⁴

The bureau not only conducts examinations and installs systems of accounting, but also gives advice on the administration of local duties. The highway examiners hold conferences with local officials to instruct them in highway accounting, law and finance. The bureau determines the amount of State aid apportioned to the towns and counties each year for highway purposes.⁶⁵ It has also "become a legal clearing house through which statutes, court decisions, opinions of the Attorney General, local laws and ordinances and opinions of the Director of the Bureau on legal and accounting matters are disseminated throughout the state."⁶⁶

ASSESSMENT AND COLLECTION

As long as the State was able to meet its revenue needs chiefly from excise taxes and duties, the interest manifested in assessment and collection of local taxes was very meager. However, when indirect taxes were inadequate, it was natural that the State should utilize the established machinery of local tax administration.⁶⁷ In adapting local fiscal devices to provincial uses, some sort of control was necessary. This needed supervision was supplied at first by making officers of the central government responsible for seeing that the work was done. The first general tax act passed in 1683 named commissioners who were to assist the local officials and serve as a board of review.⁶⁸ In 1691 central supervision was still retained, but the oversight was given to the justices of the peace

⁶¹ *Annual Report of the Comptroller*, 1911, pp. 53 f.

⁶² *Ibid.*, 1932, p. xxx.

⁶³ *Ibid.*, 1921, p. xxiii; see *supra*, p. 241, footnote 73.

⁶⁴ *Special Report of the Comptroller on Municipal Accounts*, 1932, pp. ix f.

⁶⁵ *Highway Law*, §§ 103, 320-b.

⁶⁶ *Special Report of the Comptroller on Municipal Accounts*, 1932, p. viii.

⁶⁷ The Duke of York's Laws provided that assessments were to be made by the constables and eight overseers of the parish proportionately to the estate of the inhabitants (*Colonial Laws*, I, 14).

⁶⁸ *Ibid.*, 1683, c. 14.

and to the mayor and aldermen in New York City and Albany.⁸⁹ The work was completely surrendered to local officials in 1728 when apportionment and management was taken from the justices and given to the elected supervisors.⁹⁰ The supervision exercised after the work was placed in the hands of the county consisted of requiring the use of prescribed forms,⁹¹ and in the appointment of county commissioners to supervise assessments and make necessary equalization.⁹²

The enactment in 1851 of the \$800,000 school tax so increased the magnitude of the State levy that it was necessary to equalize the values established in the various counties. This duty was placed on the State board of equalization created in 1859.⁹³ Three members of the board known as assessors were to visit every county at least once in two years and gather data as a basis for its equalization decisions. Reports prepared by special commissions⁹⁴ plus the pleas of the State assessors urging the broadening of supervisory authority led to the creation of a new agency—the tax commission—in 1896.⁹⁵ Its original powers included the investigation of assessment methods, supplying local assessors with information, and the drafting of rules necessary to enforce the provisions of the act. Subsequent growth of supervisory power has been only nominal. General powers of the commission have been broadened to include the development of rules for keeping and revising tax maps, conducting of research, preparation of assessment forms and reports, the compilation of statistics relating to taxation, and the conducting of meetings for assessors and supervisors.⁹⁶ Powers formerly exercised by the assessors relative to equalization fell upon the commission when it came into existence. This body may now, on its own motion or on complaint, review the work of county equalization boards.⁹⁷ The most salient work performed by the central government affecting matters of local equalization policy have come about indirectly. In 1916 the tax commission was charged with the responsibility of gathering data on assessed to full value as a basis for equalizing special franchise assessments.⁹⁸ These data have in many instances been adopted voluntarily by county boards as a basis for adjustments between the various towns.⁹⁹ Such

⁸⁹ *Ibid.*, 1691, c. 8. Mayors and justices of the peace were considered State officers at this time.

⁹⁰ *Ibid.*, 1728, c. 530.

⁹¹ *Laws*, 1804, c. 94, p. 622.

⁹² *Ibid.*, 1799, c. 72. This act was rendered obsolete in 1801 (*ibid.*, c. 179).

⁹³ *Ibid.*, c. 312.

⁹⁴ The investigating committee of 1871 was known as the tax commission.

⁹⁵ *Laws*, c. 908, §§ 170-72.

⁹⁶ *Tax Law*, §§ 23, 171, 171-d.

⁹⁷ *Ibid.*, § 177.

⁹⁸ *Laws*, 1916, c. 334.

⁹⁹ Cf. *Annual Report of the State Tax Commission, 1934, Table 33*. More than half of the counties apparently adopted the assessment ratio as found by the tax commission.

TABLE 43
 SOURCES OF TAX REVENUE FOR NEW YORK STATE, 1900-1934 (EXCLUSIVE OF SHARED TAXES)
 (Thousands)

YEAR ENDING	General Property *	Organization and Foreign License	Capital Stock, General	Capital Stock, Public Utility	Gross Earnings, Public Utility	Insurance, Foreign and Domestic	Financial Corporations	Business Corporations	Estates *	Stock Transfer	Secured Debts and Investment *	Personal Income	Mortgage *	Liquor Excise	Motor Vehicle License	Motor Fuel	Miscellaneous License *	Total	Year
1900.....	\$9,550	\$387	\$543	\$601	\$1,209	\$338	888	.....	\$4,335	.....	.....	.....	.....	\$4,236	.....	.....	\$95	\$30,409	1900
1901.....	6,706	310	464	834	1,178	331	2,321	.....	4,085	.....	.....	.....	.....	4,108	\$1	.....	103	30,441	1901
1902.....	2,708	499	583	814	1,387	304	2,474	.....	3,304	.....	.....	.....	.....	4,222	.....	.....	140	16,436	1902
1903.....	639	419	695	820	1,326	292	2,908	.....	4,666	.....	.....	.....	.....	3,815	.....	.....	181	21,071	1903
1904.....	943	251	755	964	1,568	325	3,643	.....	5,428	.....	.....	.....	.....	9,040	14	.....	211	22,142	1904
1905.....	1,153	286	730	965	1,495	762	2,802	.....	4,027	\$1,227	.....	.....	.....	9,163	28	.....	201	23,566	1905
1906.....	1,463	516	910	1,020	1,855	1,135	3,103	.....	4,713	6,632	.....	.....	\$431	9,437	35	.....	201	31,446	1906
1907.....	218	438	1,103	1,208	1,739	1,430	3,304	.....	5,435	5,576	.....	.....	2,442	9,698	45	.....	216	32,851	1907
1908.....	363	232	1,240	1,178	2,110	1,590	3,117	.....	6,606	2,907	.....	.....	1,667	9,359	54	.....	247	31,645	1908
1909.....	330	369	1,236	988	2,018	1,540	3,077	.....	6,903	2,356	.....	.....	1,845	5,141	82	.....	65	29,000	1909
1910.....	830	518	1,311	1,136	2,152	1,667	3,290	.....	8,412	4,635	.....	.....	1,932	9,590	879	.....	19	35,565	1910
1911.....	226	393	1,397	1,271	2,172	1,813	3,517	.....	3,153	2,500	.....	.....	1,788	7,832	398	.....	2	32,464	1911
1912.....	6,327	512	1,491	1,356	2,505	1,899	3,509	.....	12,183	3,653	\$1,412	.....	1,852	9,412	1,054	.....	2	47,137	1912
1913.....	11,184	830	1,717	1,463	2,538	2,105	3,470	.....	12,724	2,928	1,168	.....	1,648	9,361	1,268	.....	28	52,202	1913
1914.....	7,701	456	2,101	1,395	2,817	2,304	3,581	.....	11,162	2,057	.....	.....	1,391	9,280	1,528	.....	35	46,517	1914
1915.....	971	492	2,070	1,150	2,642	2,360	3,658	.....	8,264	3,859	1,017	.....	1,552	9,099	1,857	.....	27	38,658	1915
1916.....	19,986	979	2,090	1,035	1,263	2,367	103	.....	5,984	4,866	430	.....	910	12,667	2,125	.....	36	54,831	1916
1917.....	2,748	1,317	3,243	1,470	3,044	3,093	4,098	.....	13,792	7,787	817	.....	1,183	12,685	2,026	.....	34	87,331	1917
1918.....	13,203	878	1,418	1,306	2,234	2,973	4,480	\$9,589	11,433	3,312	1,399	.....	940	11,045	2,678	.....	26	70,891	1918
1919.....	15,068	379	1,463	1,226	2,201	4,911	4,670	13,550	13,340	6,989	853	.....	920	5,487	2,510	.....	31	74,995	1919
1920.....	15,058	2,261	807	1,112	3,228	5,234	5,108	19,868	21,260	10,649	162	\$16,500	2,269	2,040	4,214	.....	28	109,385	1920
1921.....	26,795	1,525	1,317	927	3,678	6,242	4,807	39,517	18,136	7,106	.....	18,250	2,413	234	8,299	.....	172	139,518	1921
1922.....	22,892	1,374	1,256	1,240	4,497	5,032	4,961	21,991	15,385	7,709	.....	14,900	2,785	21	10,652	.....	297	116,111	1922
1923.....	21,403	2,965	1,717	1,441	4,657	5,775	6,714	18,051	17,786	8,573	.....	17,900	3,672	6	13,279	.....	563	121,505	1923
1924.....	24,321	1,597	2,002	1,686	5,402	5,954	6,883	20,478	19,369	7,078	.....	9,683	5,061	1	13,828	.....	642	138,588	1924
1925.....	27,949	1,973	2,760	1,663	5,719	7,092	7,924	24,972	23,585	12,303	.....	10,491	5,042	1	19,324	.....	611	151,339	1925
1926.....	30,296	3,739	2,256	1,919	6,387	7,718	8,591	23,622	22,223	18,201	.....	14,406	6,175	.....	21,607	.....	760	165,368	1926
1927.....	22,667	3,163	4,611	1,920	6,864	8,529	9,569	29,762	24,480	18,649	.....	26,259	6,351	.....	23,967	.....	784	184,595	1927
1928.....	24,829	2,594	4,126	2,440	7,188	8,606	4,564	29,553	35,566	22,246	.....	31,434	8,865	.....	25,471	.....	770	206,260	1928
1929.....	14,650	6,966	3,816	2,264	7,069	10,173	4,626	28,472	47,155	32,680	.....	41,760	5,732	.....	28,817	.....	726	236,178	1929

1900	1,048	6,616	6,081	3,367	7,411	10,379	4,913	30,360	30,360	26,061	.....	40,947	9,319	30,360	618,808	769	161,713	1900
1901	3,096	3,023	3,013	3,033	8,668	10,767	3,323	40,319	48,848	30,664	.....	19,747	3,023	30,770	33,771	689	337,343	1901
1902	3,346	1,943	3,754	4,033	8,908	10,316	3,547	37,941	48,777	17,033	.....	19,473	3,394	30,319	34,315	673	304,713	1902
1903	3,104	303	3,940	3,371	8,673	9,313	1,613	30,941	34,033	31,371	.....	34,379	1,033	31,433	36,938	631	310,610	1903
1904	3,723	737	3,131	3,829	7,644	8,081	3,723	15,369	33,038	26,373	.....	37,343	380	30,828	34,034	739	343,808	1904

* Data for 1900-1908 taken from *Report of the New York State Comptroller for the Debitors of the Tax Laws (1903)*, pp. 85-88. Subsequent years compiled on same basis from *Annual Report of the State Tax Comptroller, 1904*, Tables 3 and 7, supplemented in the case of general property tax and miscellaneous licenses by *Annual Report of the Comptroller, 1904*, p. 378. A tax has been taken to be any tax or license levied on a tax by either the State tax commission or State comptroller.

† Family entitled.
 ‡ Excessly administered by State and counties.
 § From 1912 to 1916 covered debts; 1917 fish; 1918-1920 ferretments.
 ¶ Includes medals, racing commissions, motion pictures, billiards, real estate dealers, betting matches, shellfish growers, and filling stations.

powers as the commission has with respect to ordering reassessments were acquired in 1915.¹⁰⁰ The effective power of the commission in correcting unsatisfactory assessment conditions is in reality limited to such action as the supreme court justice may be inclined to take. Control over assessing personnel is virtually nil. If an assessor refuses to perform his duties properly the tax commission may issue an order directing the offender to mend his ways. Further action, however, is dependent upon the justice of the supreme court who may issue an order directing the recalcitrant official to comply with the law.¹⁰¹

Expansion of revenue activities subsequent to 1850 included not only the supervision of property assessments but the development of new sources of revenue as well. In fact, the corporation tax enacted in 1880 marked the beginning of State independence so far as receipts from property taxes are concerned. In that year property taxes accounted for practically the whole of the State's receipts. Twenty years later, however, of the total tax revenue amounting to \$20,402,000 only \$8,550,000, or 42 per cent, came from this source. From 1906 to 1910, in 1916 and from 1929 to 1935, no property tax levy was made for State purposes.¹⁰² The sources of State revenues for the years 1900 to 1934 inclusive are set forth in Table 43. So far as central-local relationships are concerned this development of corporate taxation represents more than a mere desire on the part of the State to develop independent sources of revenue. It is a capital example of assumption by the central government of a task no longer commensurate with local capacities. A corporate entity is to most local assessors a nebulous and formidable concept. Even if the form of organization were perfectly understandable, the geographical spreading of tangible properties and the frequently large values attributable to intangible items create a situation too formidable for any official representing a taxing jurisdiction as small as a town.

SHARING OF CENTRALLY COLLECTED REVENUES

Central-local relationships in revenue administration took on still another hue with the turn of the twentieth century. The State began to share with the localities a portion of its revenues. The adoption of this policy may have been due to various factors. Without doubt administrative competence was largely responsible for the intervention of the State. In addition to this element such matters as "rights" to revenues removed from

¹⁰⁰ *Law*, 1915, c. 317.

¹⁰¹ *Fac Law*, §§ 173-a, 173-b.

¹⁰² The amounts shown for these years in Table 43 are proceeds from the army, and court and stenographer taxes.

local utilization, political expediency, or the difficulty of equitably distributing aids in accordance with a formula may all have contributed to giving shared revenues the place of importance it now holds.

Revenue sharing was first introduced in 1896 when the State became interested in the administration of liquor taxes.¹⁰³ The policy of sharing was further developed in 1916 when provision was made to return a portion of the motor vehicle tax to the counties to be distributed among the towns for highway purposes.¹⁰⁴ Following the development of sharing the motor vehicle license tax a franchise tax on the income of certain incorporated businesses was imposed in 1917 with a division between the State and the localities in the ratio of two to one.¹⁰⁵ With minor excep-

¹⁰³ *Laws*, c. 112. The degree of central administrative control exercised with respect to this tax appears to be sufficient to warrant classing it as State administered. The State maintained a corps of officers to supervise directly the work of local officials, and in all counties containing a city of the first class, the State commissioner appointed a special deputy to assume responsibility for administering the tax. The State commissioner was authorized to provide the forms and records of accounts and require their use by all county and deputy collectors. Special agents were also appointed to investigate matters relating to the collection of the tax and to secure compliance with the law.

¹⁰⁴ *Ibid.*, c. 577. With a few alterations, this plan is still in operation. The share due the localities was reduced from one-half to one-fourth in 1919 (*ibid.*, c. 622), and since 1930 the receipts have been given to the county road fund (*ibid.*, 1929, c. 362). The only municipality receiving a share of the registration fees is New York City. Payments made to this unit are not earmarked for highway purposes, but are available for general fund purposes.

¹⁰⁵ *Ibid.*, c. 726. The various franchise taxes are now allocable on the following bases:

(a) Franchise tax on business corporations. After two-thirds of the receipts from this tax has been credited to the general fund of the State, the remainder is distributed to the counties to be further divided among the several taxing jurisdictions. If the corporation owns tangible personalty, its relative distribution throughout the State provides the basis on which county apportionments are made. If no tangible personalty is owned then payment is made to the county containing the principal place of business. In making payment to a county the comptroller is required to indicate the portion to be paid to a city or town. If situs of payment falls within the limits of a village, the proceeds are divided between the village and town in the same ratio that the aggregate taxes of each bear to the total raised for town and village purposes (*Tax Law*, § 219-h).

(b) Franchise tax on State banks, trust companies and financial corporations. With the exception of New York City and Buffalo the receipts derived from corporations falling in this class are returned to the county where collections are made. Apportionments are made among the several taxing districts within the counties on the basis of assessed valuation. Revenues derived from foreign corporations are devoted to State purposes exclusively (*ibid.*, §§ 219-mm, 219-nn).

(c) Franchise tax on income of national banks. The method used in distributing the revenues derived from domestic financial institutions is applicable to this category (*ibid.*, § 219-bbb).

tions, this revenue is available for general town purposes.¹⁰⁶ A personal income tax was added in 1919 and was first made available to the localities in 1920. Originally shared on a fifty-fifty basis, the local share has now been reduced to less than one-fourth of the total tax.¹⁰⁷ At the present time, the proceeds are distributed to the cities, towns, villages, and sometimes school districts in such proportions as the assessed value of their real estate bears to the total in the State. The experience of central administration of the motor vehicle tax, corporate income tax, and the personal income tax was sufficiently satisfactory to extend the practice from year to year, the last tax being added in 1933. In 1922 licenses were required of all billiard rooms, real estate brokers, and real estate salesmen. Proceeds from these sources are divided equally between the State and the localities contributing.¹⁰⁸ In 1926 a franchise tax was levied on financial institutions measured by net income. Of all the State-shared taxes, this is the only one where the receipts are returned *in toto* to the localities.¹⁰⁹ The motor fuel tax was added in 1929,¹¹⁰ and the liquor tax in 1933.¹¹¹ The motor fuel tax provides the only instance of a centrally collected tax shared with county governments. The State retains 75 per cent, 5 per cent goes to New York City, and the balance is distributed among the remaining counties on the basis of certain highway mileage.¹¹² Proceeds from beer and liquor taxes are shared equally with the central government and the localities. Distributions are made to the cities, towns, and villages largely on the basis of population.¹¹³

A program of revenue sharing plus subventions for highways, schools, libraries, farm and home bureaus and junior extension workers, health, physically handicapped children, reforestation, emergency relief and old-age security¹¹⁴ must necessarily have affected the fiscal operations of local governments in several respects. One of the most obvious modifications is the change

¹⁰⁶ *Ibid.*, § 219-h (7-8). In Onondaga county, one-third of the town receipts must be turned over to the school districts and in the town of Greenport in Columbia county, one-third is to be given to the several water districts.

¹⁰⁷ *Laws*, 1919, c. 627; cf. *Tax Law*, § 382. The localities get only one-half of the amount that would have been produced under the rate structure prevailing from 1919 to 1929. Since that time the rates have been more than doubled. There has also been added an emergency tax of 1 per cent, all of which goes to the State.

¹⁰⁸ *Laws*, 1922, chaps. 671, 672.

¹⁰⁹ *Ibid.*, c. 286; *Tax Law*, § 219-mm.

¹¹⁰ *Laws*, c. 364.

¹¹¹ *Ibid.*, chaps. 142, 188.

¹¹² *Tax Law*, § 289-d.

¹¹³ *Ibid.*, § 435.

¹¹⁴ See Table 44; also Table 6, p. 31.

SUBVENTIONS TO LOCAL GOVERNMENTS IN NEW YORK STATE, 1906-1934
(Thousands)

YEAR	Schools *	Libraries †	Highways ‡	Extension Work §	Health ¶	Physically Handicapped Children ††	Refugees †††	Old-Age Security ††††	Emergency Relief †††††	Total
1906	66,545	506	.....	.....	.....	.....	.....	.....	.....	66,711
1907	8,972	26	626	.....	.....	.....	.....	.....	.....	9,024
1908	9,048	44	64	.....	.....	.....	.....	.....	.....	9,136
1909	4,019	16	64	.....	.....	.....	.....	.....	.....	4,099
1910	4,014	12	102	.....	.....	.....	.....	.....	.....	4,128
1911	4,373	24	276	.....	.....	.....	.....	.....	.....	4,673
1912	4,380	24	262	.....	.....	.....	.....	.....	.....	4,676
1913	4,649	24	246	.....	.....	.....	.....	.....	.....	4,919
1914	4,817	27	240	.....	.....	.....	.....	.....	.....	5,084
1915	4,749	29	240	.....	.....	.....	.....	.....	.....	4,998
1916	4,043	29	1,116	.....	.....	.....	.....	.....	.....	5,188
1917	4,043	29	1,245	.....	.....	.....	.....	.....	.....	5,307
1918	4,907	31	1,705	.....	.....	.....	.....	.....	.....	6,643
1919	4,646	30	1,706	.....	.....	.....	.....	.....	.....	6,382
1920	4,548	33	1,749	.....	.....	.....	.....	.....	.....	6,330
1921	4,760	34	1,011	.....	.....	.....	.....	.....	.....	5,771
1922	4,078	34	1,907	.....	.....	.....	.....	.....	.....	6,019
1923	4,708	38	1,144	.....	.....	.....	.....	.....	.....	6,090
1924	4,716	40	1,048	339	.....	.....	.....	.....	.....	6,113
1925	4,807	36	1,013	36	.....	.....	.....	.....	.....	6,137
1926	4,731	39	1,014	40	.....	.....	.....	.....	.....	6,224
1927	4,849	43	1,044	44	.....	.....	.....	.....	.....	6,380
1928	5,019	45	1,200	47	.....	.....	.....	.....	.....	6,513
1929	5,071	47	1,282	47	.....	.....	.....	.....	.....	6,727
1930	5,079	40	1,178	48	.....	.....	.....	.....	.....	6,445
1931	5,170	43	1,118	49	.....	.....	.....	.....	.....	6,478
1932	4,977	43	1,023	47	.....	.....	.....	.....	.....	6,077
1933	4,881	47	1,013	65	.....	.....	.....	.....	.....	5,966
1934	4,851	47	1,111	41	131	.....	.....	.....	.....	6,182
1935	4,849	49	1,111	41	176	.....	.....	.....	.....	6,356
1936	5,124	44	1,270	45	191	.....	.....	.....	.....	6,725
1937	5,045	44	1,304	75	202	.....	.....	.....	.....	6,770
1938	5,045	44	1,304	75	202	.....	.....	.....	.....	6,770
1939	5,071	49	1,371	93	208	.....	.....	.....	.....	6,893
1940	5,071	49	1,371	93	208	.....	.....	.....	.....	6,893
1941	5,071	49	1,371	93	208	.....	.....	.....	.....	6,893
1942	5,071	49	1,371	93	208	.....	.....	.....	.....	6,893
1943	5,071	49	1,371	93	208	.....	.....	.....	.....	6,893
1944	5,071	49	1,371	93	208	.....	.....	.....	.....	6,893
1945	5,071	49	1,371	93	208	.....	.....	.....	.....	6,893
1946	5,071	49	1,371	93	208	.....	.....	.....	.....	6,893
1947	5,071	49	1,371	93	208	.....	.....	.....	.....	6,893
1948	5,071	49	1,371	93	208	.....	.....	.....	.....	6,893
1949	5,071	49	1,371	93	208	.....	.....	.....	.....	6,893
1950	5,071	49	1,371	93	208	.....	.....	.....	.....	6,893
1951	5,071	49	1,371	93	208	.....	.....	.....	.....	6,893
1952	5,071	49	1,371	93	208	.....	.....	.....	.....	6,893
1953	5,071	49	1,371	93	208	.....	.....	.....	.....	6,893
1954	5,071	49	1,371	93	208	.....	.....	.....	.....	6,893

* Annual Report of the State Tax Commission, 1934, p. 243.

† Annual Report of the Commissioner.

‡ Farm and home bureau and junior extension workers.

§ Figure supplied by State Education Department.

¶ Annual Report of the Commissioner.

†† Includes 622,959,628 deferred appointment to office paid in October, 1934.

†††

††††

in the source of support for local government. As is shown in Table 45, outside the liquor excise and an insignificant amount of revenue derived from poll taxes, local governments, so far as tax receipts are concerned, were mainly dependent upon levies against property until 1902. Since that time there has been a steady accretion of supplemental revenues. The effects of this altered revenue program on the various types of units are set forth in Tables 46 to 51. In 1929, a year of prolific tax yields, the towns' share of various centrally assessed and collected taxes amounted to 17.5 per cent of all tax revenues. Adding to shared revenues subventions for town roads, the aggregate revenues derived from taxes other than property are approximately 24 per cent of the total. Even the leanest years have not brought the total of shared taxes and subventions due this unit to a sum smaller than 11 per cent of its total tax revenues. In the interim of 1919 to 1934 inclusive, property taxes have declined in the case of the village from 92 to 71 per cent of the total; in the county from 100 to 79 per cent; in rural school districts from 87 to 58 per cent; in cities, exclusive of New York, 87 to 76 per cent; and in New York City from 90 to 84 per cent. These changes have in every instance been due to the addition and expansion of revenues distributed by the State.

TABLE 45
SOURCES OF TAX REVENUE FOR NEW YORK LOCAL GOVERNMENTS, 1900-1934
(Thousands)

YEAR ENDING	General Property	Liquor Excise ^a	Fell	Bank Stock	Mortgages	Moneys & Capital	Motor Vehicle Licenses ^b	Business Corporation ^c	Personal Incomes ^d	Real Estate and Billiard Licenses	Financial Corporation ^e	Total
1900	\$109,816	98,400	6500	.....	.....	.....	.....	.....	.....	.....	.....	9118,416
1901	118,250	8,300	500	.....	.....	.....	.....	.....	.....	.....	.....	196,040
1902	128,171	8,400	500	23,192	.....	.....	.....	.....	.....	.....	.....	149,303
1903	143,877	8,815	800	2,648	.....	.....	.....	.....	.....	.....	.....	155,700
1904	156,963	9,000	800	3,104	.....	.....	.....	.....	.....	.....	.....	169,560
1905	165,328	9,100	800	3,728	.....	.....	.....	.....	.....	.....	.....	178,488
1906	160,718	9,000	800	4,049	8431	.....	.....	.....	.....	.....	.....	164,774
1907	202,608	9,800	800	4,058	2,443	.....	.....	.....	.....	.....	.....	218,580
1908	230,407	9,800	100	4,067	1,667	.....	.....	.....	.....	.....	.....	246,889
1909	198,656	8,100	80	4,806	1,845	.....	.....	.....	.....	.....	.....	216,334
1910	227,353	8,607	60	4,820	1,933	.....	.....	.....	.....	.....	.....	262,664
1911	213,737	8,708	40	4,653	1,815	.....	.....	.....	.....	.....	.....	229,160
1912	267,982	8,771	20	4,678	1,927	.....	.....	.....	.....	.....	.....	283,870
1913	224,278	8,740	17	4,820	1,864	.....	.....	.....	.....	.....	.....	230,813
1914	241,768	8,668	17	4,770	1,628	.....	.....	.....	.....	.....	.....	266,647
1915	250,266	8,211	17	4,940	1,603	.....	.....	.....	.....	.....	.....	269,307
1916	274,620	8,247	17	5,322	1,423	.....	5900	.....	.....	.....	.....	261,480
1917	268,819	11,027	17	5,584	1,218	.....	2,092	64,917	.....	.....	.....	323,633
1918	312,797	18,801	17	6,070	1,204	.....	2,393	.....	.....	.....	.....	346,222
1919	346,249	8,818	17	7,031	2,713	.....	2,143	10,467	817,831	.....	.....	398,776
1920	407,821	.....	17	7,800	2,229	.....	2,583	14,100	16,318	.....	.....	461,048
1921	428,861	.....	16	7,460	2,806	.....	2,137	10,985	14,836	.....	.....	468,600
1922	456,273	.....	18	7,412	2,676	83,480	2,872	7,831	18,898	.....	.....	501,039
1923	486,048	.....	19	7,621	2,146	1,639	2,848	10,283	18,615	.....	.....	533,437
1924	520,219	.....	19	8,298	2,893	1,947	2,869	12,634	22,311	.....	.....	576,785
1925	566,769	.....	19	8,707	2,848	894	2,904	11,653	27,452	.....	.....	628,409
1926	638,402	.....	7	.....	2,176	.....	7,761	14,885	26,973	.....	.....	690,507
1927	696,045	.....	6	.....	2,093	.....	8,421	14,956	31,803	.....	.....	766,857
1928	740,703	.....	3	.....	2,095	.....	9,529	14,984	41,803	.....	.....	820,319
1929	796,159	.....	.....	.....	2,423	6,260	10,023	18,380	40,136	.....	.....	863,723
1930	821,284	.....	.....	.....	2,918	7,690	10,161	19,919	49,869	.....	.....	894,010
1931	828,904	.....	.....	.....	1,951	7,934	10,028	12,880	40,901	.....	.....	890,345
1932	734,113	.....	.....	.....	1,931	11,060	9,444	9,882	4,948	.....	.....	774,280
1933	760,563	10,097	.....	.....	818	10,827	10,156	7,093	8,320	.....	.....	801,303

^a Data for 1900-1929 taken from Report of the New York State Commission for the Revision of the Tax Laws (1932), p. 71. Subsequent years compiled on same basis from Annual Report of the State Tax Commission, 1934, Tables 2, 3, and 16.
^b State-administered.
^c Data not available.
^d Data not available.

TABLE 46
SOURCES OF TAX REVENUE FOR NEW YORK TOWNS, 1919-1934 -
(Thousands)

YEAR	STATES-ADMINISTERED TAXES						Total	High-ways	LOCALLY ADMINISTERED TAXES			Aggregate
	Liquor Excise	Motor Vehicle	Personal Income	Business Corporations	Financial Institutions	State Grants			Mortgage	Bank Stock, Monies & Capital	Property	
1919	884	81,908	858	760	.....	82,014	82,014	\$182	804	814,746	\$90,890
1920	613	1,243	1,056	832	.....	2,240	2,240	293	209	17,355	24,305
1921	1,622	1,784	837	.....	3,271	3,271	264	264	18,456	24,381	
1922	1,662	2,305	886	.....	3,813	3,813	384	463	19,377	26,500	
1923	2,176	2,204	824	.....	4,452	4,452	521	607	21,653	29,522	
1924	2,490	2,639	861	.....	5,204	5,204	522	688	22,750	32,566	
1925	2,931	2,919	977	.....	6,800	6,800	610	614	25,571	34,322	
1926	1977	2,953	977	8499	7,419	7,419	869	671	28,441	39,237	
1927	2,783	3,977	863	505	8,148	8,008	767	.....	33,287	44,401	
1928	1979	5,010	568	469	9,797	8,098	609	.....	38,556	50,569	
1929	2,750	4,896	1,224	576	9,797	8,345	609	.....	43,178	55,920	
1930	2,226	.....	457	3,608	3,447	514	.....	41,079	51,726	
1931	1,203	830	359	4,110	4,026	533	.....	43,652	51,819	
1932	879	665	166	3,287	3,427	329	.....	41,928	48,656	
1933	1,087	383	49	4,675	3,427	145	.....	45,447	52,490	
1934	2,962	.....	.....	39,103	46,885	
Percentage Distribution												
1919	16.73	9.76	1.88	99	71.62	100.00	
1920	17.63	9.16	1.30	86	71.14	100.00	
1921	16.19	8.95	1.16	1.00	72.71	100.00	
1922	14.89	9.25	1.45	1.82	73.12	100.00	
1923	15.08	8.43	1.76	1.72	73.01	100.00	
1924	15.97	7.77	1.60	1.80	72.86	100.00	
1925	16.98	7.46	1.73	1.74	72.89	100.00	
1926	16.98	6.91	2.21	1.71	72.49	100.00	
1927	16.71	6.55	1.77	.....	74.97	100.00	
1928	16.11	6.13	1.53	.....	76.34	100.00	
1929	17.53	6.98	1.09	.....	75.41	100.00	

1920					12.83	9.96	.99	79.43	100.00
1921					8.96	7.77	1.03	84.24	100.00
1922					4.99	3.45	.99	86.17	100.00
1923					4.55	6.53	.43	88.49	100.00
1924					9.97	8.37	.31	83.35	100.00

^a Figures otherwise indicated, data prior to 1921 taken from Mabel Nevecker, "Use of State Revenues for the Support of Local Functions in New York," *Report of the New York State Commissioners for the Revision of the Tax Laws (1922)*, Memorandum No. 10, p. 58. Subsequent data from *Annual Reports of the State Tax Commission*, Table 23.

^b From *Annual Reports of the State Tax Commission*, Table 2. Includes special districts.

^c Apportioned between cities in same ratio as 1922.

^d A portion of this tax is redistributed to villages.

^e Cf. Table 64, p. 296.

TABLE 47
SOURCES OF TAX REVENUE FOR NEW YORK VILLAGES, 1919-1934 *
(Thousands)

YEAR	STATE-ADMINISTERED TAXES					STATE GRANTS	LOCALLY ADMINISTERED TAXES			Aggregate
	Liquor Excise	Personal Income	Business Corporations	Financial Institutions	Total	Schools †	Bank Stock, Moneyed Capital	Mortgage	Property *	
1919.....	\$15	.....	\$162	.....	\$177	\$338	\$143	\$21	\$7,939	\$8,618
1920.....	11	\$239	160	.....	410	538	77	64	9,344	10,433
1921.....	434	374	.....	808	1,313	167	77	9,936	12,301
1922.....	335	454	.....	789	1,480	78	68	10,433	12,848
1923.....	309	178	.....	577	1,702	103	98	11,508	14,077
1924.....	263	304	.....	567	1,841	77	87	13,545	16,117
1925.....	463	473	.....	936	2,032	139	171	14,957	18,235
1926.....	556	526	.....	1,192	2,333	147	213	16,591	20,376
1927.....	642	511	\$107	1,260	3,094	.....	181	18,334	23,769
1928.....	960	514	99	1,573	4,903	.....	179	18,918	26,573
1929.....	1,095	450	113	1,658	5,586	.....	165	21,334	28,743
1930.....	1,437	539	117	2,093	6,399	.....	109	22,530	31,131
1931.....	670	514	109	1,293	7,299	.....	115	22,827	31,534
1932.....	398	303	58	759	7,869	.....	71	22,323	31,021
1933.....	225	382	45	652	7,900	.....	49	20,620	29,221
1934.....	337	234	15	586	7,996	.....	36	21,485	30,103
<i>Percentage Distribution</i>										
1919.....	2.05	3.92	1.66	.25	92.12	100.00
1920.....	3.93	5.16	.74	.61	89.56	100.00
1921.....	6.57	10.68	1.36	.62	80.77	100.00
1922.....	6.14	11.52	.61	.53	81.30	100.00
1923.....	4.10	12.09	.72	.70	82.39	100.00
1924.....	3.62	11.42	.45	.54	84.04	100.00
1925.....	5.13	11.14	.76	.94	82.03	100.00
1926.....	6.85	10.96	.....	1.05	81.42	100.00
1927.....	6.30	10.80	.....	.76	77.14	100.00
1928.....	6.18	10.17	.....	.70	73.98	100.00
1929.....	6.77	10.43	.....	.58	74.22	100.00

TABLE 48
SOURCES OF TAX REVENUE FOR NEW YORK COUNTIES, 1910-1934
(Thousands)

YEAR	STATE-ADMINISTERED TAXES			STATE GRANTS							LOCALLY ADMINISTERED TAXES	Aggregate
	Motor Vehicle *	Motor Fuel *	Total	Highways †	Extension Work ‡	Health §	Refrere-ment ¶	Old-Age Security ¶	Emer-gency Relief §	Total	Prop-erty †	
1910				890	840					866	\$20,080 †	\$29,108
1920	838		838	20	47					67	84,176 †	84,281
1921	76		76	1,511	47					1,558	86,844 †	87,078
1922	470		470	2,726	28					2,778	88,100 †	41,403
1923	605		605	2,329	49					2,378	42,485	45,678
1924	1,186		1,186	2,425	27	82				2,404	45,560	49,310
1925	1,534		1,534	2,418	65	90				2,571	50,748	54,358
1926	1,875		1,875	2,400	61	138				2,594	53,173	57,143
1927	1,045		1,045	2,400	60	176				2,645	61,614	65,944
1928	2,006		2,006	2,806	73	193				2,662	63,479	68,207
1929	2,182		2,182	2,413	62	208				2,743	68,896	73,327
1930	2,627	84,206	10,043	2,124	71	468	849			2,702	72,026	86,710
1931	2,195	2,720	11,025	2,121	100	528	37	110		2,796	79,184	93,005
1932	2,028	2,914	12,227	2,329	129	538	51	2,122	22,026	2,965	71,949	91,441
1933	2,270	2,577	11,447	209	101	520		2,842	4,281	2,273	70,771	90,491
1934	2,097	2,518	11,918	2,027	104	551		2,330	2,919	2,981	72,629	92,478
<i>Percentage Distribution</i>												
1910										.33	99.77	100.00
1920										.30	99.69	100.00
1921										4.10	95.70	100.00
1922										6.70	92.17	100.00
1923										6.31	92.90	100.00
1924										6.01	92.88	100.00
1925										4.66	92.82	100.00
1926										4.84	95.06	100.00
1927										4.01	93.43	100.00
1928										2.90	93.07	100.00
1929										2.74	93.28	100.00

TABLE 49

SOURCES OF TAX REVENUE FOR NEW YORK RURAL SCHOOL DISTRICTS, 1919-1934

YEAR	THOUSANDS OF DOLLARS			PERCENTAGE DISTRIBUTION		
	Property Tax ^a	Subventions for Schools ^b	Total	Property Tax	Subventions for Schools	Total
1919.....	\$18,697	\$2,876	\$21,573	86.67	13.33	100.00
1920.....	22,004	4,622	26,626	82.64	17.36	100.00
1921.....	23,400	8,276	31,676	73.87	26.13	100.00
1922.....	24,569	8,995	33,564	73.20	26.80	100.00
1923.....	27,325	9,237	36,562	74.74	25.26	100.00
1924.....	31,254	9,545	40,799	76.60	23.40	100.00
1925.....	34,507	9,785	44,292	77.91	22.09	100.00
1926.....	35,680	9,980	45,660	78.18	21.82	100.00
1927.....	36,095	15,163	51,258	70.42	29.58	100.00
1928.....	37,766	16,865	54,631	69.13	30.87	100.00
1929.....	40,866	18,193	59,059	69.20	30.80	100.00
1930.....	42,905	22,066	64,971	66.02	33.98	100.00
1931.....	43,424	24,481	67,905	63.95	36.05	100.00
1932.....	42,866	27,281	70,147	61.11	38.89	100.00
1933.....	37,148	27,904	65,052	57.11	42.89	100.00
1934.....	37,904	27,214	65,118	58.21	41.79	100.00

^a Annual Reports of the State Tax Commission, Table 2.

^b Annual Reports of the State Education Department.

^c Apportioned between units in same ratio as 1923.

^d Estimated. Same percentage of total subventions for education as existed in 1920.

TABLE 50
SOURCES OF TAX REVENUE FOR NEW YORK CITIES (EXCLUSIVE OF NEW YORK CITY), 1919-1934 *
(Thousands)

YEAR	STATE-ADMINISTERED TAXES					STATE GRANTS				LOCALLY ADMINISTERED TAXES			Aggregate
	Legacy Estate	Personal Income	Business Corporation	Financial Institutions	Total	Schools ^b	Old-Age Security ^c	Emergency Relief ^d	Bankstock, Moneyed Capital	Mort- gages	Prop- erty ^e		
1919	89,235	...	82,412	...	65,647	81,817	...	...	6940	8207	555,386 ^f	608,781
1920	2,245	...	2,704	...	9,052	2,879	...	...	817	619	55,184 ^f	78,151
1921	...	2,020	2,928	...	6,948	6,878	...	...	258	484	69,318 ^f	84,484
1922	...	2,648	2,065	...	5,702	8,234	...	...	803	623	72,781 ^f	88,274
1923	...	2,262	2,327	...	5,579	8,788	...	...	894	624	80,941 ^f	97,228
1924	...	9,161	3,079	...	6,240	8,110	...	...	1,002	802	90,878 ^f	107,922
1925	...	4,123	2,115	...	7,843	8,842	...	...	1,024	1,051	96,482 ^f	116,164
1926	...	2,198	2,102	...	8,210	8,812	...	...	1,083	1,002	106,807 ^f	128,416
1927	...	8,895	2,102	8974	9,276	18,154	...	...	...	960	116,669 ^f	137,988
1928	...	6,865	2,845	...	9,740	18,182	...	...	...	973	126,268 ^f	163,160
1929	...	7,247	4,223	1,056	12,516	17,421	...	...	...	706	128,612 ^f	166,768
1930	...	7,019	4,828	1,068	12,840	19,224	...	...	...	448	134,412 ^f	166,972
1931	...	8,465	4,127	1,220	13,812	21,200	...	...	...	656	134,703 ^f	165,463
1932	...	1,865	2,804	...	6,803	22,869	...	...	...	842	131,852 ^f	166,052
1933	...	1,985	2,192	...	6,302	20,016	...	...	...	193	117,945 ^f	153,456
1934	...	1,860	1,369	...	6,182	20,030	...	...	...	97	127,186 ^f	161,038

YEAR	Percentage Distribution
1919	5.65
1920	11.68
1921	6.24
1922	6.46
1923	5.74
1924	5.78
1925	6.66
1926	6.49
1927	6.72
1928	6.97
1929	6.01
1930	7.69
1931	6.23
1932	6.49
1933	2.80
1934	2.84

* Unless otherwise indicated, data prior to 1931 taken from Newcomer, Report of the New York State Commission for the Revision of the Tax Laws (1932), Memorandum No. 10, p. 87. Subsequent data compiled from Annual Reports of the State Tax Commission, Table 38.
 b From Annual Reports of the State Education Department.
 c Data supplied by Department of Social Welfare, Division of Old Age Security.
 d Data grants apportioned among city and county welfare districts on the basis of expenditures for emergency relief as reported in the Special Reports of the Comptroller on Municipal Accounts.
 e From Annual Reports of the State Tax Commission, Table 3.
 f Estimated. Same percentage of total subdivisions for education as existed in 1920.
 g Apportioned between units in same ratio as 1922.

TABLE 51
SOURCES OF TAX REVENUE FOR NEW YORK CITY, 1910-1934*

YEAR	STATE-ADMINISTERED TAXES						STATE GRANTS			LOCALLY ADMINISTERED TAXES			Aggregate	
	Liquor Excise	Motor Vehicle	Motor Fuel	Personal Income	Business Corpora- tions	Financial Intelli- gences	Total	Schools	Old-Age Security	Emer- gency Raided	Bank Stock, Moneyed Capital	Mort- gage		Prop. erty
1910	97,332	6,000		919,469	63,103		911,574	62,900			64,778	91,189	9,187,970	9,908,878
1920	3,281	738		38,894	6,411		48,522	15,107			5,794	9,408	197,171	216,381
1931		1,118		11,016	6,331		17,355	17,138			4,074	1,610	390,664	396,089
1932		803		10,021	6,378		17,202	17,823			6,677	2,321	303,564	306,801
1933		1,913		12,866	6,381		18,760	18,603			9,309	2,745	373,430	380,639
1934		2,193		13,039	6,326		20,443	18,614			7,303	3,669	381,371	389,390
1925		3,479		16,041	7,093		26,619	20,618			7,408	4,063	397,984	398,144
1926		3,724		18,199	7,043		28,959	21,893			7,461	4,723	326,676	328,898
1927		3,017		18,937	7,040	94,900	124,904	88,619				4,188	397,963	431,957
1928		3,890		21,370	7,761	9,306	40,546	84,108				3,079	443,817	470,899
1929		3,789		22,380	10,809	8,088	47,000	87,860				3,117	482,343	513,614
1930		3,849		27,100	12,340	6,639	53,829	81,860				1,618	497,694	533,614
1931		4,043		18,388	13,340	8,398	54,181	46,774	38,340	34,869		1,074	518,166	583,770
1932		4,049		7,139	9,161	8,398	30,379	46,403	4,642	11,733		460	441,363	459,803
1933		3,700		8,747	6,043	1,033	20,523	46,403	4,642	11,733		460	441,363	459,803
1934		4,066		6,635	4,618	1,035	26,481	46,318	5,091	18,438		308	467,366	546,434

Percentages Distribution	
1910	8.05
1920	1.17
1931	4.70
1932	4.83
1933	6.83
1934	6.80
1925	6.84
1926	7.84
1927	8.40
1928	7.19
1929	9.30
1930	9.14
1931	9.45
1932	7.81
1933	8.86
1934	8.46

* Unless otherwise indicated data prior to 1931 taken from Newcomer, Report of the New York State Commission for the Revision of the Tax Laws (1929), Memo-
randum No. 10, p. 96. Subsequent data taken from Annual Reports of the State Tax Commission, Table 83. Real estate broker and billiard room licenses omitted.
* From Annual Reports of the State Education Department.
* Annual Reports of the State Tax Commission, Table 83, less court and stenographer's and county taxes.
* Annual Report of the Comptroller, 1933, p. 237

3. Problems of Financial Administration

The assessment and collection of tax revenue like the functions of government discussed in other parts of this work have been developed in a wholly opportunistic fashion. Areas have not been redefined in a way to develop an optimum-sized operating unit; administrative personnel continues to be selected on bases quite foreign to requisites for competence; and administrative responsibility has been scattered among sundry levels and departments of government.

ASSESSMENT

New York is one of the sixteen states in the Union still dependent upon the town as the chief assessment district and has thus far shown little interest in developing a superior administrative unit. There is no phase of governmental activity where fewer innovations have occurred than in the matter of fiscal administration. The construction of highways has been quite generally given over to technically trained personnel, the school system has for some time enjoyed the advantages of competently qualified administrators, fire departments and police forces have been equipped with the latest and best products of the scientific world, yet about the same techniques and quality of personnel prevail in the field of revenue administration as existed in 1664 when the "publique rates" were assessed. The perpetuation of this seventeenth century device certainly cannot be vindicated on the grounds of antiquity, or for reasons that the problems have not materially changed. Numerous technological and economic transitions have rendered obsolete the traditional assessment methods. Various intangible items, such as, corporate "good will," franchise and patent rights, and instruments representing ownership equities and creditor relationships have been added to the more common tangible items of realty and personality. Business units have developed with a form of organization and extent of operation no longer amenable to the jurisdiction of the assessment machinery prevailing in the best-equipped taxing district in the State, much less the average township.

These newer situations have been met in part by the State taking over the assessment of special taxes. This, however, has not solved the problem of property tax administration. The tax burden borne by tangible property can never be equitably apportioned so long as the task is a town function. The limitations in geographical extent, and in many instances resources, necessitate the employment of part-time and frequently ill-qualified personnel, the use of meager or out-moded equipment and the development of values established without the support of adequate objective data.

In Tompkins county during 1932, the average per diem compensation paid to the twenty-seven assessors in the nine towns of the county was \$4.22.¹¹⁸ In a rural community composed of

¹¹⁸ T. N. Hurd. *Cost of Town Government in Tompkins County, New York, 1932* (Ithaca, 1933), p. 8.

enterprising agriculturists, it would indeed be a myopic entrepreneur who could be persuaded to leave even temporarily a business representing an investment of twenty to fifty thousand dollars for the paltry pecuniary reward the office of assessor might offer. Unless the service is rendered by competent persons out of a sense of community duty, the only seekers for the job are those otherwise unable to conduct satisfactorily their own affairs. In sixteen towns in Wyoming county, the amount allowed for assessment expense in each town in 1932 ranged from \$150 in Eagle to \$948 in Warsaw.¹¹⁶ In Tompkins county the range was from \$206 to \$670.¹¹⁷

The quality of the assessment personnel is doomed to mediocrity not only by the meagerness of compensation but by the method of selection as well. It can never be reasonably expected that an assessor probably pledged to incredible campaign promises and answerable only to an inarticulate electorate can ever produce a scientific assessment. It is generally admitted that highway engineers should not be selected by popular vote, but from lists of candidates who have established their fitness by competitive examination. Anyone the least cognizant of valuation problems would readily admit that the technique of appraisal is equally as complex as that necessary in highway construction.

Other states confronted with a situation comparable to that of New York have met the problem in various ways. For exam-

¹¹⁶ W. M. Curtiss, *Cost of Town Government in Wyoming County, New York, 1932* (Ithaca, 1933), Table A.

¹¹⁷ Hurd, *op. cit.*, p. 15. While these data include all expenditures arising out of assessment activities, the assessors' compensation represents more than 85 per cent of the total, as shown below.

TAX EXPENSE PER TOWN, SEVENTY-ONE TOWNS, 1930

EXPENSE	Tax Expense per Town	Per Cent of Total
Assessors' per diem.....	\$379	
Assessors' car or mileage.....	12	
Collector's surety bond.....	\$391	86.9
Supplies.....	45	10.0
Town clerk *.....	3	1.8
Legal advice.....	3	.7
Supervisor ²	2	.4
	1	.2
Total	\$450	100.0

* Filing special franchise reports, posting dog notices, etc.

² Time spent with assessors — not jury list.

Source: M. P. Catherwood and H. Haag, *Cost of Local Government in New York* (Ithaca, 1932), p. 18.

ple, all candidates aspiring to the office of assessor in Kentucky must have a certificate from the State tax commission granted on the basis of assessing experience and factual knowledge regarding the revenue laws and the geographical and economic peculiarities of the district he expects to serve.¹¹⁸ Six states select their assessing personnel by appointment. In South Carolina the power is centralized in the hands of the governor. In the remainder of the states appointment is made either by the county supervisors, commissioners, or levy board, except in Arkansas where the county judge appoints the local assessor.¹¹⁹

In all events provision should be made for the removal of assessors who are not performing their work in an effective manner. Fifteen states now make such provision. In Indiana, Kentucky, Maryland and South Carolina, local assessors are removable by State officials on their own motion. In South Carolina the local assessors are appointed and removable by the governor of the State, and in Colorado, Michigan, Minnesota, and Virginia, by State officials after hearing before the governor. Six other states—Arizona, New Jersey, North Dakota, South Dakota, West Virginia, and Wyoming—provide for recall of assessors by State officials after hearing before some court, either local, circuit, or supreme. In Kansas, a local township assessor may be removed on complaint of the county assessor.¹²⁰

Even if competent assessors could be procured at the current rate of \$450 per year and incompetent ones could be weeded out, the cost on a unit basis would still be excessive. In eleven towns in New York State with an average tax expense of \$201 the cost per \$1,000 of full value was \$0.61. On the other hand, four towns with an average aggregate expenditure of \$859 had a unit cost of \$0.09. This decrease is due to the spreading of the cost over an average full value almost thirty times greater in the latter class than in the former. The cost for seventy-one towns is set forth in Table 52. A similar study based on one hundred Illinois townships indicated that the cost per \$1,000 of assessed personalty appears to be highest in those towns with the least wealth.¹²¹ As it has been said in the field of labor economics, high wages do not necessarily mean high unit costs, so, in public finance, large expenditures in the aggregate for assessment do not always mean high cost per parcel or per \$1,000 of property. The cities of New York spend more for assessors' salaries, supplies, and equipment than the towns, yet such surveys as have been made indicate that they realize lower unit costs.¹²²

¹¹⁸ *Carroll's Kentucky Statutes, 1930, § 4042a-11.*

¹¹⁹ R. W. Newton and W. O. Hedrick, *Farm Real Estate Assessment Practices in Michigan* (East Lansing, Michigan, 1928), p. 74.

¹²⁰ *Ibid.*

¹²¹ *Fifteenth Annual Report of the Illinois Tax Commission, 1933, p. 312.*

¹²² *Report of the Special Joint Committee on Taxation Retrenchment (1923), p. 114.*

TABLE 52
TAX EXPENSE PER \$1,000 FULL VALUE REAL PROPERTY, SEVENTY-ONE TOWNS,
1930*

FULL VALUE REAL PROPERTY (Thousands)		Number of Towns	TAX EXPENSE	
RANGE	Average		Per Town	Per \$1,000 Full Value
Less than \$500.....	\$332	11	\$201	\$0.61
\$500 to 1,000.....	743	16	272	.37
1,000 to 2,000.....	1,505	11	402	.27
2,000 to 3,000.....	2,504	17	552	.22
3,000 to 5,000.....	3,821	12	681	.18
5,000 or more.....	9,732	4	859	.09
All.....	\$2,246	71	\$450	\$0.20

* Catherwood and Haag, *op. cit.*, Table 25, p. 16.

Neither can the town be justified as an assessment unit on the basis of the techniques employed. It is only recently that all of the first-class cities have adopted scientific assessment systems. Buffalo installed a modern method of describing buildings and recording information in 1916.¹²³ Rochester added her system still more recently. Half of the second-class cities and slightly more than one-fourth of the third-class cities have adopted the essentials of a sound assessment system.¹²⁴ The towns, with the exception of a few metropolitan communities, employ procedures entirely foreign to modernized assessment.

A random sampling of rural towns in a number of counties visited during the current year indicates that those towns, with few exceptions, are working without maps, without building records and without any plan of comparative valuation. The last-completed roll provides the sole basis for the current roll. In a number of cases the differences between the current roll and the preceding one consist chiefly of errors in copying, and of changes due to transfers of properties.¹²⁵

¹²³ National Institute of Public Administration, "Assessment and Equalization of Real Estate for Taxation in New York," *Report of the New York State Commission for the Revision of the Tax Laws* (1932), Memorandum No. 3, p. 23.

¹²⁴ *Ibid.*, p. 24.

¹²⁵ *Ibid.*, p. 27; see, also, *The Government of Nassau County, A Report Made to the Board of Supervisors by the Municipal Consultant Service of the National Municipal League* (Mineola, N. Y., 1934), pp. 49-52.

Similar conditions appear to prevail wherever the township is the assessment unit. In Illinois the following instance of "roll copying" is reported:

Due to the fact that the assessors did not understand how to handle percentage calculations correctly, the error [in this instance] was made more egregious. In the county in question it was decided that money and mortgages were to be assessed at twenty per cent, whereas for the preceding year the ratio was fifty per cent. To simplify operations ten of the assessors in this county applied a factor of twenty per cent to the fifty per cent figures carried on the books for 1933. As a result the erroneous roll reported was computed on a ratio one-half as large as was originally agreed upon in the meeting of the assessors. Wholesale copying as instanced above may not be general, but in all events too much reliance is placed on figures established for preceding years.¹²⁶

That the New York towns, in general, are woefully equipped to do adequate assessment work is perfectly obvious by the negligible sums spent for supplies. The seventy-one towns referred to above spent on the average \$8 for assessment supplies. How far \$8 would go towards equipping a scientific tax office does not require a highly imaginative mind. Or, again, how much property can be viewed with a mileage allowance of \$12?¹²⁷ At a rate of six cents per mile a maximum of two hundred miles would be allotted to the three town assessors. In Illinois a similar situation also prevails. The tax commission in its 1933 report says, "It is probably true that less than five per cent of the Illinois assessors even maintain offices. A still smaller percentage have access to soil surveys, land maps, and comprehensive sales data."¹²⁸

Finally, the assessment organization now prevailing in New York is rendered unsatisfactory because of the failure of the State to take over more of the duties too intricate for local officials to handle. In many respects New York may be cited as exemplary in its State-local fiscal adjustments, but certainly no pre-eminence can be claimed in solving assessment problems. Even Illinois provides for the central assessment of operating property of railroads. The incongruities arising out of attempting to assess a railroad on the same basis as a primitive homestead are so obvious as to render any discussion superfluous.

REVIEW AND EQUALIZATION

The traditional "grievance day" has certainly long ago been out-moded. It is indeed an anomalous situation that the agency making the assessment should be accorded the privilege of passing on the adequacy of its own work. The impracticability of

¹²⁶ *Fifteenth Annual Report of the Illinois Tax Commission, 1933, p. 314.*

¹²⁷ See table, *supra*, p. 262.

¹²⁸ *Fifteenth Annual Report of the Illinois Tax Commission, 1933, p. 313.*

such an arrangement has been so patent that some towns and several cities have separated the functions in whole or in part. This is true in a number of towns in Westchester county. In these towns the board of review, consisting of three members, may not include an assessor. In Rome the board of five members consists of three assessors—a case of partial division, but one where the assessors have a majority. In Middletown, Mt. Vernon, Ogdensburg, Port Jervis, and Yonkers the assessors are represented but in the minority; in Jamestown, Newburgh, and New Rochelle the assessors are not represented. That the present method of reviewing is unsatisfactory is further evidenced by the fact that taxpayers in rural areas are addressing their appeals directly to the tax commission. Though this agency cannot order changes in individual assessments, yet through its staff of field supervisors, local decisions may be substantially modified.¹²⁹

The incongruities of tax administration are further accentuated in that powers of equalization are entrusted to ex officio boards. Since the supervisors are composed of elected representatives from each town, competitive under equalization is added to competitive underassessment. In one county investigation revealed that "the majority party on the board of supervisors assigned the state tax commission's equalization rates to its own towns, and less favorable rates to towns which had given a majority to the opposition party."¹³⁰ These boards fail in their work, however, not alone because of partisan influence, or rural or urban prejudices, but chiefly because they do not have the inclination or means to secure proper objective data for making decisions. For example, Broome county has tried both the appointive commission and the ex officio board, but without satisfaction chiefly because it had no technical staff and each commissioner was limited to \$500 a year for per diem and expenses.¹³¹

COLLECTION

The prevailing plan of collecting taxes in New York is unsatisfactory because of the method employed in the selection of personnel, the excessive amount of citizen effort required to determine when and where taxes are payable, the inordinately high unit costs, the primordial method of compensating officials, and finally, the deleterious influence of the whole megatherium system on the effectiveness of tax collections.

Elected tax collectors, in general, are not the most aggressive officials. In Ohio where dependence is placed on officers chosen by popular vote in much the same manner as in New York, an investigator pointed out that "elective officers hold their positions at the pleasure of the taxpayers. From the point of view of vote-getting, it is not advisable to incur the displeasure of the electorate by

¹²⁹ National Institute of Public Administration, *op. cit.*, Memorandum No. 3, pp. 29-30.

¹³⁰ *Ibid.*, p. 33.

¹³¹ *Ibid.*, p. 34.

invoking the aid of the law too energetically in collecting taxes."¹²² Bergen county, New Jersey, has recently brought to light the peculative propensities of its elected collectors. Judge Del Mar, in discussing the factors responsible for the near scandalous situation, said: "He [the collector] is an elected official, generally selected as a candidate by his political party not because of his qualification for office but for his ability to garner votes."¹²³

The indirect burden placed on the taxpayer by any fiscal arrangement must be taken into account in evaluating its merits and costs. The excessive amount of citizen effort required to ascertain the place and time of local tax payments has already been discussed.¹²⁴ The system has been especially onerous for non-resident taxpayers.¹²⁵ Furthermore, the cost of local tax collections is not readily discernible since the fee system permits the deduction of the allowable percentage before remittance is made. Thus the actual outlay does not find its way into reported governmental costs. On the first two thousand dollars the compensation is set at 2 per cent and, on all collections above this amount, 1 per cent.¹²⁶ Under this provision the compensation paid to each local collector in 1925 and 1926 ranged from \$90 to \$4,209 with \$482 as an average. These figures expressed in terms of the amount collected appear to be disproportionately high. Town and school-district collectors received \$17.10 per thousand, an amount 54.4 per cent greater than that received in ninety-one counties spread throughout eighteen states.¹²⁷ The paradoxical aspect of spending even a meager sum for local collectors becomes more obvious when it is realized that a county organization adequate to do the work now exists and, in many instances, has largely supplanted the town collector. In nineteen counties included in a recent survey, the county treasurer collected as much as 22.6 per cent of the property tax either as "returned taxes" or corporation levies. The percentage collected by the treasurer in fifteen of the counties classed as rural was as high as 25.8.¹²⁸

Any kind of a State and local fiscal system may function fairly well as long as public expenditures require only a small proportion of the income stream. When production is unusually curtailed, it is then that the effectiveness of the local fiscal machinery is definitely revealed. While it is true that the inordinately large

¹²² National Tax Association Proceedings (1932), p. 306.

¹²³ *New York Times*, December 2, 1934.

¹²⁴ See *supra*, p. 236.

¹²⁵ Its intolerability was modified somewhat by permitting such taxpayers to file a request for a tax statement with the town clerk. The various collectors are accordingly required to mail a statement of taxes due (*Fee Law*, § 70). Also, certain taxpayers with holdings scattered in numerous taxing districts have been permitted to make remittances directly to the county treasurer.

¹²⁶ *Ibid.*, § 81.

¹²⁷ National Institute of Public Administration, *op. cit.*, Memorandum No. 12, p. 11.

¹²⁸ *Ibid.*, p. 13.

amount of delinquency associated with the years 1931, 1932, and 1933 is due, in part, to factors external to fiscal organization, yet in many ways the situation is directly attributable to the prevailing administrative provisions. It could hardly be expected that a collector would exert vigorous efforts to secure settlement of obligations due the various governments under a system offering the largest remuneration for revenues received after the delinquent date. Commissions on taxes collected late are 150 to 500 per cent greater than the rate allowed on funds received during the normal collection period.¹³⁹ After taxes become delinquent the multiplicity of governments concerned renders the securing of adequate liens an unduly cumbersome process. In Buffalo, Lackawanna, and Niagara Falls, the city sells its lien for city and school taxes, and the county sells a separate lien for county and State taxes. In Albany, the county sells all the liens, but the city holds a separate sale for each special assessment. In Ithaca,

the city chamberlain collects delinquent city taxes by sale; the board of education endeavors to collect delinquent school taxes after the city has returned the roll to it, and finally returns the delinquent balance to the county treasurer for reassessment on the subsequent state and county roll; the county treasurer collects delinquent state, county and "returned" school taxes at the annual tax sale.¹⁴⁰

Under the general tax laws the towns and school districts return uncollected taxes to the county treasurer, thus consolidating the two liens. A similar procedure applicable to villages was declared unconstitutional, necessitating two tax sales for village delinquencies.¹⁴¹

LIMITATION OF TAXES AND DEBTS

A review of the shortcomings of local fiscal operations would indeed be incomplete if no attention were paid to the adequacy of existing tax- and debt-limit devices. The section of this chapter dealing with their historical development indicates that both have been employed by the State in restraining its local subdivisions. At this point the query is apropos—Are constitutional tax and debt limits desirable or effective instruments of control? Due consideration of the elements involved backed by the unhappy experiences of several commonwealths¹⁴² leads to a negative conclusion.

Tax and debt limits, regardless of whether they are written in the statutes, charters, or even the Constitution, do not and cannot effectively limit the raising of funds by either taxing or borrowing

¹³⁹ *Tax Law*, § 81.

¹⁴⁰ National Institute of Public Administration, *op. cit.*, Memorandum No. 12 p. 9.

¹⁴¹ *Ibid.*, p. 10.

¹⁴² Ohio, West Virginia, and Michigan; cf. *Constitutional Tax Rate Limitation for Illinois*, Illinois Tax Commission, Special Report No. 2 (1934), chap. ii.

so long as the allowable percentages are applied to assessed values. By bolstering up assessments, limitations can be voided within a wide range. Limitations of this character are not only rendered ineffective through the flexibility of the tax base, but, unless of the overall type, they may be voided by creating additional governments. The creation of the sanitary district and the forest preserve districts in Cook county, Illinois, was motivated in no small measure by the desire to circumvent tax and debt limits. The pinch of tax-limitation provisions has become especially acute in Illinois only recently because of the need for funds to care for the unemployed. From groups responsible for shaping legislative policies comes the proposal that the emergency be met by adding 102 additional welfare districts to the already too numerous governments.

If legal debt and tax limits are to be effective, they must be the overall type; both taxes and debts must be completely covered; the provisions must be embedded in the Constitution and be made difficult to amend or avoid. Adoption of the overall type of limit, and writing the measure in the primary law are both dubious procedures. Overall limitations are unsatisfactory because they do not possess sufficient flexibility to care for the needs of urban centers versus the rural areas; limits appropriate for one period may be intolerable in another; they do not accommodate a community wishing to do many things publicly as compared with one relying on private enterprise; nor are they sufficiently inclusive to prevent the appearance of operating deficits.¹⁴³ Overall limitations applicable to tax rates, if more than an administrative device, must depend upon complicated schemes of automatic scaling.¹⁴⁴ However strong the urge may be to guarantee the permanence of devices to limit debts and taxes, they should not be embodied in constitutional law.

The purpose of the constitution is to set up the frame work of government, and to give the various branches of government adequate power to function. Legislation of the tax limitation variety has no place in a constitution.¹⁴⁵

The actual results of such limitation measures as have been employed in New York have not produced results far different from those predicted in the preceding paragraphs. In a special report on the situation Spangler says:

Charter tax limits have not been very effective in New York, chiefly because the cities eventually find the restrictions to be too tight and in such a contingency it is not difficult to get the Legislature to alter them or even to eliminate them entirely.

¹⁴³ *The Effect of a Two Per Cent Tax Limitation Law upon Local Government in New York State*, Seventh Report of the New York State Commission for the Revision of the Tax Laws, Legislative Document No. 54 (1936), chap. x.

¹⁴⁴ *Constitutional Tax Rate Limitation for Illinois*, chap. vi.

¹⁴⁵ Leland, "Probable Effects of Tax Limitation in Illinois," *ibid.*, p. 35.

Constitutional limits have been more effective than charter limits only because it is more difficult to change them, in which case extra-legal methods of evading them are resorted to in case of necessity.

The constitutional tax limit in New York applies to less than half of the gross current-expense budget of some of the cities. There are ample opportunities, therefore, for the cities to counteract any restrictions imposed by the limit, and the cost of government is in no wise checked.¹⁴⁶

With regard to the operation of debt limits the same report presented an equally unsatisfactory record. After surveying the history of the three largest cities, the conclusion is offered that "the limit was more effective in bolstering up assessed real estate valuations than in checking or reducing indebtedness."¹⁴⁷ When the possibilities of expansion by means of this device had been fully exploited, relief was next sought through constitutional amendment.¹⁴⁸ The unequal way in which rigid limits operate is clearly evidenced in the case of the smaller New York cities.

The kinds of exemptions permitted vary so widely and the extent of the overlapping of jurisdictions differs so radically between the urban and rural districts that the ratio of indebtedness permitted to fall on the territory of the different subdivisions of the state is subject to wide variations.¹⁴⁹

Since New York has no overall debt limit, the creation of additional overlapping governments negates any possibility of protection for property tax payers. Those cities with independent school districts have borrowing limits far in excess of present needs while others are unduly restricted.¹⁵⁰

It should also be pointed out that overall tax-limitation schemes—even those dignified with constitutional status—cannot give property owners complete protection. When limits are reached, costs of services ordinarily paid for out of general revenues may be met by imposing special charges. Garbage removal may be financed on a service charge basis; the privilege of utilizing sewer facilities may depend on making an annual payment based on the number of outlets or area served. Along with the growth of service charges, one would expect to see the financing of improvements through special assessments become increasingly popular. In addition to special charges and assessments, other tax measures are virtually inevitable. Sales taxes and numerous other nuisance measures are almost certain to make their appearance. Consid-

¹⁴⁶ F. L. Spangler, *Operation of Debt and Tax Rate Limits in the State of New York*, Special Report of the New York State Tax Commission, No. 5 (1932), pp. 104-5.

¹⁴⁷ *Ibid.*, p. 123.

¹⁴⁸ *Ibid.*, pp. 123-24.

¹⁴⁹ *Ibid.*, p. 135.

¹⁵⁰ *Ibid.*, p. 149.

ering the myriad ways in which a property owner can be reached other than through direct levies on his holdings, one is forced to the conclusion that genuine protection must come by some other means than the much-advocated property tax-limitation device.

The experience of New York with respect to tax and debt limits fully substantiates the proposition that even constitutional restrictions do not limit. The barriers imposed have been over-ridden by increasing the tax base, resorting to special assessments, creating additional governments, and even amending the primary law. One generation or economic group cannot inflict its will on others if they are contrary-minded. Minorities cannot long over-ride majorities, even with the aid of constitutional provisions, as the experience of New York demonstrates.

SHARED REVENUES

When revenues equal to 25 per cent of the total requirements of local governments are supplied from central sources a splendid opportunity is afforded to apportion a part of the tax burden in accordance with ability principles. What is the New York scheme of local assistance accomplishing in this regard? Is it imposing proportionately larger levies against those possessing the greatest taxable capacity?

Answers to queries relative to tax burdens and capacity to support government ought to be sought in terms of individuals. Limitations of time and data, however, preclude employing an analysis stated in terms of the several taxpayers' contributions and capacities. The next best alternative appears to lie in grouping individuals according to geographical lines and comparing contributions made with indicated capacities. If, for example, Greater New York ranks considerably higher in respect to taxpaying ability than other counties, should it not contribute proportionately more to the common fisc? From Table 53 a notion may be had of the relative contribution made by each county in terms of its relative fiscal ability. If one were to assume that the per capita distribution of wealth in each of the fifty-eight counties were the same, then, under a system of proportional taxation, a district possessing 50 per cent of the taxpaying capacity should contribute a like percentage to the total support of the central government. An examination of the existing distribution of the payments made to the State shows many deviations from this criterion. Greater New York, an area possessing 66 per cent of the taxable resources, supplies the State with only 59 per cent of its tax revenues. In Erie county the ratio is virtually one to one, an ideal relationship under the conditions assumed. The third county in the ability ranking supplies considerably more revenue than its aggregate resources warrant. Thus, in the first three counties considered, only one was found to bear an equitable portion of the tax burden. The deficiency or excess contributed, when expressed as a percentage of the amount required by the ability index, is still more illumi-

TABLE 53

COMPARISON OF RELATIVE FISCAL ABILITIES OF NEW YORK COUNTIES WITH RELATIVE TAX PAYMENTS TO THE CENTRAL GOVERNMENT, 1929-1930

COUNTY	RELATIVE FISCAL ABILITY *		RATIO OF RELATIVE FISCAL ABILITY TO RELATIVE POPULATION †		RELATIVE TAX PAYMENTS TO CENTRAL GOVERNMENT *		COUNTY	RELATIVE FISCAL ABILITY *		RATIO OF RELATIVE FISCAL ABILITY TO RELATIVE POPULATION †		RELATIVE TAX PAYMENTS TO CENTRAL GOVERNMENT *	
	Rank	Per Cent	Rank	Per Cent	Rank	Per Cent		Rank	Per Cent	Rank	Per Cent	Rank	Per Cent
New York.....	1	66.176	1	120.20	1	59.48	Fulton.....	30	0.264	14	71.35	33	0.27
Erie.....	2	5.458	4	90.13	3	5.34	Tompkins.....	31	.251	11	76.06	39	.24
Westchester.....	3	3.430	6	82.89	2	5.83	Otsego.....	32	.246	28	66.31	31	.28
Monroe.....	4	3.136	2	93.14	5	3.13	Genesee.....	33	.244	22	69.12	37	.25
Onondaga.....	5	1.912	7	82.55	6	1.99	Wayne.....	34	.240	40	60.45	29	.24
Nassau.....	6	1.727	13	71.72	4	3.76	Columbia.....	35	.228	23	69.09	32	.27
Albany.....	7	1.622	3	90.32	8	1.38	Delaware.....	36	.219	25	66.97	38	.24
Ontario.....	8	1.115	15	70.61	9	1.13	Madison.....	37	.209	29	66.14	42	.22
Niagara.....	9	.938	9	79.09	11	.91	Cortland.....	38	.200	8	79.37	46	.20
Suffolk.....	10	.938	12	73.28	7	1.58	Franklin.....	39	.198	53	54.55	36	.25
Schenectady.....	11	.835	5	84.09	12	.76	Washington.....	40	.197	55	53.39	43	.22
Broome.....	12	.823	16	70.46	15	.74	Warren.....	41	.189	21	69.12	40	.24
Orange.....	13	.722	20	69.69	10	.97	Chemango.....	42	.186	24	67.39	44	.21
Chautauqua.....	14	.709	18	69.92	13	.75	Sullivan.....	43	.181	33	64.64	34	.27
Rensselaer.....	15	.619	32	65.02	16	.60	Livingston.....	44	.173	45	57.86	41	.23
Dutchess.....	16	.640	31	65.51	14	.75	Clinton.....	45	.171	58	46.09	45	.21
Jefferson.....	17	.466	17	70.18	17	.49	Allegheny.....	46	.171	47	56.62	35	.25
St. Lawrence.....	18	.448	38	61.96	18	.45	Wyoming.....	47	.144	36	62.88	50	.16
Ulster.....	19	.405	35	63.58	19	.45	Essex.....	48	.133	57	49.26	47	.20
Chamung.....	20	.397	26	66.95	21	.46	Orleans.....	49	.127	48	55.46	48	.17
Steuben.....	21	.375	46	57.53	20	.44	Greene.....	50	.120	44	53.54	49	.16
Montgomery.....	22	.367	10	76.78	30	.31	Lewis.....	51	.119	41	60.22	52	.14
Herkimer.....	23	.355	19	69.85	27	.34	Tioga.....	52	.111	52	54.68	53	.14
Cayuga.....	24	.344	27	66.80	24	.36	Seneca.....	53	.103	56	51.76	54	.13
Cattaraugus.....	25	.340	43	59.13	22	.41	Schoharie.....	54	.098	37	62.82	51	.15
Oswego.....	26	.336	39	60.76	29	.32	Yates.....	55	.073	49	54.89	56	.10
Rockland.....	27	.280	42	59.20	23	.38	Putnam.....	56	.072	30	66.06	55	.13
Saratoga.....	28	.276	50	54.87	28	.35	Schuyler.....	57	.055	54	53.40	57	.07
Ontario.....	29	.275	34	63.66	25	.36	Hamilton.....	58	.017	51	54.84	58	.06
							Total.....	.....	100.000	.....	.....	.....	100.00

* The method employed in constructing this index was suggested by Mr. I. M. Labovitz, Fellow in Taxation, University of Chicago, who has employed it in connection with a study *Illinois State Finance, 1818-1936*. Fourteen indices were combined in this measure of fiscal ability, the value of each index for a county being expressed as a percentage of the state total. These percentages were weighted, added and divided by one hundred to obtain the average fiscal ability for each county. The indices, weights and sources of material are shown below:

Index	Weight	Source
1. Net retail sales, 1929	15	<i>Fifteenth Census of the United States, 1930, Distribution I, Part. 1, 167.</i>
2. Full valuation of taxable real property, 1931	15	<i>Annual Report of the State Tax Commission, 1930, p. 78.</i>
3. Value added by manufacture, 1929	15	<i>Fifteenth Census of the United States, 1930, Manufactures: 1929, III, 353.</i>
4. Number of individual income tax returns, 1929	15	United States Bureau of Foreign and Domestic Commerce, <i>General Consumer Market Statistics, Supplement No. 1 to Market Data Handbook of the United States (1932), p. 45.</i>
5. Savings deposits, September, 1930	10	<i>Ibid.</i>
6. Postal receipts, 1930	5	<i>Ibid.</i>
7. Wholesale net sales, 1929	5	<i>Ibid.</i>
8. Number of passenger automobiles registered, July 1, 1930	5	<i>Ibid.</i>
9. Value of livestock on farms, April 1, 1930	5	<i>Fifteenth Census of the United States, 1930, Agriculture, New York, 2d Series, Table X, p. 21.</i>
10. Number of stores, 1929	4	<i>Fifteenth Census of the United States, 1930, Distribution, I, Part 1, 167.</i>
11. Number of residence telephones, January 1, 1930	2	<i>General Consumer Market Statistics, Supplement No. 1, p. 45.</i>
12. Number of gainful workers, 1930	2	<i>Fifteenth Census of the United States, 1930, Unemployment, I, 723.</i>
13. Number of owner families, 1930	1	<i>Ibid., Population, VI, Families, 930.</i>
14. Number of homes receiving electric service, August 31, 1930	1	United States Bureau of Foreign and Domestic Commerce, <i>An Aid for Analyzing Markets in New York (1933), Table LX, p. 19.</i>

* The ratios were obtained by dividing the percentage of total State fiscal ability by the percentage of total State population for each county.

* *Annual Report of the State Tax Commission, 1930, p. 309.*

nating. At one end of the array is Montgomery county, contributing 16.2 per cent less than its ability index requires—on the other is Hamilton contributing 200 per cent more than warranted by the index employed. The distribution of the fifty-eight counties is set forth in Table 54. In all, twelve counties appear to

TABLE 54

PERCENTAGE DEFICIENCY OR EXCESS OF THE RELATIVE
TAXES PAID TO THE STATE BASED ON CONTRIBUTION
REQUIRED BY RELATIVE FISCAL ABILITY, 1930 ^a

Percentage Deficiency or Excess	Number of Counties
—20.00 to —10.01	2
—10.00 to — 0.01	10
0.00 to 9.99	12
10.00 to 19.99	8
20.00 to 29.99	8
30.00 to 39.99	7
40.00 to 49.99	3
50.00 to 59.99	3
60.00 to 69.99	2
70.00 to 79.99	1
80.00 and above	2 ^b
Total	58

^a Computed from data in Table 53.

^b Includes items of 117.34 and 200.00 per cent.

contribute less than their capacities warrant and forty-six are in the positive group. Of the forty-six, twelve are in the interval from 0.00 to 9.99; eight from 10.00 to 19.99; eight from 20.00 to 29.99; seven from 30.00 to 39.99; and eleven scattered throughout the higher intervals. Assuming that the index of fiscal capacity places the several counties in their true positions, there certainly is little that can be said for the State's fiscal program with respect to its distributional aspects. When the conditions thus far assumed (that the taxpaying capacity of each individual is equal) are abandoned and account is taken of the concentration of capacity, an indefensible scheme of apportionment becomes intolerable. By bringing the per capita data presented in Table 53 into consideration, the under and overcontributions made by the various counties are materially magnified. On the assumption of an equal per capita capacity to contribute to the central government, Greater New York was underassessed to the extent of 10.12 per cent. When recognition is taken of the fact that this area not only contains 66 per cent of the taxable capacity but that per capita holdings were above the average, then minimization of sacrifice would require that this area contribute something more than 66 per cent. By a similar process, the excess contribution of 200 per cent made by Hamilton county appears even more inequitable when the relative meagerness of individual taxpaying capacity is considered.

While these two cases are extremes, they are also indicative of the trend prevailing throughout the list. Among the ten counties making the highest percentage of overpayment all but three¹⁵¹ stand very low in relative fiscal ability expressed in terms of relative population. On the other hand, the ten counties making the highest percentage of underpayment, with two exceptions,¹⁵² are the counties ranking high in per capita fiscal ability. On the basis of such evidence as the data dealing with payments made and indices of capacity present, the program of the State has not approached the goal of proportionality, much less progressivity.

The system of shared revenues now operative in New York not only fails to improve the distributional weaknesses of the tax system as a whole, but it disregards entirely the opportunities for the improvement of internal fiscal practices. The only restrictions imposed are those applicable to the motor fuel, motor vehicle, and alcoholic beverage taxes. Counties outside Greater New York must devote their share of gasoline and motor vehicle taxes to highway purposes,¹⁵³ and a portion of the alcoholic beverage tax allocated to New York City and Buffalo must be used for pension purposes.¹⁵⁴ Other than these exceptions, shared taxes may be used for any general fund purpose. Whether the funds are judiciously expended or wantonly wasted is a matter over which the State has only the remotest control.

4. Readjustment of State and Local Relationships

The need for a readjustment of the relationships of the State to the localities with respect to revenue matters is indeed manifest. The indiscriminate delegation of assessment duties to the town is indefensible. Piecemeal assessment of certain corporate entities and the allocation of values solely to those districts favored with a portion of the tangible assets violates the most elemental notions of adequacy and justice. It can hardly be said that the State is discharging its full obligation relative to matters of review so long as there is no specialized tribunal easily accessible to those feeling the desirability of an appeal. Equalization requires information and techniques that lie beyond the province of most local governments. The State's program of local assistance does not distribute tax burdens in accordance with "ability" and apportion aid in accordance with "need." No phase of central-local relationships is more underdeveloped than that of expenditure and debt control. Outside of the interest manifested by the central government in the expenditure of those funds supplied by it, localities are largely free to manage their fiscal affairs in any way that appears momentarily expedient.

¹⁵¹ Westchester, 6th; Suffolk, 12th; and Nassau, 13th.

¹⁵² Rensselaer, 32nd; and Oswego, 39th.

¹⁵³ *Tax Law*, § 289-d; *Cahill's Consolidated Laws*, 1930, 64-a:73 (4).

¹⁵⁴ *Tax Law*, § 435.

Most of the incongruities arising in connection with property tax administration have come about as a result of differential rates of growth. On the one hand, business has integrated its operations; on the other, government persists in decentralization. Urban and rural communities long ago over-ran the bounds of political units, but traditional town, county, and city boundaries still continue. The fundamental problem, then, lies in a reordering of functional obligations in a way that each type of governmental unit performs only those services for which it possesses peculiar adaptabilities.

ASSESSMENT

On the basis of competence to carry on processes of revenue administration, the line of State and local relationships become readily discernible. Taxes on sales, inheritances, personal incomes, and business units of any size are definitely closed to successful utilization by a unit of less size than the State. While a case might be made for transferring the valuation of real estate to the central government, the cogency of the argument is not so strong as in the case of the imposts just mentioned. It may well be that certain local units are in a position to make original appraisals equally as well as the State, or it may perform the task even more expeditiously. Some governments have a sufficient volume of assessment work to warrant employing a full-time staff and assembling the necessary equipment. Under these circumstances there appears to be no good reason why valuations should not be established locally. Other governments with narrow jurisdictions and limited resources could, under no circumstances, economically maintain the kind of an organization essential for producing a scientific assessment.

This break in competence comes in general along the line of urban communities versus rural areas. In urban communities with populations in excess of 50,000 the work of assessing may be fitted in as a part of the duties regularly performed by the city's finance department. The problems of the rural area cannot, however, be thought of in terms of any existing unit. As has been pointed out in preceding pages, the town is almost universally ill-adapted to do appraisal work. The county as it now exists offers little in the way of improvement. The boundaries of counties were not designed originally with the objective of producing an effective unit for local governmental purposes, and certainly the growth of industry, commerce, and population has not worked to better its position in this regard. The administrative organization prevailing in county government does not promise much in the way of efficient performance or freedom from the pressure of immediate political considerations. Not only is it inexpedient to consider the county as a likely assessing unit because of non-homogeneity and loose administrative organization, but complete reorganization calls for stripping the county of governmental duties rather than adding to them.¹⁵⁵

¹⁵⁵ Cf. *supra*, pp. 157-58.

It is in the rural areas that the work of providing the property tax base could be assumed with advantage by the State. Any argument based on the ground that central assessment violates home-rule principles is on its face fallacious. Outside of determining the distribution of the tax load among the taxpaying population, the State would in no wise exercise any restraint on the policy-determining power of any local government. All it does is furnish the values upon which taxes are to be extended. It is still wholly within the province of the locality to say how much the aggregate extension shall be and to what use the revenues derived therefrom shall be put.

In New York State the course of development is partially in harmony with the program outlined in the preceding paragraphs. Creditable assessment organizations have been established in the principal cities¹⁶⁶ and, with a few exceptions, those taxes unamenable to local administration have been mandated to the central government.¹⁶⁷

There is, however, a pressing need for central assessment and collection of taxes applicable to railroads and other classes of business with intricate corporate structures and economic ramifications of State-wide and inter-State significance. The revision of the Model Plan sets forth the proposition that "original assessment of all property or business that has a state-wide rather than a local character, all financial institutions, and public utility companies of every description," should be made by the tax commission.¹⁶⁸ It is almost incredible that New York should be one of the few states where the assessment of railroad property still remains under the jurisdiction of local assessors.

While patterns do exist for the organization of real estate assessments in municipalities, and the determination of assessment duties suitable for State performance, the decision still remains to be made as to what scheme is most appropriate for the rural areas. The recent constitutional changes relating to county government indicate the likelihood of attempting to solve the rural assessment problem on a county basis. It is believed, however, that this approach is only a stop-gap measure and that the final solution rests in dividing this important responsibility between the urban communities and a State agency.

Regardless of whether the district chosen for assessment purposes be the city, county, or town, the office of assessor should be filled in all events by appointment. If appointed locally the selections should be restricted to lists certified by the State agency directly interested in property tax matters. Furthermore, the power of the central board should be extended so that recalcitrant assessors

¹⁶⁶ New York City, Buffalo, Rochester, Niagara Falls, New Rochelle, Yonkers, Binghamton, Syracuse, and eleven of the forty-seven cities in the third class (under 50,000 population) have installed modern real estate assessment systems. (National Institute of Public Administration, *op. cit.*, Memorandum No. 2, pp. 23-24).

¹⁶⁷ For a listing of taxes administered by the State *cf. supra*, pp. 233-34.

¹⁶⁸ National Tax Association, *Proceedings* (1933), p. 408.

could be removed from office after hearing. The committee of the National Tax Association recommends "that all assessors, whether elected or appointed, be subject to removal for wilful negligence or malfeasance in office."¹⁵⁹ Fifteen states have adopted a policy in accord with this recommendation.¹⁶⁰

REVIEW AND EQUALIZATION

Whether assessments are made by the city, county, or State, the necessity for a readily accessible, impartial, and inexpensive method of review must be provided. Considering the New York system in its entirety, none of these standards is satisfied. A reviewing board composed of individuals who determined the assessment may be readily accessible, but they could hardly be judged competent to pass on the validity of their own work. Reviewing done by ex officio boards as provided in several of the cities¹⁶¹ is likely to be but little more satisfactory. In general, ex officio arrangements result in tying together activities only remotely related. A councilman, attorney, comptroller, or any other city official may have a multitude of duties appearing to them to be of greater importance than hearing taxpayers' complaints. Furthermore, ex officio relationships introduce undesirable characteristics associated with part-time positions. When it comes to appeals from the decision of local boards the system can no longer lay claim to ready accessibility and inexpensiveness. Matters presented for consideration by the supreme court must of necessity be formal, and the complainants must be represented through counsel. It is in this phase of property tax administration that the State could easily improve its relationship and obligations to the localities. The plan now operating in Massachusetts is suggestive of what ought to be done in this regard. The Legislature in 1930 established a quasi-judicial reviewing body consisting of three members, appointed by the governor for a period of six years.¹⁶² Appellants may appear before this board directly or be represented by counsel. Procedure in general conforms to that prevailing in a court of equity, but the board reserves the right to cut through formality in order that substance may prevail over form.¹⁶³ The State of New Jersey is also cooperating with local governments in providing a complete system of review. The board of tax appeals, created in 1931,¹⁶⁴ is authorized to review the complaint of any individual, corporation or taxing district. Accessibility is facilitated in that provision is made for the board to sit in any convenient place within the State.

¹⁵⁹ *Ibid.*, p. 407.

¹⁶⁰ Cf. *supra*, p. 263.

¹⁶¹ Cf. *supra*, pp. 234-35.

¹⁶² *Massachusetts Laws*, 1930, c. 416.

¹⁶³ *Annual Report of Massachusetts Commissioner of Corporations and Taxation*, 1930, pp. 105-8.

¹⁶⁴ *New Jersey Laws*, c. 100.

So long as tax rates for governments embracing several assessment jurisdictions are extended on valuations established by the smaller units, competitive undervaluation is certain to result. From this prefatory statement, it is obvious that a permanent solution of the equalization problem lies in the elimination of overlapping governments, or the enlargement of assessing districts. The delegation of real estate assessment duties to the localities in highly urbanized centers, and placing the remaining portions of the State under direct jurisdiction of the central government involves both of these conditions. Formal equalization problems automatically terminate in those areas subjected to unified assessment standards and techniques, such as a State agency would employ. The successful operation of municipal assessments is dependent upon the elimination of overlapping governments in municipal areas. The accomplishments of Virginia provide a notable example of achieving the "one government over one area" objective. In that State, twenty-four cities have attained a status equivalent to that of a county. If independent status does not appear to be expedient, then at least county lines should be made coterminous with the corporate limits, as has been done in San Francisco, Denver, New York City, and Philadelphia. When the necessity for equalization cannot be dispensed with the responsibility should be with the State. Centralization of responsibility or matters of equalization under any system of local assessments is absolutely essential if anything more than farcical results is desired. The process requires the assembling of data, the application of techniques and the appraisal of results on a scale and in accordance with standards beyond the ken of most local governments.

ADMINISTRATIVE SUPERVISION OF DEBTS AND TAXES

The unsatisfactory results experienced in New York and other States where attempts have been made to limit tax burdens through the enactment of legal restraints, indicates that some other approach to the problem should be sought. The shortcomings of the schemes are general inhere in the limited range of interests possessed by sponsoring bodies. For example, some groups of real estate taxpayers are only interested in developing a sort of guarantee that prospective property values will not be wiped out by increased tax burdens. To groups of this character, overall tax- and debt-limitation clauses inserted in the Constitution represent the supreme defensive bulwark acquired at the expense of other groups in the State. It is not denied that the cost of government should be equitably spread among all with taxable capacity and to the extent that limitation proponents bring these readjustments about their efforts are commendable. Another objective strongly sought for is that of choking off governmental expenditures generally. The pursuit of this objective has little within it that is commendatory. If the mode of economic and social life becomes such that production can be organized more effectively by devoting a larger pro-

portion of available resources to public uses, such readjustment is largely inevitable. The question that is really pertinent, regardless of whether public expenditures bulk large or small relative to private expenditures, is that of economical use of the resources allocated to public purposes. This question involves both debt obligation and current taxes.

Setting up economy in government as the objective that is really sought, it becomes apparent that regulatory machinery must have a wide degree of flexibility—a condition only obtaining when administrative devices are given a prominent rôle. Fiscal programs should be sufficiently flexible to obviate the necessity of strait-jacketing any community to a fixed order of finance. Suggestive patterns of effective control are offered, for example, in the experiences of Indiana, Multnomah county, Oregon, and New Mexico. In the latter State each county is required to submit a budget to the State tax commission setting forth a detailed estimate of revenues and expenditures. The commission, after holding public hearings, approves or amends the budget as it deems expedient.¹⁰⁵ The experience of Indiana is suggestive of a flexible plan with a minimum of State interference. So long as local budgets remain within the \$150 limit, review is not necessary, but requirements in excess of this amount must be approved by the State tax commissioners. Any community that wishes to borrow in excess of \$5,000, or if any proposed borrowing necessitates rates in excess of 6 per cent, review is required. It is in the extraordinary cases that the central government exercises its regulative power. So long as conditions are normal, the locality may operate free of interference.

Justification for State participation in local affairs relating to budgets, debts, and taxes appears to have no basis other than the broad obligation of a central government to protect and provide certain essential services for its constituency. The fact that New York and every other commonwealth has delegated the fulfillment of this obligation to political subdivisions does not in any wise modify this primary responsibility. If the creation of unwieldy debt structures and the levying of heavy tax burdens possess destructive potentialities so far as achieving the objectives desired by the State are concerned, it would seem that oversteering in a local budget might be an equally appropriate item to bring within the purview of a regulatory functionary. While this phase of tax and budgetary control does not have current popularity, it should be given due consideration along with restrictive proposals.

DISTRIBUTIONAL ASPECTS OF THE FISCAL PROGRAM OF THE STATE

An examination of the State revenue system essential for financing a program of local assistance indicates that considerable revision would be necessary even to approach the principle of "equal

¹⁰⁵ Cf. National Tax Association, *Proceedings* (1931), p. 216.

marginal sacrifice."¹⁶⁶ Under the complex of taxes now employed little else could be expected. The State's share of the personal income tax and receipts realized from inheritance taxes, the only imposts based on ability principles, provided only 32 per cent of the total tax revenues for the year 1934. Taking into account the fact that the local tax system contains no levies imposed in accordance with ability principles, it should be the policy of the central government to abandon levies likely to be regressive and strengthen its system of personal taxation.

The plan for getting centrally collected revenues back into the hands of the localities has never been worked out as a unified whole, and the principle of "sharing" universally omits the most elemental criterion of apportionment, namely, "need." The basis of apportionment applicable to each tax has been determined generally by political expediency and the exigencies of the situation immediately associated with the development of the tax. In many instances the chief element entering into the question of apportionment was essentially compensatory in character. The objective back of sharing the franchise tax on incomes of business corporations was obviously to reimburse the localities for the loss of revenue resulting from exempting businesses included under this levy from personal property taxes. In part the same motive shaped the plan of apportionment applicable to the personal income tax. Under this law the local subdivisions were deprived of the usual tax on intangibles. Also, it has been alleged that the method of apportionment based on assessed valuation of real estate would be a positive force in contributing to full value assessments. Since it is deviations from the average and not the percentage of full value that determines the equity of any assessment, it is probably true that the loss in social utility resulting from this method of apportionment is entirely too great a price to pay for the slight improvement realized in assessment practices.¹⁶⁷ Positive administrative action offers greater possibilities of improving valuation procedures without entailing the undesirable effects just enumerated. The basis of apportioning the license tax on billiard rooms, license tax on real estate brokers, franchise tax on financial institutions, sales tax, and beer tax appear to be equally non-defensible. In fact, there appears to be no valid basis for returning any tax to its point of origin except benefit levies. Taxes that are not primarily of such a character should be credited to the general fisc and disbursed in accordance with the needs of the system. On the basis of this a priori position there can be no valid reason for returning one-half of the income tax to the units on the basis of assessed valuation. Properly interpreted, the levy is made against persons, at progressive rates, on all income, from whatever jurisdiction or source it may be received. Its chief defense need be

¹⁶⁶ Cf. *supra*, pp. 271 ff.

¹⁶⁷ Cf. C. B. Pond, *Full Value of Real Estate Assessment as a Prerequisite to State Aid in New York*, Special Report of the State Tax Commission, No. 3 (1931), pp. 165 ff.

nothing more than a compensating element in the inequitable distribution of the income stream. On this basis, it should be apportioned to uses of broad social significance and its allocation should not be determined by minor jurisdictional boundaries.

SUPERVISION OF LOCAL FISCAL AFFAIRS

One of the definitely underdeveloped phases of central-local relationships is that of effective supervision of local fiscal affairs. True enough, the departments of education, health, public works, welfare, finance, and the comptroller's office are each clothed with a measure of supervisory power, but the aggregate of their efforts does not wholly suffice. The Commission for the Revision of the Tax Laws in its 1932 report reached the crux of the problem in recommending the creation of a board concerned solely with local fiscal matters.¹⁸⁸ The scope of activities outlined for the proposed agency included the preparation and installation of budget systems, development and installation of accounting systems, periodic audit of all local accounts, control over assessment procedures, assembling and publication of statistical material, and carrying on efficiency studies when requested. Supervision over policies of taxation and borrowing as suggested in preceding paragraphs might well be delegated to this agency.¹⁸⁹ Pending the creation of a division of government concerned solely with matters of local finance and organization, the strengthening of existing agencies might make for improvement. In no instance are the possibilities greater than in the case of the tax commission. Over a period of four decades this agency has been ostensibly charged with the supervision of property tax matters, yet it never has possessed one of the powers necessary to make its control effective. Regardless of how tardily other innovations are accepted, the prerogatives of this agency should be immediately broadened to include the following:

1. Authority to establish, through competitive examination, panels of eligible assessors. Local governments exercising assessing functions would be restricted to selections from these lists.
2. Power to remove, after hearing, on its own motion or on complaint, any local taxing official who is not performing his duties in accordance with established standards.
3. Authority to order reassessments, on its own motion or on complaint, and to name the agents responsible for establishing the new schedule of values.

5. Summary

The history of revenue administration presents no exception to other functions in so far as the adjustment of State and local relationships is concerned. Every type of government from the *ad hoc* district to the State is involved in some way with tax administration. The State has employed the localities as instrumentalities

¹⁸⁸ Part I, p. 231.

¹⁸⁹ Cf. *supra*, p. 280.

for accomplishing objectives of primary concern to the central government. Limitations have been imposed as to taxes levied, debts incurred, and records kept. Where local governments have been unable to cope with new situations brought about by the evolution of economic and social organizations the State has extended its sphere of administration. Recognizing the growing obligations of local governments in addition to providing educational facilities and constructing highways, the State has supplemented the general funds of local governments with proceeds derived from State-administered taxes.

In making the readjustments necessitated by the flux of economic and social forces, some phases of central-local relationships have been more fully harmonized, others have grown continuously more discordant. The outstanding innovation attributable to the first-mentioned category is the assumption by the State of responsibility for assessing and collecting a number of particularly desirable taxes unsuited for local utilization. With a slight expansion of State activities, the division of responsibilities in this regard would be quite satisfactory. The items appearing in the classification of discordant relationships are considerably more numerous. The central government has been very apathetic toward the problem of providing the localities with the type of structure and administrative machinery that would increase fiscal efficiency. Tardiness of the State in assuming responsibility for those functions appropriate for administration by the central government complicates unduly the problem of revenue relationships. Taxes now imposed by the State for the support of its program of local assistance do not appear to distribute the burden in accordance with "ability." Only a part of the funds returned to the localities are conditioned on "need." The status of property tax supervision has remained approximately unchanged since the creation of the tax commission in 1896. With the exception of requiring fiscal reports from all municipal corporations and providing limited auditing service, the State has almost completely neglected the field of fiscal control. Budgetary procedures are foreign to many governments, constitutional debt and tax limits are unsatisfactory, tax calendars are not co-ordinated with fiscal years, and personnel standards in the public service are undeveloped.

Before the State of New York can claim to have assumed its full obligation relative to matters of local revenue administration, the following steps must be taken:

1. State assessment and collection of all taxes extended against the operating properties of utilities and large business units.
2. Division of responsibility for real estate assessments between the localities and the State, the former performing the function in the larger urban centers, the latter in the rural regions.
3. Creation of a State board of tax appeals with authority to review on its own motion or on complaint any matter coming before a local reviewing agency. This measure is essential regardless of how the administration of assessments may be organized.

4. Clothing the State agency most directly concerned with local fiscal affairs with plenary powers in matters of equalization. This recommendation is valid either under the present organization or under a system where the State extends its sphere of operation.

5. Delegate to one central board all matters pertaining to the oversight of local fiscal affairs. The scope of this agency's activities should include:

a. Certification of those eligible for appointment to important tax administrative posts.

b. Removal, after hearing, of persons unfit for public service.

c. Authority to require annual budgets and insure that adequate publicity is given the tentative draft.

d. Mandatory submission of all proposals to incur long-term debt, final approval to be based on urgency of the expenditure, legality of proceedings, reasonableness of contractor's estimates and marketability of securities generally.

e. Auditing of accounts of every unit authorized to spend public moneys.

f. Creation of a revolving fund for the purpose of making short-term loans to municipalities.

g. Development of a proposal for improving local fiscal procedures.

CHAPTER XI

HIGHWAYS

With the introduction of the motor vehicle shortly before the opening of the twentieth century, a new era appeared in the history of American transportation. It is indeed difficult for contemporaries to appreciate keenly the great strides made in the extent and character of transport facilities. Beginning with widened Indian trails, adequate only for travel on horseback and barely accessible for vehicles, facilities have been developed until the United States in 1930 had 3,009,066 miles of road, 693,559 of which are surfaced for all-weather use.¹ For the year 1934 users purchased licenses for 24,933,000 auto and truck units.² The development of the highway, and the truck and road tractor has seriously threatened the supremacy of railroads as carriers. Motor buses in 1934 carried passengers to the extent of 16,614,000,000 bus passenger-miles.³ Motor trucks hauled 48 per cent of the livestock received at seventeen principal markets.⁴ Truck shipments of fruit and vegetables covering distances greater than twenty miles was estimated at 150,000 to 200,000 carloads, or from 12 to 16 per cent of the total shipments for the years 1928 and 1929. New automobile production transported by highways amounted to 33.6 per cent of the total movement, representing an increase of 71.5 per cent over 1923.⁵

In this phase of transportation development New York has shared in an important way. The State has a total of 100,883 miles of streets⁶ and highways, of which 7,653 miles are constructed of concrete, 574 miles of granite, 964 miles of brick, 4,541 miles of asphalt, 8,308 miles of macadam, and 7 miles of wood block. Three thousand four hundred and thirty-eight miles of the above-mentioned roads are wide enough to accommodate four-way traffic, while 6,427 miles are classed as three-way-lane highways.⁷ The investment represented by one mile of any of the improved roads just reviewed is colossal compared with what the early settlers laid out for opening a complete highway and constructing the bridges. Judge Nathan Ford of Ogdensburg, writing to Thomas L. Ogden

¹ United States Department of Commerce, *Statistical Abstract of the United States, 1935*, p. 348.

² *Ibid.*, p. 353.

³ Automobile Manufacturers Association, *Automobile Facts and Figures, 1935*, p. 74.

⁴ *Ibid.*, p. 69.

⁵ United States Department of Commerce, *Commerce Year Book, 1932*, I, 517 ff.

⁶ City and village streets total 6,869 miles.

⁷ *Annual Report of the State Tax Commission, 1934*, pp. 341-42.

in 1801 concerning a stretch of road contemplated as a connecting link between the Jefferson county area and Albany, stated:

I have contracted with Edsal for making the road from Louisville to the east branch of Black Lake, at 16 dollars per mile; the road to be cut and cleared one rod, cradle-knolls and sides of ridges to be leveled; small crossways and bridges over small streams to be made.^a

Though the charges for transporting freight over these primitive roads were very high relative to present tariffs, and the time consumed in making a journey to a neighboring city, or state, was a matter of days of incommodious travel, yet they were the best that the exigencies of that time warranted. Labor and capital were scarce and the available resources had to be carefully apportioned if the rigors of the frontier were to be overcome. Even if capital had been available and the population had been dense enough to warrant the construction of quasi-modern roads, it must be remembered that the art of building surfaced roads was then undeveloped.

The first steps toward an improved transportation system came in 1756 when a stage coach line was opened between New York and Philadelphia. This was followed by the building of turnpikes reaching a climax in the period from 1790 to 1815. Steam was applied as a motive power to boats operating on the rivers, a development intensifying the need for artificial connecting links. Canals followed, beginning about 1825, and continued to provide the principal source of transport service until the middle of the nineteenth century. Railroads then became important and still constitute the backbone of the transportation system. The motor truck, bus, and passenger auto, however, have been growing in importance at a pace which in all probability has far surpassed the expectations of the founders of the industry. A still more recent development with great potentialities for improving transportation is the aeroplane. Only recently the distance between New York and San Francisco has been shortened to approximately ten hours of traveling time. In contrast, the stage coach of 1756 took three days to go from New York to Boston, a distance of ninety miles.

New York has passed through all these stages of transportation development becoming the leader, especially in the construction of canals. In 1850 approximately one-half of the expenditures for maintenance and operation of the State government was laid out for canal costs. Until 1898 the construction and maintenance of highways was almost solely a matter of local concern. Since the turn of the century, however, the State has participated actively in the construction of roads, and in rendering financial aid to the localities. It is with the emergence of the State into this field of transportation activity that this section will be chiefly concerned.

^a F. B. Hough, *A History of Jefferson County in the State of New York* (Watertown, New York, 1854), p. 311.

1. Division of Responsibility for the Provision of Highway Facilities

Like most other functions of government the maintenance and construction of highways have been delegated to all the different types of governmental units. The State, the county, the town, the city, the village, and the *ad hoc* district—each engages in the construction of bridges and highways. In 1930, a year apparently unaffected by depression budgets, these units of government spent a total of \$245,191,000 for highways and streets.⁹ Forty-one per cent of the above amount was expended by cities. The State follows next with 24.2 per cent; counties, 16.2 per cent; towns, 13.1 per cent; and the villages, 5.5 per cent. Throughout the thirteen-year period presented in Table 55 and Figure 17 the relative contributions of most of the units to highway expenditures have remained rather constant. Cities stand first, regardless of the year considered; the State second; and third place, held by the towns until 1930, has since that time passed to the counties.¹⁰ The trend of developments may be further clarified by comparing the percentage increases attributable to the various types of government between the years 1922 and 1931. During these nine years State expenditures increased 224 per cent (exclusive of aid to localities); county, 327 (exclusive of aid to towns); city, 104; and the village, 146 per cent. Town expenditures, however, in 1931 were only 48 per cent greater than they were in 1922. These data indicate rather definitely the growing importance of the county as a unit for the construction and maintenance of highways and the trend towards a subordinate position for the town.

THE TOWN AS A HIGHWAY UNIT

In New York the construction of what is generally known as the "rural" road has rested from the inception of organized government upon some officer of the town. In the Hempstead town records, dated March 14, 1659, an entry appears with respect to highway supervision.

It is ordered that John Smith nants Rich'd Willets Ambros Sutton and John Smith Junior shalbe Surveyors of the High ways for this present years, And shall perform ye duty of surveyors and that any person that shall refuse to come to doe ye Labour belonging to them shall pay for A man 4s, and for a man & his teeme 8s, And ye surveyors by default of performing their duty shall pay for each default 40s ster.¹¹

⁹ Cf. Table 55.

¹⁰ With the exception of 1934.

¹¹ Records of the Towns of North and South Hempstead, Long Island, New York, I, 74.

TABLE 55
EXPENDITURES FOR STREETS AND HIGHWAYS IN NEW YORK BY GOVERNMENTAL UNITS, 1922-1934 *
(Thousands)

UNIT	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934
State.....	\$24,093	\$25,386	\$31,477	\$34,795	\$35,887	\$45,935	\$47,454	\$52,799	\$59,095	\$67,338	\$38,754	\$30,284	\$37,684
Counties.....	13,477	14,054	15,410	16,707	21,898	24,999	29,807	29,859	37,145	39,793	31,000	29,223	17,367
Cities.....	39,856	46,705	54,278	65,138	69,999	82,730	85,785	95,324	92,224	81,322	65,850	50,720	42,097
Towns.....	20,195	24,371	24,230	26,736	26,139	38,754	35,198	37,407	29,404	29,959	23,740	20,316	19,591
Villages.....	5,009	5,776	5,314	5,956	6,648	10,789	11,010	15,046	12,449	12,316	10,233	10,472	5,828
Interest on bonded indebtedness †	6,474	6,997	7,408	8,384	9,066	14,849	20,618	19,119	20,219	23,347	24,271	23,215	23,209
Total.....	\$109,074	\$123,489	\$138,117	\$157,716	\$169,607	\$218,065	\$239,863	\$249,554	\$251,435	\$254,075	\$194,848	\$164,228	\$145,776
Less State aid to localities ‡	5,178	4,818	4,956	5,053	5,111	5,309	5,494	5,758	5,571	6,147	6,439	3,826	3,179
And county aid to localities.....	4,250	5,156	4,790	5,134	4,591	6,681	7,026	674	849	795	194	.....	.....
Net expenditures.....	\$99,646	\$113,515	\$128,371	\$147,529	\$159,905	\$206,075	\$217,518	\$236,770	\$245,191	\$247,579	\$187,614	\$160,208	\$142,597
Percentage Distribution †													
State.....	20.2	19.8	21.9	21.4	20.4	21.2	21.3	21.6	24.2	27.3	19.8	19.3	28.9
Counties.....	9.9	8.4	8.8	8.3	11.5	9.6	11.6	10.5	16.2	17.6	13.5	21.2	14.5
Cities.....	42.8	43.8	44.9	46.8	46.4	43.3	43.6	43.8	41.0	36.2	40.9	37.0	35.3
Towns.....	21.7	23.1	20.0	19.2	17.3	20.3	17.9	17.9	13.1	13.4	14.5	14.9	16.4
Villages.....	5.4	5.4	4.4	4.3	4.4	5.6	5.6	6.9	5.5	5.5	6.3	7.6	4.9
Total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

* Data from Annual Report of the State Tax Commission, 1934, Table 35, p. 339. This table is exclusive of any figures for the New York Port Authority.

† Based in some instances on approximate indebtedness and at a rate of 4 per cent.

‡ Cf. Table 58, p. 296.

§ Interest not included.

• Aid to localities deducted in computing percentages.

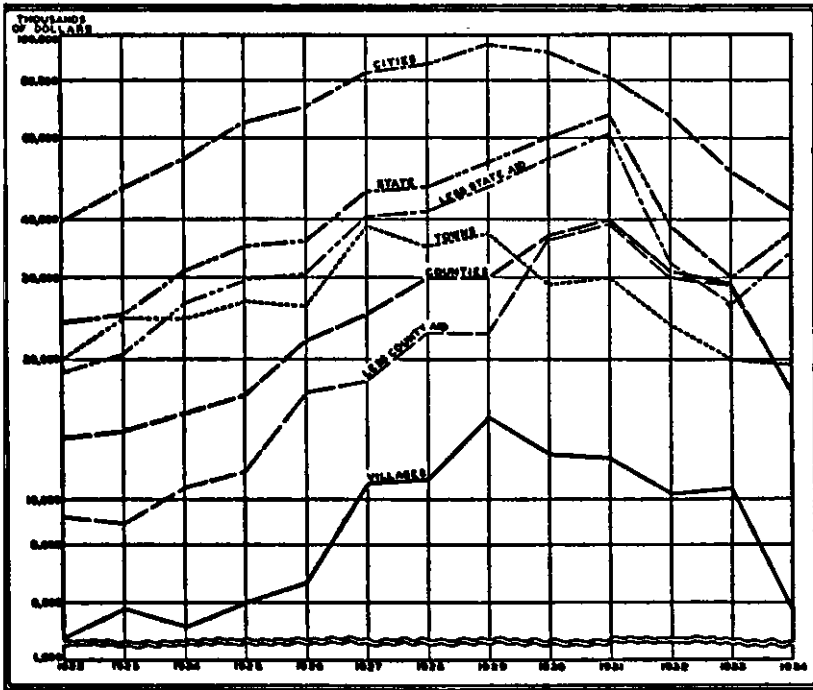


FIG. 17.—EXPENDITURES FOR STREETS AND HIGHWAYS IN NEW YORK BY GOVERNMENTAL UNITS

The first session of the assembly provided for the selection of three highway supervisors,¹² numerous special authorizations similar in character followed after 1740,¹³ and again in 1797 towns were universally authorized to choose three road commissioners.¹⁴

The direct responsibility of the town in highway matters was definitely increased in 1801¹⁵ when it became the duty of the commissioners to call out workers, direct their activities, make highway regulations, and record the location of roads. The augmenting of authority applied not only to administrative duties but to appellate powers as well. Contested decisions of the commissioners,

¹² *Colonial Laws*, 1691, c. 3, p. 226.

¹³ In 1739 Suffolk county was permitted to elect town highway commissioners (*ibid.*, c. 686). Kings, Queens, Richmond, and Oswego counties were empowered by an act of 1745 to elect three freeholders in each town to lay out highways (*ibid.*, c. 805). In 1756 town commissioners were named by the council and general assembly in Ulster county (*ibid.*, c. 1001). Two precincts in Orange county were authorized to elect three surveyors of highways and to levy a three shillings tax in 1760 (*ibid.*, c. 1144), and Richmond county was authorized to select two freeholders in each precinct to be highway overseers (*ibid.*, 1764, c. 1267).

¹⁴ Each town was to choose three commissioners who were to carry into effect the orders of the county superintendents, report all difficulties, deposit all road records in the town clerk's office, keep the bridges and roads in repair, and inform persons about their obligations on the roads (*Laws*, 1797, c. 43).

¹⁵ *ibid.*, c. 78.

instead of being reviewed before the county superintendents were now taken before the supervisor, clerk, and the justices of the peace. The statement of the amount necessary for repairs was prepared by the commissioners and laid directly in the hands of the supervisors for action. The act made it mandatory on the supervisors to levy the amount asked for by the commissioners. By making the town superintendents responsible for the planning and constructing of all local roads, and further making it mandatory on the supervisors to lay such imposts as the local officers stipulated, the town was definitely established as an independent unit for local highway administration and finance.

HIGHWAY FACILITIES PROVIDED BY COUNTIES

While it was not until 1924 that the county made any significant contribution to the funds available for highway purposes, it was lending its support in an administrative capacity from a much earlier date. For example, in 1701 the justices of the peace, who were then county officers, were authorized to appoint surveyors of highways in each town.¹⁶ Two years later commissioners were to be appointed in each county with authority to establish and maintain a system of inter-village roads by means of levies imposed against property by or through which the road ran.¹⁷ The trend towards county administration was given significant confirmation when the Legislature gave the persons administering the government of the State power to appoint three superintendents of highways in each county. These officers were to be charged with directing the work of repairing and constructing roads and bridges, apportioning all money granted by the Legislature among the town commissioners, directing the disposition of the fines in the hands of the commissioners, and hearing appeals from the decisions of town officers.¹⁸ This movement toward the concentration of authority in the hands of the county with respect to local road administration, however, was apparently curtailed in 1801 when the powers of the town officers were increased and appeals were no longer directed to the county superintendent, but to the supervisor, clerk, and justices of the peace.¹⁹

Although the scope of authority exercised by the county over town roads was somewhat curtailed, it found room for expansion in other ways. The town was evidencing incapacity in many regards and some agency was needed to supply the deficiency. The one most appropriate and ready-made was the county. The first limitation of the town was evidenced in the lack of financial strength to construct adequate bridges. To meet this situation a law was passed in 1801 making it possible for a county to assume the cost of a bridge if the burden appeared too heavy for the town.²⁰

¹⁶ *Colonial Laws*, 1701, c. 101.

¹⁷ *Ibid.*, 1703, c. 131.

¹⁸ *Laws*, 1797, c. 43.

¹⁹ See above.

²⁰ *Laws*, c. 184.

It was also apparent that the towns were not adequately providing for through roads. Accordingly in 1838 the powers of the county supervisors were increased with respect to roads of this character. They were authorized to

appoint special commissioners to lay out public highways in those cases where they shall be satisfied that the road applied for is important and that authority now conferred by law upon commissioners of highways, cannot or will not be exercised to accomplish the laying out of such road.²¹

The Legislature in 1808 named several important roads, each to be developed in accordance with this plan. In this instance the county was made the unit responsible for financing the proposed projects.²² Boards of supervisors were also authorized to provide for the use of abandoned turnpike, plank, or macadam roads within any town; for the location, erection, repair, or purchase of any bridge; to apportion expenses upon towns; or borrow such sums as might be necessary.²³ The county first undertook to assist towns in the financing of bridge costs in 1890.²⁴ In those instances where the proposed outlay appeared to impose an undue burden on any town, the supervisors could supplement local funds up to \$2,000.

By 1892 the power of the county as to highway matters was further augmented. An act authorized boards of supervisors to construct a county highway or bridge at county expense.²⁵ They were also given some control over minor civil divisions in that they could grant permission to towns, or to towns acting jointly with other municipal corporations, to build or change the location of any bridge.

The county highway system as it is generally known today had its beginning in 1893.²⁶ Upon favorable action by the board of supervisors, certain parts of the highways were to be designated as county roads, financed by the county and maintained under a county highway engineer. Adoption of this system was in all instances dependent upon the commutation of town labor assessments.

State aid was first apportioned to the counties for highway construction in 1905, but the amounts were small and the method of apportionment was without definite plan until 1920. The first apportionments under the Lowman Act were approximately two million dollars, and amounts granted to the counties under its provision have not been materially increased. It cannot be assumed, however, that the amount of State grants over which the

²¹ *Ibid.*, 1838, c. 314.

²² *Ibid.*, 1808, c. 176. The costs were to be paid by the counties through which the roads ran in accordance with the number of miles of road in each county.

²³ *Ibid.*, 1809, c. 855. Excludes New York and Kings counties.

²⁴ *Ibid.*, c. 563, § 131.

²⁵ *Ibid.*, c. 626, § 61.

²⁶ *Ibid.*, c. 333.

county exercises supervisory oversight has not increased. As will be pointed out in later sections, the creation of the county road fund and the placing of various moneys formerly expended by the towns in this fund, has in reality increased greatly the percentage of the State grants controlled by the county.

THE ROAD DISTRICT

To the extent that a taxing district is determined by uniformity of tax rates throughout a given area, road districts may be said to have existed as early as 1797. Under the labor system assessments were made in each district within a town in proportion to the estate and ability of each person.²⁷ The identity of the special road district was more definitely established in 1880.²⁸ Supervisors in certain counties were authorized to establish highway districts upon application of owners of more than one-half of the non-resident lands. These districts were made distinct from the towns in that their boundaries and financial organization could be determined independently. The responsibility for developing a plan for assessing and collecting necessary revenues rested wholly with the commissioners.

STATE PARTICIPATION IN HIGHWAY BUILDING

It is not entirely correct to say that the State did not actively engage in providing highway facilities until 1898. Virtually from the inception of the present government the Legislature has in one way or another supported the construction of roads. In 1790, contracts were let for building a road between the Susquehanna and Hudson rivers.²⁹ Two years later the State was divided into four districts, three commissioners placed in charge of each, and a total of \$20,000 placed at their disposal for the opening of highways and construction of bridges.³⁰ Lotteries became very popular from 1797 until outlawed by constitutional amendment in 1821.³¹ Managers were named in the acts and granted authority to sell tickets on credit, borrow money for road purposes in anticipation of lottery receipts, deduct 15 per cent of returns as compensation, and to take other steps necessary to carry the plan to fruition.³² An assembly committee reporting upon lotteries in 1819 indicated that at that time \$109,100 had been thus raised for highway purposes.³³

After the passing of the lottery era the State provided through means of travel by creating corporations with authority to sell transport services. From 1797 to 1860 some four hundred turnpike companies were chartered to build roads or to construct

²⁷ *Ibid.*, 1797, c. 43; cf. *supra*, p. 130.

²⁸ *Laws*, c. 175.

²⁹ *Ibid.*, c. 53.

³⁰ *Ibid.*, 1792, c. 60.

³¹ Art. VII, § 11.

³² *Laws*, 1797, c. 60; 1798, c. 26; 1819, c. 206.

³³ *Sowers, op. cit.*, p. 136.

bridges.²⁴ What became of these companies can be inferred from the enabling legislation passed with respect to counties and towns. In 1869 counties were empowered to provide for the use of abandoned turnpike, plank, or macadam roads²⁵ and six years later counties were granted permission to extend to towns the right to purchase plank roads.²⁶

The twentieth century brought forth a new era in highway construction. With the coming of this new epoch the State abandoned its more or less secondary interest in highways and set itself definitely to the task of improving the primary and secondary roads of the State. The achievement of this objective was brought about in several ways: (1) The responsibility for constructing improved roads was removed from the localities. (2) Maintenance of improved roads, as well as construction, was eventually assumed by the State. (3) The subventions principle was established as an integral part of the State's program. (4) The financial burden incident to the construction of bridges was divided between the central government and the localities. (5) The State assumed the major part of the financial burden arising out of the removal of grade crossings. (6) The State assumed the responsibility for assessing and collecting various motor vehicle taxes and made a portion of the proceeds available for local highway purposes.

Construction of improved roads.—Prior to the enactment of the Higbie-Armstrong Act the responsibility for building highways rested chiefly with the towns. After 1898, however, a chain of readjustments was set in operation, leading eventually to the complete assumption by the State of the financial responsibility for constructing the primary roads. Under the provisions of the above-mentioned act every county was invited to improve its more important highways, and in consideration of the exercise of this local initiative the State offered to contribute one-half of the construction costs.²⁷ The enthusiasm accorded the sharing of construction costs may be noted from data presented in the engineer's report for 1903. Here it was anticipated that by January 1 the counties would have raised their share of funds necessary for improving 1,250 miles of road. Certainly the localities outstripped the State for it had provided its share for only 485 miles.²⁸ Petitions were on file for even greater amounts. Fifty counties

²⁴ F. G. Crawford, and H. W. Peck, *Motor Vehicles and the Highway in New York* (Syracuse, 1927), p. 45.

²⁵ *Local*, c. 854.

²⁶ *Ibid.*, 1875, c. 482, p. 558.

²⁷ *Ibid.*, 1898, c. 115. This law also provided that the portion of the cost borne by the localities was to be allocated between the county and the town, or owners of adjacent land, on the basis of 35 and 15 per cent respectively.

²⁸ The 765 miles of roads awaiting development because of shortage of funds at the disposal of the State was the chief factor responsible for bond issues floated by the State to improve roads under the existing highway laws. Accordingly the House and Senate on April 1 and 2, 1903, drew up a concurrent resolution proposing an amendment to Art. VII of the Constitution authorizing such a debt. Support for this type of legislation was also evident from a resolution emanating from a convention of supervisors held at Albany on

had requested the improvement of 873 roads with an estimated length of 4,143 miles.³⁹

In 1907 the State further relieved the localities of the fiscal burden arising out of developing a system of improved roads. The Higbie-Armstrong Act was amended so as to permit a county to pay 2 per cent of the cost, for each \$1,000 of assessed real and personal property per mile of highway, the proceeds being accepted in lieu of the regular 35 per cent requirement. Similarly, the towns were allowed to substitute a 1 per cent computation in place of their usual 15 per cent quota.⁴⁰ The report of the highway department for the year 1910 indicated that under the revised law the State was bearing on the average about 65 per cent of the costs.⁴¹

The policy initiated in 1898 was further extended in 1912 by making the financial burden for improved roads solely an obligation of the county and State. The words "and town" were omitted from the act and county highways were to be improved at the joint expense of the State and county.⁴² The culmination of this movement inaugurated by the Higbie-Armstrong Act was finally reached in 1929. All highways formerly constructed or improved jointly were declared State highways to be constructed or improved at the sole expense of the State.⁴³

From the standpoint of unification the highway system had been developing rather unsatisfactorily under the Fuller-Plank and Higbie-Armstrong Acts. Accordingly, a joint committee of the House and Senate was appointed in 1907 to bring in a report dealing, among other things, with "the general subject of a proper development of the whole highway improvement in the State." The committee reported that "roads in general are not selected by the board of supervisors from the standpoint of whether they are market roads and the selection is affected largely by purely local

January 20, 1903, composed of 295 delegates from 51 counties. The resolution urged the bonding of the State for \$20,000,000 for highway improvements, and the appropriation of \$1,000,000 to carry out the provisions of the Higbie-Armstrong Act. As a result of increased demands for improved roads and in keeping with the sentiments expressed by organized groups, the Constitution was amended in 1905 (Art. VII, § 12) to permit the State to issue \$50,000,000 of bonds to meet its share of improvement costs. By the close of 1911 the issue of 1905 had been virtually expended and yet 4,500 miles of highway remained to be improved. Accordingly, another \$50,000,000 issue was approved by the voters in 1912. Out of this issue \$20,000,000 was to be used on State highways, and the remainder to be apportioned among the counties according to population, area, and mileage of improved highways (cf. Sowers, *op. cit.*, pp. 222-23).

³⁹ *Annual Report of the State Engineer and Surveyor, 1903, Assembly Document No. 65 (1904)*, pp. 62-63.

⁴⁰ *Laws, 1907, c. 718*. "Under the provisions of this act the State pays as much as 91 per cent of the cost of construction in some counties, while some of the poorer towns pay as low as 1 per cent of the cost of construction" (*Annual Report of the State Engineer and Surveyor, 1907, Assembly Document No. 15 [1908]*, p. 16).

⁴¹ *Report of the Highway Commission, 1910, Senate Document No. 29 (1911)*, p. 22.

⁴² *Laws, 1912, c. 83*.

⁴³ *Ibid., 1929, c. 362, § 120*.

considerations."⁴⁴ Further it was pointed out that those highways which were considered to be of sufficient importance to be classed as through highways should be supported by the State. As a result of the work of this committee the highway laws were thoroughly revised. The State system of highways was established and placed under the direction and control of the newly created highway department. Starting out with a State system consisting of 3,000 miles of highway, the aggregate mileage has shown a 366 per cent increase between the years 1908 and 1934. The 13,980 miles of State system represent 16.6 per cent of the total of 84,142 miles of rural highways.⁴⁵

Maintenance of improved roads.—Under the original Higbie-Armstrong Act the localities were made responsible for maintaining those roads constructed in part by State aid. The commissioner of highways in each town was required to keep these roads in repair under the direction and supervision of the State engineer following out such rules as his office and the county engineer might set forth.⁴⁶ The first major change came about in 1906 when the State took over the maintenance and repair of improved roads and made a charge against the towns of \$50 per mile.⁴⁷ The year 1929 marks the complete transfer to the State of full financial responsibility for the maintenance of State and county highways.⁴⁸ Chapter 459 provided the "cost of maintenance and repair shall be borne wholly by the State."

Financial aid to the localities.—The State's highway program, initiated in 1898, was two-fold in purpose. While designed to insure the development of improved roads, the fiscal problems arising in connection with the development of secondary roads were not overlooked. The Fuller-Plank Act⁴⁹ provided for financial aid equal to 25 per cent of the local tax, on condition that the town levy an amount equal to at least one-half of the value of the highway labor tax at the then existing rate of commutation. In 1902 the amount was increased to 50 per cent,⁵⁰ and in 1907 the grants

⁴⁴ *Report of the Joint Committee of the Senate and Assembly on Highways*, Senate Document No. 16 (1908), pp. 3, 13.

⁴⁵ *New York State Planning Board, A Graphic Compendium of Planning Studies* (Albany, 1935), p. 104.

⁴⁶ In the event that the town commissioners failed properly to maintain any road constructed under the provisions of chapter 115 of the Laws of 1898, the county was authorized to assume responsibility for the task, either as a county charge or a levy might be made directly against the town concerned. In 1904 this provision of town responsibility was modified to the extent that the county, on resolution, might assume the burden for the cost of maintaining the class of roads included in this discussion (*Laws*, 1904, c. 609).

⁴⁷ *Ibid.*, 1906, c. 468, pp. 1092-93. In 1908 the State assumed responsibility for maintenance on county roads built without expense to the State equivalent to one-half of that contributed by the county. The maximum amount granted was 0.1 per cent of the taxable property within the particular taxing district (*ibid.*, 1908, c. 269).

⁴⁸ By legislative action in 1933 all county highways are now known as State highways (*ibid.*, c. 763).

⁴⁹ *Ibid.*, 1898, c. 351.

⁵⁰ *Ibid.*, c. 156.

were made to vary in accordance with the amount of assessed wealth per mile of highway.⁵¹

The method of apportionment introduced in 1907 continued in force until 1930 when the principle of equalization of burden (effective tax rates) was introduced.⁵² By this measure each town levying three mills or over on each dollar of actual valuation of taxable property in the town, outside incorporated villages, was to receive the difference between the amount of a tax and the sum of \$100 for each mile of highway. In no event was the town to receive less than \$50 per mile.⁵³ The fiscal importance of this grant is set forth historically in Table 56.

TABLE 56
SUBVENTIONS FOR HIGHWAYS, 1899-1934 *
(Thousands)

YEAR	Towns	COUNTIES			Total
		Maintenance of County Roads	Construction (Lowman Act)	Snow Removal	
1899	\$35				\$35
1900	54				54
1901	68				68
1902	103				103
1903	276				276
1904	393				393
1905	466	\$98			564
1906	604	46			650
1907	728	57			785
1908	1,045	60			1,105
1909	1,489	59			1,548
1910	1,592	53			1,645
1911	1,624	78			1,702
1912	1,666	90			1,756
1913	1,722	27			1,749
1914	1,816	215			2,031
1915	1,877	120			1,997
1916	1,949	195			2,144
1917	1,958				1,958
1918	2,042	20			2,062
1919	2,014	20			2,034
1920	2,240	20			2,260
1921	2,271	60	\$1,451		2,782
1922	2,443	30	2,705		5,178
1923	2,489	30	2,299		4,818
1924	2,531	30	2,395		4,956
1925	2,637	25	2,391		5,053
1926	2,711	25	2,375		5,111
1927	2,909	20	2,380		5,309
1928	3,098	20	2,376		5,494
1929	3,345	20	2,393		5,758
1930	3,447	20	2,104		5,571
1931	4,026	15	2,106		6,147
1932	4,110	8	1,988	\$333	6,430
1933	3,427		76	323	3,826
1934	2,962			217	3,179

* From Annual Reports of the Comptroller, Exhibit 17, "Public Works." The data relates to payments except for large encumbered balances which were included in year of contraction rather than year of payment.

⁵¹ *Ibid.*, c. 716.

⁵² *Ibid.*, 1930, c. 771.

⁵³ Economic pressure on the fiscal budget has resulted in a readjustment of the standard expenditure per mile of highway, and the amount required of the locality. In 1933 the standard was reduced from \$100 to \$87.50 per mile, and

Grants-in-aid for highway purposes, first made available to the towns, were extended to include the county in 1920. Under the Lowman Act⁵⁴ appropriations made by the counties for improvement of designated roads were matched by the State up to a maximum of \$30 per mile. Until 1930 it was the practice to redistribute the funds thus appropriated to the towns. Subsequent to this date, however, State subventions to counties, plus their share of revenue from motor vehicle and motor fuel taxes, and funds provided by the county have been pooled and expended only on roads approved by the county board and the superintendent of public works.⁵⁵ Thus instead of building a mile or two of highway in scattered sections of the county, effort is concentrated on one important stretch of road until it is completed and put in service.⁵⁶

The most recent addition to the permissible objects of State aid is that of snow removal.⁵⁷ On the initiative of the board of supervisors of any county certain roads may be approved by the State for aid in removal of snow. On approved roads the State furnishes one-half of the cost up to \$50 per mile.

Financing of bridge construction.—It may appear absurd to treat the development of responsibility for bridge construction and maintenance apart from that of the general highway system; nevertheless, the traditional procedure in New York has been to assign financing and construction of bridges to one government and that of highways to another. The plan inaugurated in 1898 to provide improved roads at the joint expense of the State and county did not include bridges located on these roads if the span was in excess of five feet. This phase of highway development remained as an obligation of town government until 1926.⁵⁸ The Legislature, in 1924, passed a law to the effect that after January 1, 1926, any condemned bridge located on a State and county highway and all new bridges required were to be built under direction of the commissioner of highways and financed jointly by the State and county, the former bearing 65 and the latter 35 per cent of the cost.⁵⁹

the minimum amount receivable was reduced to \$43.75. After 1933 the levy required of the local units has been 2.25 mills and the standard, \$75 per mile. The minimum allowance associated with this standard is \$37.50 per mile. In those towns not meeting the above requirement, nor raising amounts equal to \$50 and \$37.50 for the respective years indicated above, the State extends aid equal to the revenue raised locally (*ibid.*, 1933, c. 221).

⁵⁴ *Ibid.*, 1920, c. 840.

⁵⁵ *Ibid.*, 1930, c. 770, § 320-b(5-7); *Tax Law*, § 289-d(5) (b); *Cook's Consolidated Laws*, 1930, 64-a:73(4).

⁵⁶ Cf. *Annual Report of the Department of Public Works, 1930*, Legislative Document No. 74 (1931), p. 89.

⁵⁷ *Highway Law*, § 53-c, added by *Laws*, 1930, c. 772.

⁵⁸ The State did not recognize the place of the bridge in the highway system before 1926, yet there was intervention on the part of the central government to make it possible for the localities to purchase toll bridges when public policy warranted the shift in ownership. By enactment in 1909, the State was enabled to bear one-half the cost of purchasing the interests of the private companies. In all cases the initiative necessary to start the transfer of ownership was exercised by the locality (*ibid.*, 1909, c. 146).

⁵⁹ *Ibid.*, 1924, c. 276.

State participation in the removal of grade crossings.—The trends just reviewed relating to highway maintenance, construction, and bridge erection and repair hold also in the matter of eliminating grade crossings. It is becoming more and more a concern of the central government. A comprehensive plan of grade-crossing elimination was initiated in 1925 when the Constitution was amended to permit the floating of a \$300,000,000 bond issue for this purpose.⁶⁰ Originally the expense was to be divided between the State, railroads, and localities on a 25, 50, and 25 per cent basis. In 1928 the amount required from the localities was reduced to 10 per cent.⁶¹ The State assumed all the share borne by the localities for this work in 1929 with the exception of 1 per cent to be paid by the counties.⁶²

State administration of highway revenues.—Not only has the State taken over the full financial responsibility for the construction of improved roads, supplied funds to relieve the burden imposed on the localities in the maintenance of their rural roads, assumed the major part of the expenditures made necessary in the elimination of grade crossings, aided in the purchase of toll bridges, assumed in a large measure the financial burden for the construction of bridges located on State and county highways, and offered aid in the removal of snow, but the State has also extended itself considerably in the collection of certain vehicle and motor fuel taxes now shared with the localities for use in the construction and maintenance of highways.

Motor vehicle licenses, levied since 1901,⁶³ were first shared with the localities in 1916. One-half of the proceeds from this tax was shared with the localities until 1919 when the portion allotted to the minor divisions was reduced to one-fourth. None of the revenue from this tax is shared with the cities, other than New York, where it is included as a part of the general fund receipts.⁶⁴ Since 1929,⁶⁵ the State has levied a motor fuel tax. Twenty per cent of this revenue source is allocated to the counties outside New York City and is directed to be spent for highway purposes. The 5 per cent allocated to the city of New York, like the motor vehicle tax, may be used in any way that the officers of the corporation deem most expedient. The apportionment of the tax among the counties is made on the basis of the mileage of rural highway within the county relative to the total of the State.⁶⁶

⁶⁰ Amending Art. VII, § 14; cf. *Laws*, 1926, c. 233.

⁶¹ *Ibid.*, c. 678.

⁶² *Ibid.*, c. 461.

⁶³ *Ibid.*, c. 531.

⁶⁴ Cf. *supra*, p. 247 note.

⁶⁵ *Laws*, c. 364.

⁶⁶ The amount of motor vehicle and motor fuel taxes received by the various governmental units may be found in Tables 46-51, pp. 252-60.

2. Development of Centralized Controls

The first limiting device imposed on the localities in highway matters related to maximum tax rates. In 1801 the maximum amount a town could levy for highways in any one year was placed at \$250.⁶⁷ It remained at this figure until 1832, when it became permissible to increase the maximum on referendum.⁶⁸ These earlier devices, decidedly negative in character, have largely been supplanted by positive mandates. The expenditure provision now universally applicable to all towns is that their highway levy *must not fall below* a specified sum.⁶⁹ Restrictions as to maximum expenditures permissible apply only to the purchase of machinery, repair and construction of bridges, outlays for extraordinary road repair, and housing of highway equipment.⁷⁰

With the establishment of the highway department in 1909 the policy of examining local highway accounts was introduced. Provision was made that the commission might examine all accounts and records as it deemed expedient, and that it was the duty of county and town officers to produce all records necessary to the inquiry.⁷¹

Fiscal controls were at one time sufficiently broad to effect not only the accounting of funds but the actual execution of highway matters. In 1904 it was obligatory for town commissioners to comply with the direction of the State engineer or suffer the loss of financial assistance.⁷² Under the general grant of powers to the superintendent of public works to supervise all highways improved in whole or in part by State money the town and county roads are now nominally brought within the purview of the central government.⁷³ Before any county-road fund moneys can be spent the plan calling for the expenditure must have been approved by the superintendent of public works.

Construction or reconstruction of such roads, including necessary grade and culvert work, and any plans and specifica-

⁶⁷ *Laws*, c. 186, § 24.

⁶⁸ *Ibid.*, c. 274.

⁶⁹ The amount needed for the repair of highways and appurtenances "shall not be less than an amount which when added to the amount of money to be received from the State, under the provisions of section one hundred and one, will equal thirty dollars for each mile of highway within the town, outside the limits of incorporated villages, except that no town having an assessed valuation of three thousand seven hundred and fifty dollars or less per mile outside of incorporated villages shall be required to levy and collect a tax under this subdivision in excess of four dollars on each thousand dollars of assessed valuation" (*Highway Law*, § 90).

⁷⁰ *Ibid.*, §§ 94, 49.

⁷¹ *Laws*, 1909, c. 30, § 21. In 1924 the responsibility for this phase of control was placed in the hands of the comptroller (cf. *Annual Report of the Comptroller*, 1929, p. xxv). This officer is responsible for developing a method for keeping town accounts relating to highway matters, developing forms and blanks, prescribing the form of the order to be made by the town superintendent upon the town supervisor, and the form of the agreement to be entered into by the town board and town superintendent (*Highway Law*, § 106).

⁷² *Laws*, 1904, c. 609, § 55-d.

⁷³ *Highway Law*, § 15(1).

tions therefor, shall conform to an outline or general plan of the work approved and to requirements prescribed by the superintendent of public works, . . .⁷⁴

Furthermore, the superintendent may fix the duties of district, county and town superintendents, conduct annual district or county meetings, and give advice to local officials as to the best procedures for establishing grades and constructing suitable drainage systems.⁷⁵

In 1906 the Legislature provided that the supervisor and highway commissioner of every town receiving State aid for highway purposes were to make an annual report to the State engineer showing receipts and expenditures, an inventory of the equipment owned by the town, and the salary paid the highway commissioner. The forms for the required reports were to be supplied by the State engineer.⁷⁶ The law as drawn at the present time provides that the town superintendent shall report annually to the district superintendent on such matters as the commission may prescribe.⁷⁷ The treasurer of each county is to report to the commission annually as to the amount of money received by him on account of the maintenance and repair of improved State highways and the expenditures that have been made out of such funds.⁷⁸

The first direct control exercised by the State over local highway personnel occurred in 1909 when the commission was given power to remove a county superintendent for inefficiency or neglect of duty.⁷⁹ Similarly a town superintendent may now be removed by the commission upon written charges preferred by the town or the district, or county superintendent, for malfeasance or misfeasance in office.⁸⁰ Provision is also made that in the event the board of supervisors fails to appoint a county superintendent, an officer to perform these duties may be appointed by the commission and the salary shall be a county charge in the same manner as if the appointment had been made locally.⁸¹

3. Inter-Governmental Relationships

The inter-governmental relationships arising out of the construction of highways, streets, bridges, and elevated crossings are indeed numerous. The original Higbie-Armstrong plan for bearing the cost of constructing improved highways was one of the earliest and most striking examples of highway planning calling for cooperative effort.

⁷⁴ *Ibid.*, § 320-b(8).

⁷⁵ *Ibid.*, § 15(8, 13, 10).

⁷⁶ *Ibid.*, 1906, c. 363.

⁷⁷ *Highway Law*, § 47(13).

⁷⁸ *Ibid.*, § 174.

⁷⁹ *Law*, 1909, c. 30, § 32.

⁸⁰ *Highway Law*, § 46.

⁸¹ *Ibid.*, § 31.

Most inter-relationships, other than State and local, arise out of some action by the county, either in an administrative capacity, or as a grantor of financial aid. Section 320-a of the Highway Law provides that the board of supervisors may aid a town in the construction or improvement of a highway and shall designate the miles to be constructed or improved by county aid. In the event that the county and the town associate themselves together under the provisions of this act the county superintendent assumes supervision of the work. When the work is completed the cost of maintenance is to be a responsibility of the town. If the proposed improvement necessitated the purchase of right of way, the board of supervisors or the town board may acquire such lands as may be necessary.⁸²

The supervisory capacity of the county with respect to highway activities engaged in by the town has been gradually increased with the passing of time. All contracts calling for the removal of filth and the sprinkling of roads outside villages, purchase of tools in excess of \$500, and tool hire must be approved by the county superintendent before the action of the town officers is valid.⁸³ The county superintendent may, with the consent of the chairman of the board of supervisors, close temporarily any portion of a county road or town highway to vehicles of specified gross weight.⁸⁴ The county superintendent also has the power to condemn any town bridge found to be unsafe, to advise the town superintendents, approve construction and maintenance plans, and hold meetings of the town superintendents.⁸⁵

The board of supervisors of a county may provide for the improvement of a highway in one or more towns, or a highway laid out along the boundary line between a city or village and a town or towns, at the joint expense of the county and the town. The cost of the portion of highways constructed within the boundaries of a city shall be borne by the county.⁸⁶ When any village petitions the board of supervisors to construct or improve a connecting highway the cost is to be a joint expense apportioned between the two units by the board of supervisors.⁸⁷

The locality's share of the cost arising out of constructing a State aid road may be provided by a general county tax without apportioning the burden to the towns.⁸⁸ The maintenance of such roads is to be a responsibility of the county, financed either from county road moneys, the county road fund (if approved by the superintendent of public works), or the county may apportion such

⁸² *Ibid.*, § 320-a.

⁸³ *Ibid.*, §§ 179, 49, 50.

⁸⁴ *Ibid.*, § 22.

⁸⁵ *Ibid.*, §§ 19(2), 33.

⁸⁶ *Ibid.*, § 320.

⁸⁷ *Ibid.*, § 320-a.

⁸⁸ *Ibid.*, § 320-b(2).

cost of maintenance between it and the municipalities in which the road is located.⁸⁹

Any town bridge may be inspected by the county and if found unsafe it becomes the duty of the town superintendent to close the bridge. When a town bridge is thus closed the county prepares plans and specifications for its repair or reconstruction. Engineering services growing out of developing plans and specifications are in the first instance paid by the county, but reimbursement must be made by the town. If the bridge is over twenty-five feet in span then the cost is to be a county charge. Bridges having a span of less than twenty-five feet are to be maintained at the expense of the town. Any bridge having a span of twenty-five feet or more located on a county road is to be maintained by the county. All other bridges built by the county shall be maintained by it, except that the flooring of such bridge shall be maintained by the town in which the bridge is located.⁹⁰ On recommendation of the county superintendent, the board of supervisors may take over a town bridge of over twenty-five feet span, which is on a town highway or within an incorporated village, for the purpose of keeping the same in repair.⁹¹

When county highways are constructed through cities of the second or third class 15 per cent of the cost is to be borne by the city and 35 per cent by the county.⁹² In the case of villages the entire construction expense is borne by the State unless the street is widened at the request of the corporate authorities. Such streets in villages are maintained under the same provisions as those applicable to State and county highways.⁹³

County-State relationships arise out of purchasing lands for right of way. In 1906 the State was obliged to pay 50 per cent of the cost of such lands. This provision was short-lived, however, being changed again in 1907.⁹⁴ The purchase price of any land for a State highway deviating from the line of highway already existing shall be borne by the county in which the highway is located.

The State enters in many ways to settle questions of apportioning bridge costs and exercising supervision. In the event that the engineer in a county adjacent to a city of more than three million population cannot agree with the engineer of an adjoining county as to repair, construction, or maintenance policies, then the State commissioner may assume jurisdiction.⁹⁵ Whenever a bridge or

⁸⁹ *Ibid.*, § 320-b(12).

⁹⁰ *Ibid.*, § 19(1-8).

⁹¹ *Ibid.*, § 19(10).

⁹² *Ibid.*, § 143. Under the *Laws* of 1933, c. 763, all county highways are now classed as State highways and it would appear that the county's portion of the cost is paid by the State.

⁹³ *Highway Law*, § 137.

⁹⁴ *Laws*, 1906, c. 468, pp. 1068, 1091; amended by *ibid.*, 1907, c. 717, p. 1690.

⁹⁵ *Highway Law*, § 269-b.

culvert located on a State highway is to be constructed or repaired, and part of the structure will fall within the limits of a city, the city shall pay for that part lying within its limits. Responsibility for maintenance of bridges constructed jointly by the State and a city rests with the superintendent of public works. All the costs are, in the first instance, paid by the State, but the locality must reimburse the central government for its share upon receipt of statement showing the amount due.⁶⁶

The State also shares with the localities a portion of the cost of acquiring toll bridges. For all acceptable proposals the State bears one-half of the cost of acquisition. Fifteen per cent of the portion borne by the county shall be charged to the subdivision in which the toll bridge is wholly or partially located. The maintenance of such bridge shall be a charge upon the localities, unless the bridge is on a State highway. The expense of acquiring and maintaining toll bridges located on State or county highways is borne by the State. The initiatory steps, however, necessary to acquire the bridge even in these instances rest in the hands of the county.⁶⁷

When the construction or alteration of a State highway involves changing the course of a stream so that it crosses a county or town road, then the necessary bridges or culverts shall be built by the State and maintained by the authority having jurisdiction over the road.⁶⁸

4. Sources of Highway Support

Of the numerous innovations considered in connection with the development of highways none is more distinctive than the shift from taxes on property to imposts against users. Table 57 shows that in 1922 levies on property were responsible for 74.0 per cent of the total highway revenue; however, by 1934 the importance of this source had declined to 21.4 per cent. In 1930, probably a more typical year, property taxes were levied for highways to the extent of \$148,317,000 or 60.5 per cent of the total highway revenue. Motor vehicle taxes amounted to 12.7 per cent in 1922 and increased to 16.7 per cent in 1930. Gasoline taxes were not employed until 1929, but very shortly provided 11.4 per cent of the total. In 1934 these two sources provided 61.9 per cent of all highway revenues. If the developments characteristic of other states may be relied upon as indicative of future sources of highway support, it may be reasonable to expect that in the future a larger share of the highway burden will be shifted to the users of motor vehicles.

⁶⁶ *Ibid.*, § 19-a(4).

⁶⁷ *Ibid.*, §§ 263-69.

⁶⁸ *Ibid.*, § 19-a(12).

TABLE 57
SOURCES OF REVENUE FOR HIGHWAY SUPPORT, 1922-1934*
(Thousands)

SOURCE	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934
Motor vehicle tax.....	\$12,736	\$19,869	\$24,090	\$25,506	\$28,786	\$31,759	\$34,885	\$39,018	\$40,858	\$41,878	\$41,373	\$42,318	\$41,664
Motor fuel tax.....								14,188	28,079	30,407	40,341	43,210	45,433
Special assessments*.....	10,424	10,448	11,961	15,869	18,909	21,380	19,674	19,683	23,878	16,883	13,103	10,073	11,734
Real estate tax.....	74,156	79,339	69,164	101,868	108,244	148,572	157,924	160,139	148,317	154,890	77,057	50,762	80,055
Federal aid.....	2,863	3,384	3,928	4,814	4,665	4,367	5,038	3,767	4,078	3,587	14,949	7,846	11,872
Total.....	\$100,179	\$113,477	\$128,448	\$147,845	\$159,904	\$206,077	\$217,539	\$236,700	\$245,210	\$247,595	\$187,623	\$160,209	\$140,758
Percentage Distribution													
Motor vehicle tax.....	12.7	17.5	18.8	17.3	18.0	15.4	16.0	16.5	16.7	16.9	22.0	26.4	29.6
Motor fuel tax.....								6.0	11.4	12.3	21.5	27.0	32.3
Special assessments.....	10.4	9.2	8.6	10.4	11.4	10.4	9.1	8.3	9.7	6.8	7.0	6.3	8.3
Real estate tax.....	74.0	69.9	69.4	69.0	67.7	72.1	72.6	67.8	60.5	62.6	41.5	35.4	31.4
Federal aid.....	2.9	3.4	3.0	3.3	2.9	2.1	2.3	1.6	1.7	1.4	8.0	4.9	8.4
Total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

* Annual Report of the State Tax Commission, 1934, p. 340.

* Estimated figures for streets equal to 7/12 of total special assessments.

5. Evaluation of Present Organization of Highway Administration and Finance

THE ADMINISTRATIVE ORGANIZATION

Town government and its relationship to highway administration provides the chief concern of this section. The possibility of saving on the expenditures made from year to year on the 60,074⁸⁸ miles of roads managed by this unit is indeed great—savings through the elimination of a burdensome administrative overhead, through economies in the purchase and use of material and equipment, and through proper planning and the development of a type of rural road capable of withstanding adverse weather conditions. Regardless of how the problems arising in connection with this class of road are viewed they all point to the necessity for centralization of responsibility. When highway finance was nothing more than the annual assessment of a few days of labor from the owners of adjacent property, the town highway commissioner and his corps of road overseers provided a thoroughly satisfactory system. When the construction of a road involved only the grubbing of a few shrubs, the filling of a few washes, and the laying of log culverts, the skill of the average rural dweller may have been quite adequate. However, the building of roads calling for expenditures running into thousands of dollars per mile makes necessary arrangements of an entirely different character. The diseconomies arising out of administering 60,074 miles of roadway by an organization broken into 932 independent units are patently obvious.

In no instance is this incapacity more pronounced than in matters of staff and equipment. If the total mileage of roads classed as "rural" was evenly distributed among the towns even then it would not be adequate economically to support the proper kind of administrative staff and equipment. Although the mileage per town is too small now, the developments taking place through the transfer of roads from the town to the county tend to make the situation still more incongruous. Table 58 indicates that in thirty-three of the fifty-seven counties, exclusive of Greater New York, the State and county systems have assumed responsibility for 25 per cent or more of the total highway mileage. In Erie the percentage runs as high as 64. As a result of these readjustments thirty-two towns in the State have less than twenty miles of road to maintain. In spite of the fact that they have virtually no mileage left, these units continue to levy road taxes and spend money for maintenance, machinery, and equipment. The expenditures made by these thirty-two towns for maintenance, bridge repair, snow removal,

⁸⁸ Town highway mileage as reported by the Department of Public Works, January 1, 1933.

TABLE 58

PERCENTAGE OF THE AGGREGATE NEW YORK STATE MILEAGE CLASSED AS COUNTY ROADS AND STATE AND COUNTY HIGHWAYS* (January 1, 1933)

COUNTY	Per Cent of Total Mileage	COUNTY	Per Cent of Total Mileage
Erie.....	64.0	Yates.....	26.2
Schenectady.....	50.2	Greene.....	26.0
Monroe.....	49.8	Livingston.....	25.5
Jefferson.....	45.1	Broome.....	25.3
Montgomery.....	44.1	Steuben.....	24.4
Niagara.....	42.8	Nassau.....	23.6
Cayuga.....	40.7	Ulster.....	23.5
Hamilton.....	39.7	Fulton.....	23.2
Herkimer.....	39.3	Wayne.....	22.9
Onondaga.....	38.1	Ontario.....	22.8
Albany.....	37.1	Chester.....	22.4
Essex.....	35.8	Chemung.....	22.4
Orleans.....	33.2	Lewis.....	22.1
Tompkins.....	30.8	Tioga.....	21.6
Oswego.....	30.8	Sullivan.....	21.6
Wyoming.....	30.3	Otsego.....	21.4
Seneca.....	29.4	Columbia.....	21.4
Rockland.....	29.1	Washington.....	20.8
Rensselaer.....	28.8	Schuyler.....	20.6
Madison.....	28.7	Orange.....	20.3
Saratoga.....	28.6	St. Lawrence.....	19.9
Westchester.....	28.4	Schoharie.....	19.7
Oneida.....	28.1	Franklin.....	19.3
Cortland.....	27.6	Cattaraugus.....	19.2
Genesee.....	27.3	Warren.....	18.9
Chautauqua.....	27.3	Delaware.....	17.6
Futnam.....	27.0	Allegany.....	17.1
Clinton.....	26.9	Suffolk.....	12.7
Dutchess.....	26.4		

* Department of Public Works, "Town and County Distribution of New York State System of State and County Highways together with County Roads and Town Highways, Exclusive of Incorporated Villages and Cities" and "Mileage of County Roads in New York State by Counties and Towns, Exclusive of Incorporated Villages and Cities Maintained by Counties," January 1, 1933.

and purchase and repair of machinery are expressed on a mileage basis in Table 59.

This wide variation in the number of miles of road supported by each town and the further fact that no degree of uniformity exists with respect to salary policies have resulted in supervisory costs expressed on a per mileage basis ranging from \$14.21 to \$450. The data set forth in Table 60 are drawn from reports of only fifty-eight New York towns, but it is believed that they are indicative of conditions throughout the State. Another investigation dealing with town highway administrative costs presents the conclusion that the poorer the town the greater percentage of the highway budget expended for supervisory service. Since a distribution of towns arranged according to an index of wealth shows a skewness to the left, the larger portion of the towns would tend to have a disproportionately large part of their highway expenditures going for administrative overhead. For the seventy-one towns included

TABLE 59
AN ANALYSIS OF TOWNSHIP HIGHWAY COSTS FOR THIRTY-TWO NEW YORK TOWNS
MAINTAINING TWENTY MILES OR LESS OF TOWN HIGHWAYS, 1932

TOWN	County	Miles of Town Highways *	Cost per Mile for Maintenance, Bridges, and Snow Removal †	Cost per Mile for Purchase and Repair of Machinery ‡
Elko.....	Cattaraugus.....	20.00	\$183	\$17
Gates.....	Monroe.....	19.58	724	276
Manheim.....	Herkimer.....	18.71	503	786
Alden.....	Erie.....	18.01	684	26
Ashland.....	Chemung.....	16.93	389	69
Holland.....	Erie.....	16.65	566	32
Elma.....	Erie.....	16.63	959	98
No. Hudson.....	Essex.....	16.32	459	239
No. Greenbush.....	Rensselaer.....	15.89	407	264
Sardinia.....	Erie.....	15.77	753	102
Geddes.....	Onondaga.....	15.04	2,064	41
Lancaster.....	Erie.....	14.73	1,435	62
Salamanca.....	Cattaraugus.....	14.20	200	1
Stockport.....	Columbia.....	13.60	472	111
Princetown.....	Schenectady.....	13.08	416	767
Kingston.....	Ulster.....	12.14	153	1
Niskayuna.....	Schenectady.....	12.03	2,019	206
Benson.....	Hamilton.....	13.00	247	3
Marilla.....	Erie.....	10.90	551	49
Wales.....	Erie.....	10.70	795	3
St. Armond.....	Essex.....	10.61	385	118
Altamont.....	Franklin.....	10.50	995	436
Clarkson.....	Monroe.....	8.84	898	931
Dunkirk.....	Chautauqua.....	8.64	450	1
Ossining.....	Westchester.....	8.48	1,906	235
Inlet.....	Hamilton.....	8.10	360	58
Niagara.....	Niagara.....	7.90	977	127
Rye.....	Westchester.....	6.84	7,009	99
Minetto.....	Oswego.....	5.32	1,661	211
Dickinson.....	Broome.....	4.26	518	.....
Waterford.....	Saratoga.....	3.35	856	.....
Newcomb.....	Essex.....	.67	10,185	3,997

* Road mileage based on reports of the Department of Public Works as of January 1, 1933 (see Table 58).

† Special Report of the Comptroller on Municipal Accounts, 1932, pp. 314 ff.

TABLE 60
AMOUNT SPENT PER MILE FOR HIGHWAY SUPERVISION
IN FIFTY-EIGHT NEW YORK TOWNS, 1930*

Expenditures per Mile	Number of Towns
Below \$25.00.....	11
\$25.00 — 49.99.....	27
50.00 — 74.99.....	8
75.00 — 99.99.....	3
100.00 — 124.99.....	4
125.00 — 149.99.....	2
150.00 — 174.99.....	..
175.00 — 199.99.....	..
200.00 — 224.99.....	..
225.00 — 249.99.....	1
Over 250.00.....	2
All.....	58

*Two lowest amounts, \$14.21 and \$16 (Milan, Dutchess county and Walkill, Orange county); two highest amounts, \$386 and \$450 (Rye and Ossining, Westchester county); average expenditure, \$63.73. Expenditures reported in *Proceedings of the Board of Supervisors of Dutchess County, 1930*, pp. 537 ff.; *ibid.*, *Fulton County*, pp. 300 ff.; *ibid.*, *Orange County*, pp. 422 ff.; and *ibid.*, *Westchester County*, pp. 1077 ff. Town road mileage as reported by Department of Public Works, January 1, 1933 (see Table 58).

in Table 61 the percentage of the highway budget consumed in overhead costs ranged from 8.7 to 14.3. In the first case, the full value of real property was \$5,000,000 or more, while in the latter it was less than \$1,000,000.

TABLE 61

HIGHWAY ADMINISTRATIVE EXPENSE EXPRESSED AS PERCENTAGE OF TOTAL HIGHWAY EXPENSE IN SEVENTY-ONE NEW YORK TOWNS GROUPED ACCORDING TO FULL VALUE OF REAL PROPERTY, 1930^a

VALUATION OF TOWN (Thousands)	Number of Towns	ADMINISTRATIVE EXPENSE AS PER CENT OF TOTAL HIGHWAY EXPENSE			
		Highway Superin- tendents' Wages	Super- visors' Salaries	Town Clerks' Salaries	All Highway Adminis- tration
Less than \$500.....	11	12.0	1.4	0.3	13.7
\$500-1,000.....	16	12.4	1.7	.2	14.3
1,000-2,000.....	11	11.0	1.5	.3	12.8
2,000-3,000.....	17	10.0	1.3	.3	11.6
3,000-5,000.....	12	7.5	1.1	.3	8.9
5,000 or more.....	4	7.3	1.1	.3	8.7
All.....	71	9.6	1.3	0.3	12.2

^a Catherwood and Haag, *op. cit.*, Table 21, p. 13.

Not only do the relatively few miles of highways make administrative costs on a unit basis disproportionately high, but they preclude the economical employment of equipment essential for construction and maintenance. The usual inventory of town highway machinery reveals one, two, or three trucks, probably a 60 h.p. caterpillar tractor, one or two graders, a scarifier, stone crusher, snow plow, wagon loader, and numerous small tools consisting of mowers, drags, scrapers, and hand tools. Certainly the major part of this equipment cannot be fully utilized in the maintenance of forty or fifty miles of town highway. Frequent changes of personnel associated with the office of town highway commissioner are closely related to the highway equipment problem. A new incumbent may disapprove of his predecessor's choices with respect to types of tools or even trade names. Accordingly, perfectly good equipment may be either junked, traded in on new machinery, or sold at a tremendous discount.

A critical examination of town highway administration cannot overlook the problem of personnel. Since the planning of highways, regardless of the type of road, calls for supervision by technically trained men, it is obvious that in virtually every instance the town is incapable of supplying such personnel. The cost of providing the type of skill necessary must be spread over many miles of road if the costs are not to be disproportionate. It is indeed difficult to say what number of miles would provide such an optimum-sized operating unit; however, the fact that North Carolina has given approximately 11,000¹⁰⁰ miles of road over to each divi-

¹⁰⁰ Better, *National Municipal Review*, XXI (1932), 495.

sional engineer is indicative in some measure of the incongruity of the town as a unit for road administrative purposes.

The competence of town government to build and maintain highways has been examined from many angles. In no instance, however, has its pre-eminence been established. State and county highway systems have in many instances almost completely absorbed roads formerly maintained by the town. If the item of overhead cost in town highway expenditure is examined it is found to represent an undue proportion of total outlays. Towns do not provide technically trained personnel, nor could they without incurring an unconscionable fiscal burden. It must be recognized that the building of even tertiary roads requires fiscal and technical competence in excess of that possessed by the majority of town governments.

FINANCIAL ASSISTANCE

The New York program of local assistance, so far as highway finances are concerned, involves all the commonly known apportionment formulae. Grants to the towns are designed to equalize effective tax rates.¹⁰¹ Mileage is the measure employed in allocating funds available under the Lowman Act.¹⁰² A similar measure is used to determine each county's share of the motor fuel tax.¹⁰³ The motor vehicle license fee is returned to the county of origin. That portion of the township fund retained by the county¹⁰⁴ is spent in any section where need appears to be the most urgent.

A discussion of the prevailing methods of apportioning highway aids might take either of two courses. The advantages and disadvantages of each formula might be considered, or, attention might be directed to the composite operation of the several devices in any one locality. It is the latter that appears to offer the most fruitful approach. Are the grants made to the towns on an equalization basis and the county apportionments based on mileage, registration, and tax rates actually getting the funds into the areas where they are most urgently needed?

¹⁰¹ Cf. *supra*, p. 296.

¹⁰² Maximum allowed per mile, \$30.

¹⁰³ The motor fuel tax is apportioned to the counties outside of the city of New York on the same ratio as the total mileage of public highways in such county, outside of cities and incorporated villages, not including State and county highways (now State highways), bears to the total mileage of public highways in the State, outside of cities and incorporated villages and not including State and county highways (*Tax Law*, § 289-d).

¹⁰⁴ The comptroller makes the apportionment to the towns on the basis of the town and county roads, but when the funds are in the hands of the county treasurer, he is directed by law to "apportion and pay to the supervisor of each town, a sum which shall be the product obtained by multiplying the number of miles of highways within the town for which the town is required to provide maintenance, by the rate per mile set forth in the certificate of the comptroller. The county treasurer of each county shall retain in his office the remainder of the moneys so received from the State; such moneys shall be considered State moneys within the meaning of section three hundred and twenty-b of the Highway Law, and shall be used and applied as other State moneys may be used and applied in accordance with the provisions of such section" (*Highway Law*, § 103).

As a result of embodying the principle of equalization in town grants there has been a marked reduction in the deviation from the average grants per mile of town highways. For example, the towns of Nassau county received \$211.32 per mile of town road in 1929, while in 1932 the per mile apportionment was only \$88.12. Suffolk was reduced from \$114.64 to \$49.91, and Westchester from \$271.68 to \$52.23. In 1929 the average grant per mile for the 932

TABLE 62
COMPARISON OF HIGHWAY GRANTS TO TOWNS BEFORE AND AFTER ADOPTION OF
EQUALIZATION FORMULA *

COUNTY	STATE AID PER MILE OF TOWN AND COUNTY ROADS		COUNTY	STATE AID PER MILE OF TOWN AND COUNTY ROADS	
	1929	1932		1929	1932
Albany	\$57.29	\$78.16	Onondaga	\$49.65	\$50.73
Allegany	28.36	50.92	Ontario	33.58	53.65
Broome	34.19	48.93	Orange	51.37	51.62
Cattaraugus	26.45	66.67	Orleans	37.48	50.23
Cayuga	31.11	59.31	Oswego	29.52	58.96
Chautauque	39.26	53.28	Otsego	26.78	64.28
Chester	33.69	59.76	Putnam	68.54	53.21
Chemung	28.09	67.47	Rensselaer	31.82	53.15
Clinton	25.10	54.91	Rockland	99.16	65.49
Columbia	32.83	54.89	St. Lawrence	29.86	54.29
Cortland	28.37	63.35	Saratoga	33.97	55.14
Delaware	27.29	57.95	Schenectady	69.35	50.04
Dutchess	46.33	50.92	Schoharie	29.98	66.64
Erie	94.09	46.46	Schuyler	28.66	68.74
Essex	31.30	55.87	Seneca	34.66	50.23
Franklin	34.87	55.00	Steuben	26.95	67.28
Fulton	26.13	62.60	Suffolk	114.64	49.91
Genesee	45.07	50.40	Sullivan	37.24	51.47
Greene	31.74	58.30	Tioga	27.56	57.78
Hamilton	48.56	52.19	Tompkins	30.16	59.58
Herkimer	37.93	65.45	Ulster	36.28	54.59
Jefferson	28.27	52.76	Warren	20.60	54.67
Lewis	27.76	62.19	Washington	26.51	59.75
Livingston	34.21	53.58	Wayne	37.25	50.68
Madison	28.43	57.60	Westchester	271.68	52.23
Monroe	95.07	50.05	Wyoming	29.25	66.40
Montgomery	34.97	54.67	Yates	28.51	54.51
Nassau	211.32	88.12			
Niagara	66.67	49.68	Average	\$47.28	\$56.96
Oneida	34.18	56.27	Average deviation	23.65	5.68
			Percentage deviation	50.65	9.97

* Annual Report of the Comptroller, 1929, pp. 286-30; and *ibid.*, 1932, pp. 314-19. Road mileage based on reports by the Department of Public Works as of January 1, 1932 (see Table 56, p. 206).

towns, treated by county groupings, was \$47.28 with an average deviation of \$23.95. Under the new method of apportionment the average was \$56.96 with an average deviation of \$5.68. In the first case the percentage deviation was 50.65 while in the latter it was only 9.97. Such has been the result of the introduction of the equalization principle into apportionment of funds for the support of town highways.

Has this leveling-out process, brought about by providing from State funds the difference between a fixed mileage levy and a set sum per mile of highway, adequately satisfied the criterion of "need" as related to highway purposes? If ability to support highways as represented by wealth per mile of road were the only

criterion then the answer would more clearly be in the affirmative. Other factors, however, such as volume of traffic, effect of climate on road structure, topographical features of the land, and regional price levels must all be taken into account. An analysis of maintenance costs per mile of highway on town roads for the year 1932, as set forth in Table 63, indicates that the amounts spent per mile

TABLE 63
MAINTENANCE COST PER MILE FOR NEW YORK TOWN HIGHWAYS, 1932*

COUNTY	Maintenance Cost per Mile	COUNTY	Maintenance Cost per Mile
Westchester	\$1,270	Madison	\$145
Nassau	700	Chemung	144
Rockland	605	Herkimer	144
Suffolk	493	Saratoga	144
Schenectady	423	Cayuga	143
Erie	416	St. Lawrence	140
Albany	389	Jefferson	139
Futnam	352	Warren	134
Monroe	317	Lewis	132
Hamilton	241	Oswego	132
Orange	238	Montgomery	131
Onondaga	231	Broome	130
Niagara	220	Seneca	127
Dutchess	212	Yates	127
Sullivan	212	Schoharie	125
Oneida	190	Wyoming	125
Ulster	190	Cattaraugus	121
Essex	175	Chenango	119
Genesee	170	Clinton	118
Ontario	168	Cortland	118
Greene	166	Delaware	118
Orleans	165	Washington	116
Franklin	161	Tioga	113
Wayne	161	Steuben	110
Livingston	160	Allegany	106
Rensselaer	156	Otsego	106
Columbia	154	Schuyler	104
Columbia	151	Fulton	101
Tompkins	146		

* Based on mileage reports by the Department of Public Works, January 1, 1933 (see Table 58, p. 306); expenditures reported in *Special Report of the Comptroller on Municipal Accounts, 1932*, p. 329, exclusive of bridges, machinery and snow removal.

ranged from \$1,270 in Westchester county to \$101 in Fulton county. In fifteen of the fifty-seven counties the expenditure per mile on town highways was in excess of \$200. It certainly cannot be said that a method of apportionment which ignores completely these wide variations in maintenance costs adequately takes "need" into account.

Recognition must also be taken of the fact that a system of grants based on miles of highway and equalized full values is of necessity as crude as the data used in the apportionment formula. Mileage figures employed are those reported by local officials. To maximize their claim the figure is frequently overstated. Equalization data also appear to be defective, not alone because of the difficulty of actually ascertaining full values, but because the data are manipulated to achieved certain pre-determined ends.¹⁰⁵

¹⁰⁵ Cf. *Report of the New York State Commission on State Aid to Municipal Subdivisions*, Legislative Document No. 58 (1936), pp. 135-36.

A comparison of highway units with road mileage brings out some interesting aspects of county apportionments. By reducing the mileage and funds received per county to figures representing percentages of the two respective State totals the condition actually prevailing may be rather easily described. If it is assumed that construction costs, maintenance costs, and traffic demands are uniform throughout the State, then a county having 1 per cent of the county road mileage should receive 1 per cent of the State distributive fund. In 1932 there were only six counties in New York where this condition was approximated.¹⁰⁴ At the two extremes are Jefferson and Westchester counties. The former would have needed 153 per cent more money than it received to place it in line with the average. On the other hand, it would have been necessary to reduce the grant to Westchester county by 89.6 per cent. The changes necessary to equalize the per mile apportionment in other sections of the State are shown in Table 64. In twenty-eight

TABLE 64

PERCENTAGE INCREASE OF DECREASE NECESSARY TO EQUALIZE STATE HIGHWAY APPOINTMENTS PER MILE OF COUNTY ROAD, 1932*

COUNTY	Percentage Increase or Decrease	COUNTY	Percentage Increase or Decrease
Jefferson.....	153.0	Ulster.....	-10.0
Herkimer.....	114.4	Genesee.....	-10.7
Cayuga.....	99.5	Cattaraugus.....	-11.0
Madison.....	96.1	Oneida.....	-11.2
Montgomery.....	94.9	Schenectady.....	-13.0
Essex.....	71.9	Ontonago.....	-12.8
Orwego.....	67.1	Schoharie.....	-15.2
Lewis.....	55.3	Broome.....	-16.0
Yates.....	50.5	Monroe.....	-16.3
Erie.....	47.1	Rensselaer.....	-17.2
Wyoming.....	44.8	Dutchess.....	-21.6
Steuben.....	44.2	Chemung.....	-22.7
Tompkins.....	40.2	Albany.....	-23.4
Saratoga.....	33.5	Ontario.....	-29.7
Cortland.....	28.9	Nassau.....	-30.7
Orleans.....	20.8	Allegany.....	-31.4
Clinton.....	17.8	Columbia.....	-33.4
Seneca.....	16.7	Hamilton.....	-34.9
Schuyler.....	13.6	Rockland.....	-25.7
Niagara.....	10.8	Delaware.....	-36.0
Sullivan.....	10.1	St. Lawrence.....	-37.8
Tioga.....	10.0	Putnam.....	-40.0
Grossen.....	9.2	Fulton.....	-52.6
Oswego.....	5.0	Warren.....	-50.9
Chautauque.....	3.6	Franklin.....	-68.2
Washington.....	1.8	Suffolk.....	-79.5
Livingston.....	1.6	Orange.....	-82.2
Wayne.....	0.1	Westchester.....	-89.6
Chemung.....	-5.4		

* County road moneys from the State consist of the county's share of town aid based on the ratio of town highways to county roads, State aid for county roads, snow removal (*Annual Report of the Comptroller, 1932*, pp. 315-20), the locality's share of motor fuel tax and motor vehicle license fees (*Annual Report of the State Tax Commission, 1932*, pp. 264-65). County road mileage is based on report by the Department of Public Works as of January 1, 1932 (see Table 58, p. 305).

¹⁰⁴ Otego, Chautauque, Washington, Livingston, Wayne and Chenango.

of the counties it would have been necessary to increase grants for highways in amounts ranging from 0.1 to 153 per cent. In twenty-nine instances, it would have been necessary to scale the sums received in amounts ranging from 5.4 to 89.6 per cent.

The discussion thus far has been predicated on the assumption that the cost of constructing and maintaining a mile of highway is uniform throughout the State. This proposition provides a point of departure, but is, of course, far from an accurate description of prevailing conditions. Of the numerous factors responsible for varying unit costs, traffic density is probably the most important.

If this modifying element is taken into account, is the case for the present method of distribution weakened or strengthened? Data pertaining to traffic density on county roads are very meager, but such estimates as have been made do not correlate favorably with mileage grants. The lack of correspondence between grants and traffic may be readily detected by an examination of Table 65.

TABLE 65
COMPARISON OF MILEAGE ALLOTMENT FOR COUNTY ROAD PURPOSES WITH TRAFFIC DENSITY, 1932

COUNTY	Per Cent above or below State Average Allotment ^a	Traffic in Ton-Miles per Mile, One Foot Wide ^b (000)
Orange.....	82.2	43.8
Franklin.....	68.2	16.3
Putnam.....	40.0	19.9
St. Lawrence.....	37.8	12.8
Rockland.....	35.7	114.9
Allegany.....	31.4	13.3
Albany.....	23.4	62.2
Chemung.....	22.7	44.6
Dutchess.....	21.6	15.4
Rensselaer.....	17.3	33.5
Monroe.....	16.3	74.6
Broome.....	16.0	44.9
Onondaga.....	12.8	48.9
Schenectady.....	12.0	71.0
Genesee.....	10.7	21.0
Niagara.....	-10.8	46.8
Clinton.....	-17.8	13.7
Orleans.....	-20.8	16.8
Erie.....	-47.1	68.8
Essex.....	-71.9	7.6
Cayuga.....	-99.5	28.7
Herkimer.....	-114.4	16.7
Jefferson.....	-153.0	15.1

^a Cf. Table 64.
^b *Reorganization of Local Government in New York State*, Sixth Report of the New York State Commission for the Revision of the Tax Laws (1935), p. 663.

Consider first Orange and Niagara counties. Traffic requirements in these two instances are about equal, but Orange received 82.2 per cent more than the average for the State, while Niagara received 10.8 per cent less than the average.

The grants per mile made to Franklin and Orange counties do not differ so widely, but the traffic density of the latter is almost three times greater than that in Franklin county. The method of allocation based on mileage and registration gave St. Lawrence and Rockland counties almost equivalent unit grants. The traffic load in St. Lawrence county is, however, only a fraction of the burden imposed on the county highway system of Rockland county. Erie county ranks third among the twenty-three counties included in Table 65 with respect to traffic density, but eighteen counties received larger per mileage grants.

Apportionments based on registration, mileage, and local tax levies may have the distinction of being relatively simple, but the data available indicate that any one or a combination of the three is unsatisfactory when the criterion of "need" is applied. Doubtless these measures could be refined by weighting mileage figures to account for traffic density, soil conditions, topographical features, regional price variations, and unfavorable elements of nature. But even if these minute adjustments were made, there is still grave doubt as to whether they alone would achieve an apportionment effecting the greatest *net* return. The elements determining where funds can best be allocated are sufficiently numerous and varied to defy solution solely by mechanistic devices. All sorts of objective data are absolutely essential, but final decisions must be tempered by expert administrative opinion.

6. The Proper Adjustment of State and Local Highway Relationships

There is probably no necessity for laboring the question as to the general direction in which the allocation of responsibility for highway development should move. The question is chiefly one of determining how far these developments should be carried, and by what means the ends desired can be achieved most effectively. In the discussion dealing with the apportionment of responsibility for the provision of educational facilities, the position was taken that because of the peculiar relationship existing between the home and the school, a larger degree of local autonomy should prevail in certain school matters; *e. g.*, in the selection of teachers from lists of State nominees and in determining the variety and extent of educational offerings. Highways, although of direct interest to every member of a community, do not appear to have characteristics which call for the same sort of local control that seems essential in the case of the school. The mile or so of road adjoining the taxpayer's property engenders a different type of thinking than that arising out of personal teacher-pupil relationships. As long as the mile of road is adequately maintained and the costs are not unrea-

sonable, the resistance likely to be encountered in releasing the remaining vestiges of local road administrative control should not be great.

If one is free to evolve a pattern of State and local relationships without having to account for local prejudices, the criterion of "capacity economically to perform" may be allowed full play in the allocation of responsibilities. Whether the State should take over the financing and/or administration of any particular type of highway can be made to depend solely upon its efficiency compared with that of local governments.

The diseconomies associated with a system of highway administration dividing the responsibility for the preponderate portion of the mileage among hundreds of petty town officers have already been indicated. Certainly by all tests of administrative efficiency, and the exemplary action of other states, one would be thoroughly justified in urging a marked departure from established practices. The highway department of New York State, an organization in a position to understand intimately the problems of highway construction and finance, has for a number of years urged the centralization of responsibility for town highway administration.¹⁰⁷

Before any set of proposed substitutes for the present system of financial assistance can be seriously considered, it is necessary to select a set of principles that will provide a basis for equitably apportioning highway costs. It is equally imperative that the expenditure of available funds should be so spread geographically as to maximize the utility obtainable from the facilities provided. The principle here adopted as providing the most equitable apportionment of highway burdens is that of "benefit" and "cost of service"—benefit for non-industrial users and cost for all commercial vehicles.¹⁰⁸

¹⁰⁷ Cf. *infra*, p. 319.

¹⁰⁸ Because of the peculiar character of highway facilities, it is believed that the best apportionment of the burden is achieved and a true picture of cost relationships maintained when non-industrial users contribute in proportion to benefits received and commercial users meet the costs incurred as a result of their use of the highways. No departure from established notions is involved in advocating methods imposing differential charges on general and commercial users. The relationship between an abundant supply of pure water and the general health and comfort of the community may warrant charging general users only a fraction of the cost, while laundries, refrigeration plants, and other industrial users are required to pay a price equivalent to cost. Police service available to the general public is one thing; allocation of special details for service in private business establishments is another. Under no circumstances should any commercial undertaking be indirectly subsidized by supplying it with a service or an ingredient at less than cost. Proper allocation of resources under a price system can only prevail when costs and prices are equated. Thus, best allocation of resources between highway users and other employments is dependent upon the establishment of a tax system which will make each type of commercial carrier meet its full quota of costs. (For a formula designed to lay costs in this manner, see Wilfred Owen, *A Study in Highway Economics* [Cambridge, 1934], chap. ii).

The almost universal acceptance of the notion that ability taxation provides the only equitable method of spreading tax burdens has grown out of a situation wherein almost all the functions of government have involved per-

Having accepted benefit and cost as tenable principles for apportioning the burden of highway finance it is still necessary to develop administrative techniques designed to place the charges on non-industrial beneficiaries and commercial users most directly. In some instances the most direct approach may be by taxing users, in others by laying the charge against benefiting properties.¹⁰⁹ Out of the necessity for taxing users in some instances and property owners in others, the form of State and local relationships is partly determined. To the extent that levies must be imposed upon users, administrative peculiarities determine that the State must perform the task. In those instances where a levy against property provides the most direct approach, the arguments for centralization are not so cogent. The division of this responsibility is in general determined by the class of road under consideration. The costs incident to the construction and maintenance of "roads of a purely local interest, serving only local needs, should be financed out of local revenues, obtained either from local general tax revenues or from special assessments on adjoining land."¹¹⁰ This would apply to the purely local street in essentially the same manner as to strictly rural roads.

The case for supporting purely local facilities by means of real estate taxes or special assessments,¹¹¹ while apparently equally defensible either for purely local streets or rural highways, presents some peculiar problems that modify the obvious line of State and local relationships with respect to the latter. This qualifying element is the inability of the town or any other small community unit economically to build and maintain the necessary highway facilities. It is here contended that even these roads and possibly the streets in very small municipalities should enjoy the advantages of the superior skill and equipment common to the State highway department. If advantage is to be taken of this arrangement, it would seem rather awkward for a locality to impose a property levy and turn the proceeds over to the State to spend or even to use such funds for the hire of State services and equipment

forming some service for all classes of the body politic including the indigent. Highway facilities present a general exception to most of the common functions of government in two regards: First, highway users in virtually every instance possess some taxpaying capacity and most of those owning vehicles are able to contribute to the maintenance of facilities necessary for their operation. Second, highways are becoming increasingly important as carriers of commercial traffic.

¹⁰⁹ The argument that benefit levies whether placed initially on users or on owners are borne eventually by owners of benefited land is presented in an article by Jacob Viner on "Urban Aspects of Highway Finance," in *Public Roads*, VI (1926), 263.

¹¹⁰ "The Problems of Highway Finance," Report of Committee of the National Tax Association, *Proceedings* (1924), p. 421.

¹¹¹ When street and highway projects were first being developed the case for special assessments was not so difficult to establish. Now that improvements of this character have become common, revenues derived from general taxes are probably the preferable method of financing.

on a fee basis. The most likely solution appears to lie in having the State raise the revenues necessary to maintain purely local rural roads through a State-wide property tax and special assessments, tax proceeds to be used for day-to-day maintenance and special charges against abutting properties for improvements of permanent character.¹¹² In the larger urban centers the volume of work would be adequate to warrant making maintenance and construction a local problem. This plan of organization also obviates the necessity for State assumption of fiscal responsibilities incident to non-arterial street facilities.

At this point it appears apropos to examine the contention that incorporated places are entitled to a share of motor fuel taxes and vehicle license fees. The position here taken is that the claim of municipalities for a share of State-collected revenues is very remote except in the construction and maintenance of those streets of an arterial character. The reasonableness of this point of view becomes more obvious as the many advantages derived from streets other than providing a passageway for vehicles are considered. They offer an important measure of insurance against fire, access to light and air, a means of disposing of run-off water, and a source of beautification when properly landscaped. Pedestrian traffic uses street facilities at each intersection; public utilities find street areas convenient for the location of pipes, conduits and cables; buses, trams, and cabs are important users of streets, especially in larger urban centers.¹¹³ When beneficiaries of these services make their due contribution, the load remaining for the vehicle owner, so far as the non-arterial street is concerned, would be rather small. The responsibility of providing arterial street facilities should, however, be one chargeable primarily to the vehicle owner. The pedestrian uses these facilities at the peril of his life, residential property values fronting through streets are not enhanced, and such landscaping as is done benefits only the motorist. Due consideration of these factors leads to the conclusion that arterial streets in metropolitan centers and through streets in smaller cities and villages should be paid for out of levies imposed chiefly against motor vehicle users.

Trunk roads whether a part of the town, county, city, village, or State system should be financed out of revenues chiefly derived from levies imposed on motor car owners in proportion to their use if non-commercial and equal to the costs incurred if employed for commercial purposes.¹¹⁴

¹¹² City property should not be taxed for this class of rural work.

¹¹³ Cf. Viner, *op. cit.*, p. 262.

¹¹⁴ Some benefits derived from a good system of roads enure to society as a whole, as well as to motor car owners. Real income may be increased thereby, social solidarity strengthened, and defense made more adequate. To the extent that these advantages follow, funds derived from personal levies measured in terms of taxpaying capacity might be used to supplement special motor vehicle taxes.

The suggested adjustments of State and local relationships concerned with the provision of highway revenues may be epitomized as follows:

1. Support of all purely local rural roads by means of property taxes levied on all parcels, except those within the bounds of a city or village, supplemented by special assessments.¹¹⁵

2. All trunk roads, whether of town, county, city, or State caliber should be financed principally by highway users, supplemented probably by funds derived from taxes designed to reach individual taxpaying capacity.

3. Beneficiaries of city streets, other than private motor vehicle operators, should contribute to the support of city streets in proportion to the benefits they receive. If the whole of the costs are not then taken care of the balance might represent a just claim against the motor tax fund.

State administration of revenues levied against highway users and benefiting property owners may offer a solution to the problem of apportioning highway costs, but it adds the responsibility of properly distributing geographically the funds thus collected. How should the centrally collected funds be distributed among the several counties, towns, and cities? The basic answer to this query of apportionment is not the really perplexing feature. Everyone is agreed that whatever funds are available for highway purposes should be spread so as to maximize the social return. That is, the highway facilities must be so distributed that the marginal social return in the several communities is equated. The real crux lies in determining upon administrative procedures that will guarantee achievement of this objective. Is it possible to devise formulae whereby funds will be distributed so as to take into account relative need?

It is here proposed that an apportionment of highway resources throughout the State so as to maximize the return from the facilities can never be realized under any conceivable apportionment formula. The matter is one that can only be solved by diligent study of traffic needs. Formulae based on mileage break down because of the wide variation in unit costs due to traffic volume, climatic effects on road structure, topographical features of the land, and regional price levels. Registration fees, returned to a small political subdivision representing the domicile of the owner, fail to care for regions where resident owners are few but where foreign traffic is heavy. An equalization formula is an adequate criterion only so far as wealth per mile of road is a measure of highway need.

A program of State financing and administration of all highways may appear to break rather sharply with the traditional procedures. On closer investigation, however, many of the revisions suggested are only variants of practices now recognized as commonplace. Financing of rural roads by means of a uniform State

¹¹⁵ This rate should not apply to property located within incorporated areas.

property tax rate is not essentially different from a system of grants providing the difference between a set sum and the yield of a given tax rate. Equally well established is the principle that trunk highways should be financed out of imposts placed against motor car users. The State collects considerably more from its share of license fees and motor fuel taxes than is necessary to finance current highway costs.¹¹⁶ In fact, highway users contributed a total of \$87,097,000,¹¹⁷ a sum sufficient to meet the entire expenditures made for State and county highways, plus a sizable portion of the cost of city streets.¹¹⁸ The financing of through streets and principal boulevards out of revenues derived from motor vehicle taxes has at least been initiated in New York. In 1909 streets forming connecting links were to be a part of the State and county system in villages and in 1910 a part of the State system in third-class cities.¹¹⁹ The scope of the act was broadened in 1912¹²⁰ and in 1929 maintenance costs arising in connection with State and county highways in towns and incorporated villages were also included.¹²¹ Assumption by the central government of the responsibility for maintaining all classes of rural roads would not involve any drastic readjustment of the administrative organization. The commissioner of highways recently stated:

The improvement and maintenance of all highways in the State, including county roads and town highways, could advantageously be put under the control of the Division of Highways in the Department of Public Works. This Department has now an organization which can handle this work by merely expanding its personnel.¹²²

The success of a central highway organization in meeting the requirements of the several communities will be dependent largely upon its ability to maintain intimate administrative relationships. Local officials must be clothed with authority to act as liaison officers between the citizens and the State highway department. In those states where the financing of all highways has become a responsibility of the central government an attempt has been made to secure the *rapproch* of the communities for all road policies of direct local interest. For example, in the State of Virginia the boards of supervisors in the various counties are encouraged to make written recommendations to the State commission as to road maintenance and improvements. Similarly, in North Carolina the new highway set-up provides that the county boards shall act as intermediaries

¹¹⁶ State's share of motor vehicle licenses, 1934, \$30,603,493; motor fuel tax, 1934, \$36,088,263. State highway expenditures, 1934, \$37,684,110 (*Annual Report of the State Tax Commission*, 1934, pp. 97, 339).

¹¹⁷ See Table 57, p. 304.

¹¹⁸ See Table 55, p. 288.

¹¹⁹ *Laws*, 1909, c. 30, § 137; *ibid.*, 1910, c. 233.

¹²⁰ *Ibid.*, 1912, c. 88.

¹²¹ *Ibid.*, 1929, c. 458, § 170.

¹²² *Annual Report of the Department of Public Works*, 1931. Legislative Document No. 74 (1932), p. 5.

before the commission in behalf of their local constituency. It is not contended that this work can best be performed by county officers, but whatever unit may finally be selected as the most appropriate for administering to local needs should also be made responsible for contacting the State highway commission with respect to all matters relating to State and local highway relationships.

7. Summary

From the opening of the era of modern highway development down to the present time the trend has been toward the centralization of financial and administrative responsibility. Moreover, it is obvious that the forces impelling this transition are a product of conditions arising out of economic and technological developments. Better highways have made necessary the supplanting of "rule of thumb" construction methods by standards defined in terms of engineering precision; the adoption of revenue devices appropriate to apportion highway burdens in a way commensurate with benefit or cost; and the planning of a unified transport system capable of serving the economic, military, and social needs of the State in the most effective manner. The proposals here suggested are in full harmony with these historical antecedents. They include only those changes essential to bring the organization for finance and administration up to the standards avowedly of the first order and coordinate with developments in some of the states having the most forward looking highway programs. They are as follows:

I. Rural

(1) The withdrawal of the privilege of levying taxes for highway purposes from all local governmental units other than incorporated cities and villages.

(2) The transference to the State of full financial and administrative responsibility for all highways in the State, exclusive of city and village streets.

(3) Levy by the State of a property tax (excluding property located in cities and villages) adequate to finance the maintenance of all strictly rural roads.

(4) Employment by the State of special assessments for financing permanent improvements where the benefit is definitely localized.

(5) Certification by a State official of an annual levy sufficient to liquidate outstanding highway obligations in all those units where the work is transferred to the central government.

(6) All highways other than strictly rural roads and secondary streets to be financed by State-administered taxes imposed principally against highway users. A portion of the burden might well be distributed on the basis of individual tax-paying capacity.

(7) The transfer from the localities to the State of all equipment suitable for further use to be paid for by the State or donated by the locality, the option of sale or gift to rest in the hands of the local unit.

(8) The designation of those officers charged with the determination of local governmental policies as liaison officers to assist the State highway department in shaping its program to conform to the peculiarities of each locality.

(9) The adoption of a patrol system under the direct management of some qualified resident of the vicinity concerned, this officer to have sufficient delegated authority to insure the adequate meeting of all emergency situations.

II. Urban

(1) Municipalities should be allowed to participate in State-administered taxes levied against motor car users in such amounts as may be necessary to finance through and arterial streets.

(2) As an alternative to (1) the State on request should be able to take over the construction and maintenance of through and arterial streets.

(3) The enactment of legislation making it possible for small cities or villages to transfer the administration of their streets and alleys to the State. Local supervision should be provided for in these cases in much the same manner as in the patrol districts of the rural system.

CHAPTER XII

WELFARE

The problem of providing for the unemployable and the unemployed is at present one of the major tasks confronting the body politic. So long as the West remained, displaced industrial groups were able, somehow, to work out a subsistence for themselves. The West, however, is no more. Basic shifts in population structure and technological innovations, coupled with cyclical maladjustments, have worked together to render the present problem especially acute. The change in age of the population and the speeding of productive processes have rendered the laborer obsolete at an early age. In 1890, only 3.9 per cent of the male population fell within the group of sixty-five years of age and over; today, 5.4 per cent of the total population is composed of persons who have attained this age. Economic activity was so organized in 1890 that 73.8 per cent of those sixty-five and over was gainfully employed. However, in 1930, industry and trade were able to use only 58.3 per cent of the men in this age group.¹ Social legislation restricting child labor and establishing minimum wage scales has made it more difficult for youth to find a niche in industry. This situation is reflected in the new social phenomenon of "detached wanderers." In 1932 it was reported that at least 200,000 boys and young men, including both the illiterate and the college graduate, made up this nomadic army.² To these more basic maladjustments must be added the aggravating condition brought about by the vast army of persons capable and willing to work but unable to find employment. The exact number who have thus been victimized by the depression has never been ascertained exactly, but authoritative estimates have set the figure at ten million workers.³ Not all of this number have been thrown on public charity. However, the burden of providing minimum essentials for those without independent means has been sufficiently large to challenge the fiscal ingenuity not only of the localities, but the Federal government as well. During 1933 and 1934 the Federal government appropriated

¹ *Eleventh Census of the United States, 1890, I, Part 2, xx, cxxi; Fifteenth Census of the United States, 1930, II, 567 and IV, 42.*

² Newton D. Baker, "Homeless Wanderers Create a New Problem for America," *New York Times*, December 11, 1932.

³ *Economic Security Act*. Hearings before the Committee on Ways and Means. House of Representatives, Seventy-fourth Congress. First Session, on H.R. 4120 (January and February, 1935), p. 19.

sums ranging from \$481,000,000 to \$938,000,000 to meet this emergency.⁴

The highly industrialized character of New York has made the problem of aid for the aged, unattached youths, and unemployed greater than for any other State in the union. The necessity of marshalling the combined resources of all governmental agencies has brought about a new concept of State and local relationships of special relevance to welfare.

1. Evolution of Responsibility for Welfare Activities

In discussing the evolution of fiscal responsibilities growing out of care for the needy, it is impossible to fix any specific date as marking the end of private charities and the beginning of public support. Welfare work did not pass wholly from the hands of the town to the county in 1824; nor does 1867 denote the time when the State became definitely interested in the problem of local charities. The years 1664, 1824, 1867, 1929, and 1931 are all important dates in that they represent some major readjustment of public responsibility to the destitute. They are not, however, dates of terminal significance. The assumption of public responsibility for charities by the town has not excluded private contributions; the entrance of the county into this field in the first quarter of the nineteenth century did not exclude the town; nor have the activities of the State supplemented either private charities or the work of the county, city, and town.

COLONIAL ERA

The duty of providing for the needy in the Dutch colonial era was mandated, in general, to ecclesiastical bodies. Secular aid was also provided by setting aside a part of certain fines for poor relief.⁵ Under the English régime, care of the poor was made an integral function of government. This transition came about as a result of the Duke's Laws delegating the management of town affairs, including the care of the needy, to the overseers,⁶ and the law of 1683 making it possible for a town to extend a direct levy for support of the poor.⁷

⁴ *Ibid.*, p. 68.

GOVERNMENTAL UNIT	1932	Per Cent	1934	Per Cent
Federal	\$480,601,783	60.6	\$937,569,712	72.0
State	116,257,329	14.7	166,958,001	13.8
Local	193,904,016	24.7	197,477,339	15.2
Total	\$793,763,028	100.0	\$1,302,003,041	100.0

⁵ *Annual Report of the State Board of Charities, 1903, III, 3, 2.*

⁶ "Duke's Laws," *op. cit.*, p. 24.

⁷ *Colonial Laws, c. 2.*

The same colonial legislation that placed the responsibility of caring for the needy upon the town named the county as an auxiliary agency. The Duke's Laws provided:

That in regard the Conditions of distracted Persons, may bee both very chargeable and troublesome and so will prove too greate a Burthen for one Towne alone to beare, each Towne in the Rideing where such person or persons shall happen to bee, are to Contribute towards the Charge which may arise upon such occasions.⁸

CONSTITUTIONAL ERA

With the establishment of the Constitution, the Legislature did little more than place its stamp of approval on the procedure evolved by the colonial assembly. In 1788 the Legislature authorized each town at its annual meeting to provide for overseers of the poor.⁹ After a century and a half the town still retains its place among the relief agencies. Its position, however, is not of great significance. An examination of Table 66 shows that since 1927 the town has never contributed more than 4.6 per cent of the total expended for welfare purposes.¹⁰ Under normal conditions the portion of town resources devoted to relief activities is likewise small. Table 8 shows that during the eleven years preceding 1929 the amounts ranged from 2.2 to 5.1 per cent of all town expenditures. Since 1929, however, the demands for relief have so increased that in 1933 and 1934 this item was exceeded in magnitude only by expenditures for town highways. Of the \$46,738,000 expended by New York towns in 1934, \$9,575,000 or 20.5 per cent was devoted to assisting the needy.¹¹

The county, too, continued to function in relation to welfare activities under the Constitution much the same as in colonial times. Authorization was given in 1794 to provide for the support of certain poor,¹² and in 1808 to care for those persons who had not gained a residence in any particular city or town.¹³ The first general responsibility for poor relief placed on the counties occurred in 1824 when the State made it mandatory that the various boards of supervisors (thirty-eight counties excepted) purchase land and erect buildings for the care of the poor.¹⁴ Within a few years the system was extended to twenty additional counties, and four years later all distinction between town and county poor might be abolished making the county responsible for the total charge.¹⁵ Some localities elected to follow this procedure, others charged back to

⁸ Amendment to the Duke of York's Laws confirmed by Governor Richard Nicholls, October 30, 1665 (*Colonial Laws*, I, 79).

⁹ *Laws*, 1788, c. 64.

¹⁰ See *infra*, p. 335.

¹¹ See *supra*, pp. 44-45.

¹² *Laws*, 1794, c. 62.

¹³ *Ibid.*, 1808, c. 90.

¹⁴ *Ibid.*, 1824, c. 331.

¹⁵ *Ibid.*, 1828, c. 155.

each town a sum sufficient to cover the cost of maintaining inmates committed by them.¹⁶

This general swing from town to county administration of poor relief, so noticeable after the adoption of the Constitution of 1821, was reversed somewhat by an act of 1843 permitting certain counties to restore the distinction between town and county poor.¹⁷ Inspection of the charities and correction column of Table 11¹⁸ indicates that throughout the seventy-two years between 1843 and 1915 no change in county authority was sufficiently important to offset re-establishment of the distinction between town and county poor. In 1915, however, and years following, a number of events transpired augmenting the importance of the county as a welfare unit. The first enactment in the series was the establishment of child welfare boards in 1915 followed by children's courts in 1922; county public welfare districts, 1929; joint responsibility with the State for care of the aged, 1930; and organization of work relief in 1931.¹⁹ County expenditures for welfare activities as reported in Table 66²⁰ place this unit second in order of importance. In 1934, \$46,215,000 or 13.8 per cent of all welfare expenditures was made by the counties of New York. The relative contribution of this unit has been larger in other years, but the drop from 26.1 per cent in 1930 to 13.8 in 1934 was due to the aggravated condition of unemployment in urban centers. As a result of this situation the proportion of work relief money allocated to cities has been increased substantially over what the ordinary ratio of county-city expenditures would warrant. For example, in 1932 the counties bore approximately one-fourth as much of the relief load as did the cities, yet only one-fifth of work relief money was allocated for county use. The same tendency prevails for the year 1934. If all work relief moneys were eliminated the county contribution would increase from 13.8 to 20.2 per cent. Grants to the aged first made available in 1931 are definitely reflected in the county data for this year. The increase in county welfare expenditures from \$12,888,000 in 1930 to \$18,870,000 in 1931 was principally due to this added responsibility.

The cities, now the most important dispensers of relief funds, have been active in this field of endeavor since the early days of statehood. In 1784 two overseers of poor were to be elected in each ward in New York City. Four years later, arrangements essentially similar to the New York City plan were made specifically applicable to Albany and Hudson. In the same year an act was passed making every city in the State responsible for the care of its own poor.²¹ From these initiatory dates the growth of relief activities provides one of the important phases of the history of

¹⁶ Fairlie, *The Centralization of Administration in New York State*, p. 81.

¹⁷ *Laws*, 1843, c. 208.

¹⁸ Cf. *supra*, pp. 76-77.

¹⁹ Cf. Table 11, pp. 78-79.

²⁰ Cf. *infra*, p. 335.

²¹ Cf. Table 15, p. 98.

urbanization. In 1934 city governments in New York expended \$276,632,000 or 82.7 per cent of all the funds provided for ordinary and work relief projects.²² To the extent that urban communities have been established as welfare districts under the reorganization of 1929, they have been given the added duty of administering the funds provided for the care of the aged.²³

The history of State and local relationships pertaining to welfare administration may be epitomized as one of aloofness on the part of the central government. The degree of State divorcement, however, is largely determined by the liberality exercised in defining "welfare activities." If providing institutional services, as, for example, care of insane, is recognized as properly falling within this category, the State becomes an important participant at a much earlier date than it otherwise would. Since insane persons were originally incarcerated with indigents in county homes, attempts on the part of the central government to give these dependents proper facilities may well mark the initial development of State interest in local welfare problems. In 1836 the first State asylum was opened at Utica for inmates of poor houses who might recover if given proper medical attention.²⁴ The final step in the progress of events leading up to complete State responsibility for this class of dependents occurred in 1890 when a special commission was appointed and given instruction to divide the State into districts and report on the equipment necessary to care for all the indigent insane.²⁵ By 1893 the policy of State support for this class of dependents became a reality.²⁶ The fiscal significance of this functional shift may be fully appreciated when the extent of present-day mental ills is known. In 1934, 62,779 patients were housed in public hospitals at a cost of \$24,595,120 to the State.²⁷

The State had not concerned itself long with the problems of local institutional care before some interest was also manifest in the fiscal standards maintained by the localities. The board of commissioners of public charities, created in 1867, was required to visit biennially all city and county almshouses. The inspection covered both details of physical organization and fiscal status.²⁸ Under the poor law of 1896, the scope of supervision was made still more specific.²⁹ This measure subjected every charitable institution to fiscal inspection, and no almshouse could be built or reconstructed unless the plans and design had been approved by this

²² Cf. Table 66, p. 335.

²³ Cf. *infra*, p. 328.

²⁴ *Laws*, 1836, c. 82. An asylum for idiots was opened at Syracuse in 1851 (*ibid.*, c. 502). In 1865 the Willard Asylum for chronic insane was authorized (*ibid.*, c. 342), to be followed by the Hudson River Hospital for the Insane two years later (*ibid.*, 1867, c. 93).

²⁵ *Ibid.*, 1890, c. 126.

²⁶ *Ibid.*, c. 214. New York and Kings counties did not come under the act until 1895 and 1896 (*ibid.*, chaps. 628, 2).

²⁷ *Legislative Manual*, 1935, p. 550; *Annual Report of the Comptroller*, 1934, pp. 188-89, less outlays (p. 251).

²⁸ *Laws*, 1867, c. 951.

²⁹ *Ibid.*, c. 225.

State board of charities. In 1929 the former State board was supplanted by a department of social welfare²⁰ charged with overseeing the institutions of the State and exercising supervisory authority over all institutions receiving public funds. Special divisions have been organized for supervision of child welfare; medical institutions; blind; State, alien, non-resident and Indian poor; State institutions; and old-age benefits.²¹ Financial aid to local governments for welfare purposes, while not entirely known in the early days of statehood,²² has become worthy of note only within the past few years. Grants to the localities for old-age assistance, first distributed in 1931, amounted to more than \$6,000,000 in 1934.²³ Since November, 1933, the State, in cooperation with the Federal government, has provided the localities with a total of \$230,000,000 to assist those thrown out of employment as a result of the depression of 1929.²⁴

Expansion of Federal interest in the field of welfare work portends greater rather than less State concern with matters of this character. The recently enacted social security bill provides for matching local contributions made for the care of dependent children, blind assistance, and maternal care. These grants will inevitably stimulate activity on the part of the states.

2. Present Organization of Welfare Work in New York

The division of responsibility for care of the needy now operative in New York is determined by the recently adopted Welfare Act, sections of the Municipal and Education Laws, and a series of still more recent enactments designed to cope with the emergency problems of unemployment. While the developments arising out of the operations of the latter are too immediate to permit true evaluation, they do appear to mark rather definitely the expected trend in the organization of future relief activities. The Public Welfare Law, enacted in 1929,²⁵ was designed to establish new standards of social responsibility, modernize the nomenclature and text of the laws, and redefine the duties of the State and localities. The former idea of providing relief only on request has been abandoned in lieu of a more positive policy. Welfare officers are now charged with the duty not only of caring for the poor, but also of

²⁰ *Ibid.*, c. 654.

²¹ *Legislative Manual*, 1935, p. 469.

²² As early as 1771 the State appropriated £300 annually for the Hospital of the City of New York, an institution established to care for the indigent sick (*Annual Report of the State Board of Charities*, 1903, III, 37). The indigent deaf and dumb were given special consideration in 1819 when the State voted \$10,000 to certain New York City institutions engaged in caring for inmates of this type (*Laws*, c. 238). Instruction in orphan asylums was substituted by the State in 1847. Three thousand dollars was to be distributed proportionally according to the number of inmates in incorporated asylums employing qualified teachers (*ibid.*, 1847, c. 485).

²³ Cf. Table 44, p. 249.

²⁴ Cf. *supra*, p. 34.

²⁵ *Laws*, c. 565.

giving "such service to those liable to become destitute as may prevent the necessity of their becoming public charges."³⁶ Family ties are to be preserved by outdoor relief whenever practicable. The stigmatic connotations associated with "almshouse," have been obliterated by substituting the words "town home" or "county home." Officials formerly designated as poor commissioners are now public welfare officers.³⁷ Under the revised Welfare Law and the temporary emergency relief program, care of the needy devolves upon the State, local welfare districts, cities, towns and counties. The State is now responsible for persons without any settlement in a local welfare district, transporting alien and non-resident poor, care of certain Indian dependents, and for partially reimbursing the localities for expenses incurred in providing for the aged, physically handicapped persons, and unemployed. All other phases of public welfare work and the costs incident thereto devolve upon the localities.

Five of the sixty cities of the State are constituted welfare districts, separate from the counties in which they are located.³⁸ The cities named in this category are not only responsible for the administration of home relief and hospitalization, as well as all other cities,³⁹ but upon them falls the duty of providing institutional care for adults,⁴⁰ "placing out" of children brought under the jurisdiction of the children's court,⁴¹ and the granting of old-age assistance.⁴²

In providing operating units for execution of the T.E.R.A. program each city of the State was constituted a welfare district.⁴³ Planning and execution of work relief projects are delegated to an emergency work bureau selected by the governing board of the city.⁴⁴ Welfare activities in cities other than emergency work relief is usually organized along departmental lines common to any other function of government,⁴⁵ the mayor or city manager appointing the administrative head. Eleven cities leave the determination of relief policies to a public welfare board, ten of the eleven naming the officer charged with the execution of day-to-day operations.⁴⁶ In 1933 provision was made whereby the administration

³⁶ *Public Welfare Law*, 1935, § 77.

³⁷ *Ibid.*, §§ 165-a, 2.

³⁸ *Public Welfare Law*, § 17

³⁹ *Ibid.*, §§ 25, 31.

⁴⁰ Five cities operate institutions (*State and Local Welfare Organization in the State of New York*, A Summary Report by the Governor's Commission on Unemployment Relief, Legislative Document No. 56 [1936], p. 22).

⁴¹ The cities of Kingston, Newburgh, Oswego, Elmira, Saratoga Springs, Syracuse, and Schenectady care for needy children apart from the remainder of the county in which they are located (*ibid.*, p. 24 note).

⁴² In addition to the five city welfare districts, sixteen other cities have elected to administer this service to eligibles residing in the city (*ibid.*, p. 27).

⁴³ *Laws*, 1931, c. 798, § 6.

⁴⁴ *Ibid.*, § 7 amended by *ibid.*, 1932, c. 567.

⁴⁵ In the administration of emergency home relief the regularly constituted city commissioner acts as an officer of the central government (*ibid.*, 1931, c. 798, § 8).

⁴⁶ *State and Local Welfare Organization in the State of New York*, p. 83.

of home and work relief could be consolidated under an emergency relief bureau.⁴⁷ In the event a city takes advantage of this provision the emergency work bureau ceases to function and the commissioner of public welfare has only an ex officio relationship with the newly created agency. Arrangement is also provided for the consolidation of city and county welfare activities under a joint emergency work relief bureau or an emergency relief bureau.⁴⁸

Fifty-six of the fifty-seven counties are organized as welfare districts. The scope of activities outlined for the city welfare districts holds for the counties as well, except that in the majority of counties home relief is administered by the towns.⁴⁹ The administrative organization of the county, however, differs from the city. In the majority of cities, it was pointed out, the welfare commissioner was responsible to either the mayor, manager, or members of the welfare board. In the counties, with three exceptions, the welfare commissioner is responsible to no one save the electorate.⁵⁰

In addition to the work performed by the county in the capacity of a welfare district, a number of services are administered by other agencies. Appropriations for blind relief are made by the board of supervisors on recommendation of the State commission for the blind. The board may authorize the county commissioner actually to administer the fund or the board itself may handle the work through its own committee. The latter procedure is followed in all the counties of the State except five.⁵¹ Allowances designed to assist mothers deprived of usual sources of support are administered by boards of child welfare. Although the law requires the appointment of a board in each county, five up-State counties have no board and five others are not making an appropriation necessary to effectuate the plan.⁵² Unattached children coming under the jurisdiction of the children's court are turned over to the commissioner of welfare for placement in public or private homes.⁵³ Emergency work relief outside city welfare districts is administered by an emergency work bureau appointed by the board of supervisors.⁵⁴ Emergency home relief in these areas is administered by the county commissioner acting as a representative of the State administration.⁵⁵ Upon application of the chairman of the board of supervisors these two activities may be consolidated into an emergency relief bureau. The establishment of such a bureau automatically displaces the emergency work bureau and places the commissioner in an ex officio relationship with the newly

⁴⁷ *Laws*, 1933, c. 259, § 12(2).

⁴⁸ Cf. *infra*, pp. 329-30.

⁴⁹ *Public Welfare Law*, § 25; cf. following page, footnote 58.

⁵⁰ *State and Local Welfare Organization in the State of New York*, p. 78.

⁵¹ *Public Welfare Law*, § 48; cf. *State and Local Welfare Organization in the State of New York*, p. 26. In New York City the State exercises no control.

⁵² *Ibid.*, pp. 23-24.

⁵³ *Ibid.*, p. 24; cf. *Public Welfare Law*, § 25.

⁵⁴ *Laws*, 1931, c. 798, § 7 as amended by *ibid.*, 1932, c. 567, and 1934, c. 15.

⁵⁵ *Ibid.*, 1931, c. 798, § 8. For relation to town, see following page.

created agency.⁵⁶ Possibilities of further consolidation inhere in the amendment of 1933 providing for the consolidation of all work relief in the county and one or more cities located in the county in a joint emergency work bureau. When a bureau of this character is established it becomes solely responsible for the administration of work relief in the several welfare districts. If home relief is administered by the county, then the joint arrangement between the county and cities may be broadened to include home as well as work relief, administered by an emergency relief bureau.⁵⁷

With the exception of the seventeen counties where all relief has been placed on a county basis, towns are responsible for the administration of home relief.⁵⁸ Towns furnishing relief of this character are also authorized to make disbursements for emergency purposes which are reimburseable by the T.E.R.A.⁵⁹ The town is given no recognition by the T.E.R.A in the administration of the emergency work relief program. If a town wishes to operate a work relief project it must contact the central government through the county unit.⁶⁰

Assistance to veterans can hardly be appropriately discussed under either welfare districts, counties, cities, or towns. The administration of relief for persons in this class represents a combination of public and quasi-public efforts. The law authorizes any municipal corporation to raise money for veterans but the funds thus raised may be disbursed by any one of seven veterans' organizations.⁶¹

3. State and Local Welfare Relationships

The local welfare agencies described in the preceding pages give rise to several important State and local fiscal relations. The most important, of course, is the financial assistance rendered by the State. Without the supplanting of local funds, maintenance of the present program of welfare activities would be impossible. In 1934, \$6,456,000 was given over to the cities and welfare districts in fulfillment of the State's obligation to reimburse the localities for one-

⁵⁶ *Ibid.*, 1933, c. 259, § 12(2).

⁵⁷ *Ibid.*, subds. 3 and 4.

⁵⁸ Six counties now operate under a county plan as provided in the *Public Welfare Law*, § 27 and eleven others have combined home and work relief activities under a temporary county emergency relief bureau (*Laws*, 1931, c. 798 as amended by *ibid.*, 1933, c. 259, § 12(2); cf. *State and Local Welfare Organization in the State of New York*, p. 72).

⁵⁹ *Laws*, 1931, c. 798 as amended by *ibid.*, 1932, c. 567, § 9.

⁶⁰ Cf. Temporary Emergency Relief Administration. *Emergency Relief in the State of New York* (Albany: November, 1934), pp. 150-51.

⁶¹ *Public Welfare Law*, § 117. The following organizations are authorized to administer veteran relief: (1) any post of the Grand Army of the Republic, (2) any camp of the United Spanish War Veterans, (3) any post of the American Legion, (4) any post of the Disabled American Veterans of the World War, (5) any post of the Veterans of Foreign Wars of the United States, (6) any garrison of the Army and Navy Union of the United States, and (7) any post, garrison or camp of the Jewish War Veterans of the United States, Inc.

half of the amount raised for assistance of the aged.⁶² Grants for emergency home and work relief provided by the Wicks Act of 1931 are by far the most important. Beginning with \$12,370,000 in 1932, the contributions of the State have grown until they amounted to \$26,461,000 in 1934.⁶³

As was pointed out previously the State exercised control over local welfare policies long before it supplemented local funds.⁶⁴ The State board of charities now has the right to require that any building to be used as a public home cannot be constructed or remodeled except according to plans approved by the central government. A commissioner of the State board may inspect the financial condition of any public home in the State. The board is authorized to cooperate with the department of audit and control to devise a uniform system of fiscal records for officials of public homes. The department also prepares regulations as to records and reports and provides all the necessary forms.⁶⁵

With the introduction of State grants for care of the aged, interest manifested by the central government in local fiscal problems was greatly augmented. Participation in State funds has been made contingent upon the provision of adequate care for all eligible persons, the adequacy to be determined in the light of the rules and regulations promulgated by the central government. The law further states that each public welfare district *shall* furnish the needed old-age relief. The State reserves the right to investigate each claim for relief by its own staff,

and shall make such decision as to the granting of relief and the amount and nature of the relief to be granted. . . . All decisions of the state department shall be binding upon the city or county public welfare districts involved and shall be complied with . . .⁶⁶

The central government requires such reports in connection with administering the old-age assistance system as it may deem necessary. All forms are provided by the State. The force implementing all of these various rules and regulations is the power to withhold financial aid. If, in any event, it appears that relief was improperly granted, the State may not approve further payments.⁶⁷

The State has not undertaken to assist the localities in bearing the financial burden incident to caring for the blind, but the practices of the counties are without doubt considerably modified by State supervision. County commissioners of welfare are required to assist the State in maintaining a register of all blind persons.⁶⁸ All cases are investigated by the commission for the blind and when

⁶² *Ibid.*, § 124-d; cf. Table 44, p. 249.

⁶³ *Ibid.*; exclusive of Federal funds.

⁶⁴ Cf. *supra*, pp. 326-27.

⁶⁵ *Public Welfare Law*, §§ 138-42.

⁶⁶ *Ibid.*, § 124-h.

⁶⁷ *Ibid.*, §§ 124-l, 124-i.

⁶⁸ *Ibid.*, § 113.

relief is necessary a recommendation to that effect is handed to the county board of the county in which the person is domiciled.⁶⁹

The introduction of the T.E.R.A. has developed an entirely revised concept of State and local welfare relationships. Whatever the future of the newly created emergency agency may be, the innovations it has brought about are not likely to be wholly eradicated. Past standards of performance have definitely been set aside and new patterns of fiscal support, administration, organization, and personnel policies are rapidly being cast. The preamble of the emergency relief act professes adherence to the traditional principle of local fiscal responsibility. In spite of this ostensible declaration, fiscal data indicate that with the passing of each year the State has found it necessary to assume an ever increasing share of the burden. Perhaps this may change with the passing of the 1929 depression, or it may become a permanent function of the State. In 1931, when the act first became operative, the State guaranteed to reimburse counties, cities, or towns for home relief projects to the extent of 40 per cent of the cost.⁷⁰ One year later reimbursements on a fixed percentage basis were made applicable to work relief projects.⁷¹ The amount was increased to 66-2/3 per cent in 1933⁷² and to 75 per cent in April, 1934.⁷³ The fiscal and administrative controls that have arisen as the work has expanded are indeed significant. In the first place, aid was to be given only to those municipalities offering projects that would meet the approval of the T.E.R.A. board. In connection with the execution of an agreement with the locality the State prescribed that monthly reports were to be submitted and all fiscal transactions were subjected to minute scrutiny. Any infraction of the established requirements subjected the local unit to loss of State funds. Home relief was also brought under rather effective central control in that local emergency bureaus could take over the work of a city or county commissioner should this officer become remiss in the performance of regular duties.⁷⁴

Since the character of personnel is of prime consideration in determining the effectiveness of any relief organization, it should be pointed out that the State from the inception of the law assumed the responsibility of aiding the localities in securing trained workers, later amending the law in 1934 to require approval by the

⁶⁹ *Laws*, 1922, c. 185, §§ 10, 11.

⁷⁰ *Laws*, 1931, c. 798, § 16.

⁷¹ *Ibid.*, as amended by *ibid.*, 1932, c. 567.

⁷² Order issued by the governor after consulting with legislative leaders, officials of the State relief administration, and with the Federal relief administrator (*New York Times*, October 17, 1933).

⁷³ Policy agreed upon in conference consisting of the governor, legislative leaders, State relief administrator, President, and Federal relief administrator (*ibid.*, April 5, 1934). With the introduction of W.P.A. the State has returned to the 40 per cent basis of reimbursement.

⁷⁴ *Laws*, 1931, c. 798, § 12(1).

central board of all appointments made to local works bureaus.⁷⁵ Not only does the State exercise some preference in the selection of personnel, but members of local emergency work bureaus may be removed for cause after hearing.⁷⁶ Composition of local organizations is further fixed by the central government in that each municipal corporation is required to employ an adequate staff of investigators and such other classification of employees as may be necessary. The number of field workers is, in part, fixed by the rule setting the maximum number of cases at one hundred per investigator.⁷⁷

The central board has a broad grant of power authorizing it to make rules and regulations concerning the administration of relief. All these rules are coordinate with the law.⁷⁸ Provision was made in 1934 that cash might be substituted in lieu of orders,⁷⁹ but through the rule-making power of the central government the change could not be effected unless the municipality had established an approved disbursing and accounting system, limited the case load, and provided for continuous and careful supervision.⁸⁰

There are other agencies besides the State board of welfare and the T.E.R.A. that shape local welfare policies. Among these are the department of education, board of housing, department of health and the department of labor. The department of education directs the training and assists in the reestablishment of physically handicapped persons in gainful occupations and passes on all orders for aid entered by the judges of the children's courts.⁸¹ The State board of housing is interested in all the problems associated with the elimination of hazardous building areas and the construction and letting of apartments at rentals suitable for persons of limited means.⁸² The State department of labor is a welfare agency in that it is charged with the responsibility of making inspection, developing code rules, supervising the compensation system, settling industrial disputes, dealing with aliens, establishing employment exchanges, and guarding the health of industrial workers.⁸³ The majority of the activities engaged in by the State department of health can be treated most appropriately under the discussion of health. This department, however, does have authority to approve court orders entered in behalf of physically handicapped children,⁸⁴ a function virtually coordinate with that discussed under the department of education.

⁷⁵ *Ibid.*, 1934, c. 15, § 7.

⁷⁶ *Ibid.*, 1931, c. 798 as amended by *Ibid.*, 1932, c. 567, § 7.

⁷⁷ *Emergency Relief in the State of New York*, p. 11.

⁷⁸ *Laws*, 1931, c. 798, § 30.

⁷⁹ *Ibid.*, 1934, c. 65.

⁸⁰ *Emergency Relief in the State of New York*, pp. 12-13.

⁸¹ *Education Law*, § 1206.

⁸² *Laws*, 1926, c. 823, § 10 as amended by *Ibid.*, 1927, c. 25.

⁸³ *Cahill's Consolidated Laws*, 1930, 32:21, 21-a, 27.

⁸⁴ *Education Law*, § 1206.

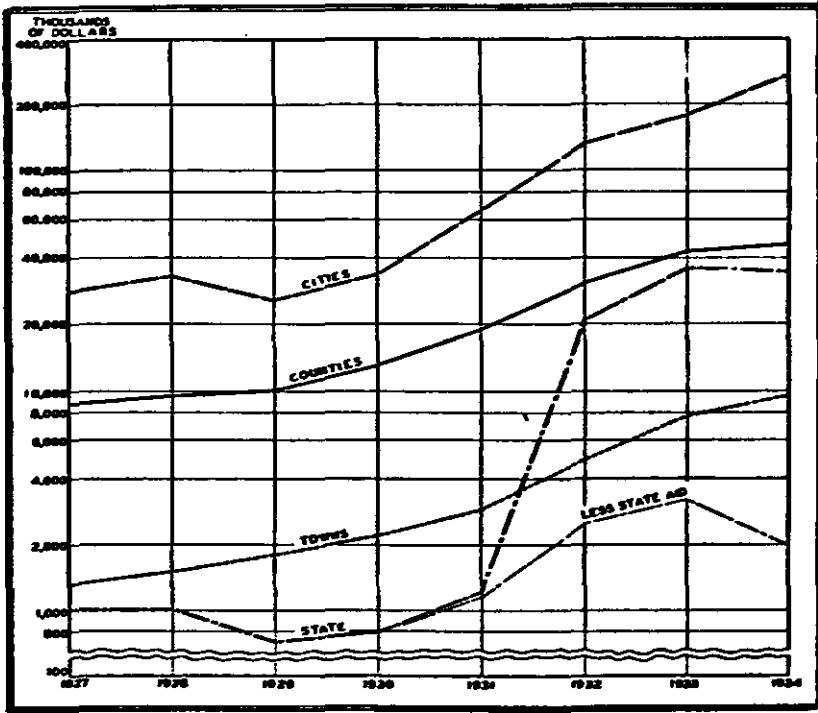


FIG. 18.—WELFARE EXPENDITURES IN NEW YORK BY GOVERNMENTAL UNITS

4. Relative Fiscal Importance of State and Local Agencies

The question arises as to the relative fiscal importance of the various agencies engaging either wholly or partly in welfare work. Without access to a detailed breakdown of expenditures, it is impossible to present a historical record sufficiently comprehensive to include all the agencies enumerated in the preceding paragraphs. Because of this limitation, the data covering expenditures for welfare work for the years 1927 to 1934, as set forth in Table 66, include only the principal agencies and institutions. Within this period there has been an unprecedented expansion of welfare activities. The combined expenditures of \$334,402,000 for the year 1934 represent a 764 per cent increase over 1927. Through this period of readjustment the relative importance of the various units as direct spending agencies has not been greatly modified. The cities are by far the most important units, accounting for approximately 83 per cent of the total. The ranking of the remaining agencies is as follows: counties, towns, and State. It should be remembered that this ranking is on the basis of importance as a direct-disbursing agency. Since 1932 the State has been aiding the localities materially in meeting the fiscal burden incident to the financing of relief. If the 33 million dollars made available to the localities in 1934 by the State were counted as part of its expenditure, the percentage supplied by the State would change from 0.6 to 10.4.

TABLE 66
WELFARE EXPENDITURES IN NEW YORK BY GOVERNMENTAL UNITS, 1927-1934
(Thousands)

	1927	Per Cent	1928	Per Cent	1929	Per Cent	1930	Per Cent	1931	Per Cent	1932	Per Cent	1933	Per Cent	1934	Per Cent
State ^a	\$995	2.8	\$1,015	2.3	\$771	1.9	\$795	1.8	\$1,184	1.2 ^b	\$21,328	1.5 ^b	\$35,653	1.4 ^b	\$84,997	.6 ^b
Counties ^c	8,742	22.8	9,543	21.2	10,290	26.4	12,988	26.1	18,870	21.0	31,135 ^d	18.1	43,189 ^e	18.5	46,215 ^e	13.8
Towns ^c	1,337	3.4	1,495	3.3	1,808	4.6	2,188	4.4	2,854	3.2	4,933	2.9	7,817 ^f	3.3	9,575 ^f	2.9
Cities ^c	27,626	71.4	32,578	78.2	36,105	67.1	33,029	67.9	67,089	74.5	123,120 ^g	77.5	179,335 ^h	76.8	276,632 ^h	82.7
Total	\$38,701	.....	\$44,936	.....	\$38,922	.....	\$49,498	.....	\$89,977	.....	\$190,526	.....	\$265,994	.....	\$367,219	.....
Less State aid to localities ⁱ .....	.....	.....	.....	.....	.....	.....	.....	.....	10	.....	18,782	.....	22,499	.....	32,917	.....
Net total	\$38,701	100.0	\$44,936	100.0	\$38,922	100.0	\$49,498	100.0	\$89,967	100.0	\$171,744	100.0	\$233,495	100.0	\$334,402	100.0

^a Annual Reports of the Comptroller, Part II, Exhibit 17. Expenditures for relief to blind World War veterans, relief to sick and disabled veterans, charitable institutions personal service; Balaia School for the Blind, Thomas Indian School, Women's Relief Corps Home, Department of Charities or Social Welfare, Commission for the Blind, Old-Age Security, Indian Affairs, Temporary Emergency Relief Administration, Emergency Unemployment Relief. Exclusive of outlays.

^b State aid to localities deducted in computing percentages to avoid duplication.

^c Special Reports of the Comptroller on Municipal Accounts, Table 9. Governmental cost payments for charities and soldiers' relief.

^d Emergency work and home relief included for 1928, \$6,963,061; 1929, \$20,952,797; and 1934, \$22,618,217.

^e Cf. Table 5, pp. 44-45.

^f Includes \$6,799,466 in 1933 and \$7,632,080 in 1934 for emergency relief.

^g Special Reports of the Comptroller on Municipal Accounts, Tables 4 and 4A. Governmental cost payments for charities and corrections, less expenditures of New York City for corrections reported in Financial Statistics of Cities as follows: 1927, \$2,508,367; 1928, \$2,882,006; 1929, \$2,632,850; 1930, \$4,299,529. For subsequent years, charities and corrections are reported separately in the Special Reports of the Comptroller on Municipal Accounts.

^h Includes emergency and work relief as follows: 1932, \$45,962,765; 1933, \$96,786,090; 1934, \$190,564,801.

ⁱ Annual Reports of the Comptroller, Part I. State aid for social welfare and aid for emergency appropriations less Federal grant of \$21,090,996 in 1933 and \$71,112,417 in 1934.

5. Effectiveness of Present Welfare Organization

With more than a dozen State and local agencies⁵⁵ engaging in some phase of welfare and relief activity, one may reasonably raise the question as to the economy of the plan, or probably more appropriately the costs of the "lack of plan." What are the economies of the system expressed in terms of unit costs? What can be said of the character of the personnel enlisted in the service? Are the plans of financial support ordered in a way to achieve the greatest equity in distributing the tax burden? Are numerous agencies performing tasks essentially the same in character?

The unit most widely employed in evaluating the efficiency of a given welfare organization is the ratio of administrative costs to the total amount expended for welfare purposes. If administrative costs do not consume more than 10 per cent of the total outlay, at least a favorable first impression is created. High administrative cost ratios cannot, however, be universally deprecated, at least not until all facts regarding the extent of case work carried on, character of the personnel employed, and nature of the relief rendered are fully ascertained. Through employing competent case workers a community might be able so to aid in organizing the efforts of those near dependency that only minor expenditures for direct relief would be necessary. Under such circumstances the percentage allocated for administrative purposes would appear large, but who could say the apportionment was unwise? Low expenditures for administrative purposes may actually be an index of gross inefficiency. An organization operating without the services of trained case workers and an adequate system of statistical checks, electing rather to rely on a ward or precinct political personnel, provides a case in point. Again, the portion of total expenditures going for overhead will be materially different as between urban and rural areas. The impropriety of comparing unit costs in New York City with that prevailing in a rural town is distinctly evident in respect to the extent of case work required. In New York City it is the practice for an investigator assigned to a case to make a call twice a month or oftener. General conditions prevailing in the home are noted, aid may be given in planning the budget, or medical service authorized when necessary.⁵⁶ Such work is positively essential in urban centers as it provides the sole basis on which decisions are made to increase, decrease, or discontinue relief payments. One should be chary, then, in appraising the effectiveness of any governmental unit as a welfare agency on

⁵⁵ Cf. *infra*, p. 341.

⁵⁶ R. L. Duffus, "City's Relief Work a Vast Enterprise," *New York Times*, February 10, 1935.

unit costs alone, unless the general quality and character of the services rendered are fully understood.

In the case of the town enough is known with respect to the personnel charged with the work and the nature of the service rendered to reach some tenable conclusions from a cost analysis. A survey covering sixty-three New York towns with fewer than 3,000 inhabitants disclosed that in twelve instances the town welfare officer carried not more than five relief cases during the month of October, 1934.

Nineteen of these sixty-three towns were providing care for fewer than ten families, and the average relief load for all towns in the population group was only twenty-five cases. Sixty-three per cent of the towns studied, including towns of all sizes, had fewer than fifty families on relief.⁸⁷

From the standpoint of overhead costs, the town has never received a favorable report at the hands of those who have investigated its operations. The special joint committee of the Legislature reporting on this subject in 1923 found that in the towns of Otsego county it cost almost \$8,000 to give away \$5,000 of relief.

TABLE 67
PERCENTAGE OF TOWN HOME RELIEF EXPENDITURES DEVOTED TO ADMINISTRATIVE PURPOSES

PER CENT	Number of Counties	
	1920-21 ^a	1931-32 ^b
0.0- 5.0	9	1
5.1-10.0	15	18
10.1-15.0	11	15
15.1-20.0	8	8
20.1-25.0	3	3 ^d
25.1-30.0	5	.....
30.1-35.0	1	.....
35.1 and over	3 ^c	.....
All	55	45

^a Report of the Special Joint Committee on Taxation and Retrenchment (1923), pp. 72-73. Livingston and Ontario counties excluded. Total expenditures, \$506,389; for actual relief, \$440,720; for administration, \$65,668; percentage for administration, 12.9.

^b Compiled from *Sixty-sixth Annual Report of the State Board of Social Welfare, 1932*, Legislative Document No. 22 (1933), pp. 208-20. Exclusive of eleven counties in which town relief is included in county figures, and Columbia county for which data was incomplete. Total expenditures, \$2,107,888; for actual relief, \$1,893,146; for administration, \$214,742; percentage for administration, 10.2.

^c Greene county, 43.8; Montgomery, 52.5; Otsego, 58.9.

^d Tompkins county, 20.2; Rockland, 23.0; Greene, 24.8.

⁸⁷ *State and Local Welfare Organization in the State of New York*, p. 73.

In another county, Jefferson, the percentage of total relief expenditures consumed in overhead costs was as low as 0.13.⁸⁸ In reviewing data for 1932 comparable to that referred to by the above-mentioned committee, there appears to have been a general improvement in the relationship between overhead costs and disbursements for actual relief. The change is evidenced both by a slight decrease in the average for all counties, and in a marked narrowing of the range.⁸⁹ The improved showing of the town is probably due chiefly to the increased volume of expenditure which in all cases has not required a proportionate increase in administrative costs. In the period under consideration, expenditures for home relief increased 330 per cent while administrative costs grew by only 227 per cent.⁹⁰

County averages, however, fail to focus sharply the situation prevailing within particular towns. Table 68 indicates that the towns within the counties of Seneca, Tompkins, and Wyoming have administrative costs ranging from zero to 47 per cent. It is reasonably certain that any system of outdoor relief consuming in overhead approximately one-half of the funds provided is grossly uneconomical. This is especially true when it is recognized that both Rochester and Buffalo, two exemplary cities with respect to supervision, investigation and character of the service rendered, have administrative costs representing 4.7 and 7.4 per cent respectively of total expenditures for welfare work.⁹¹

Welfare officers serving in the majority of the New York towns are not qualified for the work they are called upon to perform. The commission appointed to investigate the problem of old-age dependency in New York reported as follows:

Occasionally the overseers of the poor are themselves more appropriate cases for relief than for the administration of relief; practically none have any special training or other qualifications for the "job"; few have ever heard of "social case work," let alone possessing any conception of its possibilities or any knowledge of modern case work methods.⁹²

⁸⁸ *Report of the Special Joint Committee on Taxation and Retrenchment* (1923), pp. 71, 74.

⁸⁹ In 1920-21 the ratio of administrative expense to total expenditures for home relief made by New York towns was 12.9 per cent. Similar data for 1931-32 show a decrease of 2.7 per cent. A distribution of the towns according to county averages indicates nine with administrative costs representing 5 per cent or less of total expenditures and nine in excess of 25 per cent for the earlier period. In the recent data, however, the town average of only one county was below 5 per cent (4.7), and in only three counties were the town averages above 20 per cent, the highest being 24.8 (see Table 67).

⁹⁰ See Table 67, footnotes.

⁹¹ *Sixty-sixth Annual Report of the State Board of Social Welfare, 1932*, pp. 211, 213.

⁹² *Old Age Security, Report of the New York State Commission on Old Age Security, Legislative Document No. 67 (1930)*, p. 533.

TABLE 68
WELFARE EXPENDITURES AND ADMINISTRATIVE COSTS IN THIRTY-FIVE NEW YORK TOWNS, 1932 *

TOWN	County	Total Expenditures	Administrative Expense	Ratio of Expense to Total
Sheldon	Wyoming	\$200	.....	0.0
Bennington	Wyoming	782	.....	0.0
Seneca Falls	Seneca	42,054	\$1,415	3.4
Waterloo	Seneca	13,655	555	4.1
Pike	Wyoming	2,047	97	4.7
Lansing	Tompkins	4,966	308	6.2
Warsaw	Wyoming	7,310	557	7.6
Perry	Wyoming	15,451	1,194	7.7
Covert	Seneca	1,634	130	8.0
Gainesville	Wyoming	4,253	343	8.1
Fayette	Seneca	4,392	359	8.2
Castile	Wyoming	3,301	279	8.5
Caroline	Tompkins	2,047	176	8.6
Dryden	Tompkins	4,186	400	9.6
Varick	Seneca	600	60	10.0
Romulus	Seneca	1,227	138	11.1
Ovid	Seneca	1,336	150	11.2
Groton	Tompkins	3,295	404	12.3
Lodi	Seneca	956	141	14.7
Arcade	Wyoming	2,710	400	14.8
Covington	Wyoming	385	57	14.9
Eagle	Wyoming	647	93	15.2
Ithaca	Tompkins	2,993	505	16.8
Ulysses	Tompkins	2,370	400	16.9
Java	Wyoming	667	117	17.6
Wethersfield	Wyoming	436	81	18.6
Attica	Wyoming	1,306	280	19.9
Danby	Tompkins	3,042	664	21.8
Orangeville	Wyoming	237	54	22.8
Newfield	Tompkins	2,702	622	23.0
Junius	Seneca	1,075	262	24.4
Tyre	Seneca	228	65	28.5
Middlebury	Wyoming	1,044	319	30.6
Genesee Falls	Wyoming	294	108	36.7
Enfield	Tompkins	431	203	47.1
Average		\$3,836	\$312	8.1

* Compiled from Curtiss, *op. cit.*, Table 5, p. 4; Hurd, *op. cit.*, Table 6, p. 5; and *County, Town, and School Costs and Taxes, Seneca County, 1932* (Ithaca, December, 1933), Table 6, p. 4.

The recently enacted Welfare Law provides for the election or appointment of the county commissioner of welfare, and the appointment by the town board of a local welfare officer.⁹³ The plan of appointment now prevailing in the towns has the potentiality of improved relief administration. Thus far, however, it has made no appreciable contribution. The characteristic attitude of the poor official has been and still is self-glorification, the exercise of vindictive attitudes, or the manifestation of prejudices drawn on racial or religious lines. Failing to appreciate the psychological ramifications of public relief, these officials have operated in a

⁹³ *Public Welfare Law*, §§ 4, 10.

way to augment the deadening influences inherent in the system. Their myopic outlook on relief as related to other social and economic problems has definitely precluded any attack on basic maladjustments. The limited range of interests held by present relief administrators is further reflected in inadequate investigations, limited relief allowances, non-cooperation with bodies having allied interests, poor records, and a general wasting of social resources.⁵⁴

All sorts of welfare policies, if such they could be called, prevail throughout the various towns in the State. This non-uniformity of practice is due in no small measure to the fact that the State department is limited virtually to requesting reports. So far as the granting of home relief is concerned, each town officer is a law unto himself. Some pay no rent, others make no allowances for butter, while some refuse to authorize orders for clothing. Certain towns in the State employ cash payments, others operate on the theory that a relief client is entirely incapable of apportioning the meager allowance.⁵⁵ Contrast with this situation the uniformity of practices established under the closely integrated system prevailing in the administration of work relief in New York City. A detailed requisition covers the kind of labor needed; a placement board passes on the applicant's fitness, including even an analysis of physical fitness; wage rates and hours are established for the various grades of labor so that the weekly wage will in a measure satisfy the necessities of life. Through a superlative system of reporting it is possible to ascertain by noon the exact costs incurred for the previous day.⁵⁶

The idea of local responsibility has provided the woof around which the whole system of charities has been constructed. Legal settlement, family responsibility, and the mandation of the fiscal burden to local units are cornerstones of the system. This latter phase—local fiscal responsibility—has been one of the most positive deterrents to developing welfare activities commensurate with the requirement of the new social and economic order. Demands of the industrial age as expressed in new social responsibilities are everywhere evident. Witness a class of wage earners living from hand to mouth under a system using their services one day and denying them the right to labor on another; a system so geared that labor becomes prematurely old; an order necessitating the bringing together of vast laboring masses in urban centers rendering more difficult the regulation of delinquency and vicious social habits. Until very recently no serious attempt has been made to meet these challenging problems save with the instrumentalities evolved when an expanding nation had not experienced static poverty and when neighborly charity could be depended upon to relieve the few cases of temporary need.

⁵⁴ *Old Age Security*, pp. 370 ff.

⁵⁵ *Ibid.*, p. 372.

⁵⁶ *Duffus, op. cit.*

Few indeed are those who would attempt to gainsay that a town, city, or county containing a business unit employing a large supply of labor and producing goods for the market should be charged with the sole financial burden arising out of feeding and clothing these persons when, as a result of the breakdown of exchange, their services can no longer be utilized. An acknowledgment of this broadened social responsibility has been demonstrated by State action and the recently avowed policy of the Federal government to care for all the unemployed through a public works program. The full possibilities of alleviating immediate cases of want and correcting basic maladjustments in an economical manner can never be realized so long as numerous agencies with only slightly coordinated efforts are allowed to render services similar in character. There are in New York at the present time more than a dozen public agencies engaged in some special phase of welfare work. The State maintains welfare institutions, provides for the care of the State poor and the supervision of local charities through the board of social welfare, and directs work and a part of home relief activities through the T.E.R.A. Other State agencies are the department of education, department of health, department of labor, and the State housing board.⁸⁷ Among the local agencies are the counties, cities, and towns dividing their activities on the lines of institutional and non-institutional care, the children's courts and child welfare boards charged with the responsibility for children and physically handicapped persons under twenty-one years of age, the local works bureaus and emergency relief bureaus set up to handle the so-called emergency aspects of relief, and the sundry agencies authorized by the Legislature to administer relief to veterans. The possibilities of excessive overhead costs, duplication of effort, and inability to shape a program designed to meet all the needs discoverable in a family situation are indeed likely. With respect to the duplication of effort it is easily conceivable that the town welfare officer may make calls necessary for administering home relief; a representative of the children's court may be interested in the family because of a handicapped child; or a representative of the local works bureau in its attempt to secure employment for the normal bread-winner may find it necessary to interview cases covered by the two agencies previously mentioned. If some member of the family in question has a service record, then still other agencies may be making investigations and ordering the disbursement of public funds.

The Special Joint Committee on Taxation and Retrenchment in suggesting improvements in welfare administration said, in this regard:

Nothing is more necessary in the administration of poor relief, child welfare, health and hospitals than a bringing together of the scattered duties that have been devolved upon the counties and the towns from time to time. The present

⁸⁷ Cf. *supra*, pp. 326-27, 333.

system of separation in the administration of these inherently related functions is wasteful. It is, therefore, the suggestion of the Committee that all of these functions should be brought together and carried on or supervised by a single responsible official.⁸⁸

Indeed this duplication of effort has little to offer in its support. It is due either to failure to develop an adequate welfare organization or to restraints imposed by some inherited fetish. The former of these factors exists in the case of the State and local emergency agencies versus the State board of charities and the local welfare districts. In order to meet the emergency situation, a highly systematized organization was required, staffed with competent personnel. The achievement of this end obviously was rendered more facile through setting up a new agency than would have been possible through an immediate reorganization of the established machinery. The case of segregating relief for veterans is a product of the long-established notion that a soldier or sailor who has served his country should never be stigmatized by accepting alms. Even in death his body must not be interred with the common pauper.⁸⁹

From the foregoing survey it is apparent that numerous readjustments are sorely needed in the field of welfare administration and finance. There is, for example, evidence pointing to excessive overhead costs in the smaller administrative units. The personnel in these same units is in most instances ill-fitted to meet the responsibilities devolving upon them. Inadequate central control results in welfare policies as sundry as the agencies engaged in their administration. Strict adherence to the traditional policy of local financial support fails utterly to spread the burden over all responsible classes. The multiplicity of agencies engaged in the field make for divided responsibility and excessive duplication of effort.

6. The Proper Allocation of Responsibility for Financing and Administering Welfare Activities

Fortunately one does not have to rely wholly on speculations to find a partial answer to the deficiencies associated with the local relief organization. A pattern of procedure already established and credited with reasonably successful operation is close at hand in the innovations introduced by the recently enacted Welfare Law and the temporary relief organization. The influence especially of this latter agency has made an indelible impression on the character of relief administration and many of the elements within it point clearly to a more permanent and desirable union of State and local relationships in this important field of social effort. In the first place, both the new welfare act and the temporary emergency relief administration have attempted to meet the problem of encouraging the formation of administrative units so sized that improvement

⁸⁸ Report (1923), p. 90.

⁸⁹ Public Welfare Law, §§ 117-18.

in operating efficiency may be realized. The welfare law provides for the total abandonment of the town in favor of the city and county in the provision of institutional care, and the town may even be abandoned as a unit for the administration of home relief. In selecting governmental units in which work bureaus were to be established the legislature named the city and county as eligible units. Accordingly it has been the avowed policy of T.E.R.A. to avoid all direct dealings with towns and villages.¹⁰⁰ The Welfare Law has likewise not been without influence in the general adoption of larger units for the administration of public welfare. Prior to 1929 there were only two counties in the State where all relief costs were a county charge. Today six counties have elected to operate under the county unit plan.¹⁰¹

The T.E.R.A. has also made it a part of its policy to encourage and make possible the employment of competent relief personnel by the local governmental units. This commendable action will probably go farther in elevating welfare standards and instilling an *esprit de corps* among employees than anything previously attempted. For example, among the rules of T.E.R.A. concerning the administration of home and work relief is the requirement that each municipal corporation or local emergency work bureau shall employ at least one trained investigator on the staff. In order to insure effective work on the part of such employees the law limits the number of cases per worker and stipulates that adequate clerical staff and transportation facilities must be provided.¹⁰² From the outset, the State has made it a point to aid the localities in securing personnel and further to provide a part of the salaries of such individuals. As early as 1932 it was paying in whole or in part the salaries of 280 workers.¹⁰³ In contrast with the type of personnel and the character of the techniques common to town welfare organizations, these new standards are indeed innovations.

Again, the emergency organization is pointing the way for the unification of the sundry agencies shaping one or more phases of relief activity. Making the State commissioner of welfare a member of the T.E.R.A.¹⁰⁴ is one of the moves in this direction. Still more important was the change made in the law in 1933 whereby commissioners of public welfare districts were made *ex officio* members of emergency relief and joint emergency work bureaus.¹⁰⁵ Provision was also made whereby a city could consolidate its work and home relief activities, and similar arrangements were provided for rural areas. It is also possible for a city and a county to combine all work relief or work and home relief activities under a joint bureau.¹⁰⁶

¹⁰⁰ Cf. *supra*, p. 330.

¹⁰¹ Cf. *ibid.*

¹⁰² Cf. *supra*, p. 333.

¹⁰³ *Report of the New York State Temporary Emergency Relief Administration* (Albany, 1932), pp. 19-20.

¹⁰⁴ *Laws*, 1935, c. 25, § 3.

¹⁰⁵ *Ibid.*, 1933, c. 259, § 12(2-4).

¹⁰⁶ *Ibid.*, cf. *supra*, pp. 328-30.

Measured in terms of the traditional attitude of central governments toward financing relief burdens, the policy pursued by the State of New York is commendable. The aid has been of material significance, and through eligibility measures pressure has been exerted to improve local administrative practices. The nature of the relief problem generally, especially its emergency aspects, leads one to believe, however, that the fiscal program is not all that it should be. Through a reimbursement program, the State denies responsibility for the problem. Following Elizabethan traditions, relief activities are kept in the realm of local duty modified only by central assistance. Mobility of population, unemployment due to technological changes and drying up of markets, solvency of local units, relationship of fiscal policies to monetary problems, and the desirability of spreading the tax burden in the most equitable manner—all point to a general as opposed to purely local interest in matters of relief. If the proposition that the central government should finance all activities to the extent of its interest is tenable, then the minimum program deemed tolerable should be borne wholly by the State.

The potential economies inherent in centralization of responsibility, coordination of efforts, elimination of duplicate agencies, establishment of uniform practices, and the introduction of adequate fiscal controls are indeed important.

Commendable as the general pattern for the organization of welfare work may be, it impedes rather than facilitates the much-needed general overhauling of the local governmental structure. To the extent that larger urban centers have been recognized as operating units, progress has been made. Attempts, however, to meet the needs of rural dwellers on a county basis is at best only a stop-gap measure. As has been pointed out previously, the rural governmental unit should be brought "into juxtaposition with those forces tending to give unity to the thoughts and actions in community life."¹⁰⁷ If the areas thus drawn are appropriate for the administration of welfare activities, good and well—delegate that responsibility to them. On the other hand, if unqualified, let the State take over the function and establish such administrative areas as may be economically desirable.

The fluidity of population movements, coupled with a general broadening of social obligations, has done much to change the complexion of welfare work from a local to a State and national obligation. Interest manifested by the central government in making provision for the aged and assisting those involuntarily out of employment are direct admissions of this general obligation. One of the propositions contended for in the readjustment of fiscal relationships is that the central government should bear the financial burden of all activities to the extent that a general interest exists. That is, if the State believes that each aged person should receive a minimum benefit payment of thirty dollars per month it should

¹⁰⁷ *Supra*, p. 155.

stand ready to finance the whole of that amount. The conditions giving rise to unemployment are such as to make this obligation one of central rather than local concern. Yet, the State, in effect, says that the problem is a local one, but it will assist financially in some fixed proportion to local expenditures. Shunting to local governments obligations arising out of activities so preponderately general in their implications accounts primarily for local fiscal dilemmas.

7. Summary

Patterned after the structure developed by T.E.R.A. and the prevailing welfare law, modified only by the possibility of developing a more appropriate rural organization and a proper recognition of central fiscal responsibility, the following adjustment of State and local welfare relationships is suggested:

- (1) The creation of a central board patterned after the T.E.R.A. board and clothed with powers equally broad in scope.
- (2) Assumption by the State of full responsibility for financing all phases of welfare work to the extent of its interest in the function.
- (3) Central control over the appointment of local welfare directors at least to the extent that only candidates who have established their fitness for the office are eligible for appointment.
- (4) Removal from office, after hearing, of any official who refuses to follow the law or the rules prescribed by the department of social welfare.
- (5) Full authority to prescribe rules with respect to personnel policies, reports, and fiscal accounts.
- (6) Provision for substitute administration in all cases where administrative procedures are persistently violated.

CHAPTER XIII

PUBLIC HEALTH

In surveying the several functions of government such as education, highways, and welfare, it has been observed that most of them were at one time wholly obligations of private individuals. Health activities, when broadened to include all phases of sanitation and the promotion of cleanliness, have not as yet passed far from the realm of private operations. Of the nearly four billion dollars expended annually for sanitation and medical service only about 8 per cent comes from public funds.¹ The 8 per cent, or \$302,546,000, provided from public funds is divided between sanitation and medical services in almost equal proportions.² Though these two phases of health activity consume approximately equal

¹ This estimate is based on the following:

SOURCE OF EXPENDITURE	Object of Expenditure	Per Cent	Amount (000)
Private.....	Medical service, hospitalisation and medicines.....	92.1	\$3,535,000 ^a
Public.....	Health and sanitation.....	7.9	302,546
Cities over 30,000.....	Health.....		\$57,158 ^b
Cities over 30,000.....	Sanitation and promotion of cleanliness.....		148,318 ^b
Counties.....	Health and sanitation.....		32,778 ^b
States.....	Health and sanitation.....		37,292 ^c
All other governments.....	Health and sanitation.....		30,000 ^d
Total.....		100.0	\$3,837,546

^a Committee on the Costs of Medical Care, 1929, *New York Times*, November 30, 1932, p. 8. Exclusive of the 3.3 per cent for public health.

^b *Financial Statistics of Cities*, 1931, Table 11, pp. 264, 275.

^c *Financial Statistics of State and Local Government*, 1932, Table III, p. 30.

^d Estimated.

² See opposite page, note, for items included under sanitation. Medical services include hire of professional services, medicines, and hospitalization. For sources of data in the following table, see table above.

GOVERNMENTAL UNIT	Expenditures for Medical Services (000)	Per Cent	Expenditures for Sanitation (000)	Per Cent	Total (000)
Cities over 30,000.....	\$54,158	26.7	\$48,318	73.3	\$202,476
Counties.....	31,139	95.0 ^a	1,639	5.0 ^a	32,778
States.....	37,292	100.0			37,292
All others.....	27,500	91.7 ^a	2,500	8.3 ^a	30,000
Total.....	\$150,089	49.6	\$152,457	50.4	\$302,546

^a Allocation between medical service and sanitation made on the basis of the distribution existing in New York State.

portions of the public budget, the opposite prevails in the division of private expenditures. Figures are not available indicating what proportion of sanitation activities is financed by private means, but one can be safe in assuming that it is relatively small. Exclusive of private scavengers operating throughout some cities and in parts of others, virtually all other means of refuse disposal, street cleaning, and inspectional service are publicly operated.³ The \$150,000,000 expended by cities, counties, states, and other governmental units for public health activities, however, represents a very small share of the total, including public and private expenditures for health. For every dollar provided from the public treasury, private individuals spend \$23.55 for medicine, professional services, and hospital facilities.⁴

The limited range of public agencies in the field of communicable disease control, improvement of child life, and food regulation may be attributed, in part, to the newness of the movement. Considering the few years that have elapsed since the birth of the science of public health, such changes as have occurred assume a new position of importance. For example, Minnesota was the only State engaging in the production of vaccines in 1890. In 1929, twenty-one states were manufacturing one or more biologicals. Prior to 1894 no state maintained a diagnostic laboratory; by 1915 all but two of the states operated such facilities. The provision of clinical services is also of very recent origin. Tuberculosis clinics were first established locally in 1904. In 1928 there were approximately 1,000 "permanent" and 2,600 "occasional" diagnostic or itinerant clinics. Agencies established to combat venereal diseases were virtually unknown before the World War. In 1931 there were about 850 being operated, in the majority of cases, by governmental agencies. Municipal hospitals have recently expanded their services to include others than indigents. County governments have been especially aggressive in expanding hospitalization service. Iowa led the way in 1909 and by 1919 thirteen

³ Cities of over 30,000 expended in 1931 \$148,317,965 for purposes of sanitation and promotion of cleanliness divided as follows:

OBJECT OF EXPENDITURE	Amount *	Per Cent
Sewers.....	\$28,040,941	17.5
Street cleaning.....	69,551,364	33.5
Other refuse collection.....	69,171,302	46.5
Public comfort stations.....	1,036,334	7
Other sanitation.....	5,548,064	3.8
Total.....	\$148,317,965	100.0

* *Financial Statistics of Cities, 1931, Table II, p. 275.*

⁴ Public expenditures represent 4.1 per cent of the total public and private expenditures for health (see tables in notes, opposite page).

states had authorized the establishment of county hospitals.* The development of public health facilities is particularly noticeable in the case of county health departments. In 1910 a full-time medical officer in a county health department was unknown. During an interval of twenty-one years this situation has been materially altered. Of 2,850 rural counties in the United States, 524 had established health departments under the direction of full-time officers.†

I. Development of Public Health in New York

The position of New York as a gateway to the New World created pressing problems of health conservation at an early period in the State's history. From a limited sphere of operations concerned chiefly with establishing quarantine regulations, the category of health activities has now been expanded to include virtually all phases of health conservation, sanitation, and rehabilitation. Not only all aspects of health and sanitation have been made a part of the public health program, but all established governmental agencies plus *ad hoc* instrumentalities have participated in some measure.

LOCAL HEALTH AGENCIES

Cities.—The city is by far the most important health unit from a fiscal point of view as well as from point of time. Eighty years before a permanent local health organization was made mandatory throughout the whole State the city of New York had received legislative permission to establish administrative machinery to regulate matters pertaining to internal sanitation.‡ Albany and the village of Brooklyn received similar grants in 1806 and 1824 respectively.§ Self-preservation had forced cooperative action in matters of internal sanitation prior to the authorization of health boards. As early as 1695 a member of the city council agreed to clean the streets for a period of a year for thirty pounds, thus establishing the first office of "commissioner of street cleaning."¶ To claim the existence of anything like a modern sewer system in a city which did not have an abundant supply of water would, of course, be absurd. However, New York City did have an open ditch extending along Broad Street to the East River early in the eighteenth century. It is also true that the importance of maintaining and improving this utility was considered of sufficient pub-

* H. H. Moore, "Health and Medical Practice," *Recent Social Trends* (New York, 1933), pp. 1083-86.

† *Ibid.*, p. 1082.

‡ *Laws*, 1805, c. 31.

§ *Ibid.*, 1806, c. 109; 1824, c. 201. In 1872 an inquiry addressed to twenty-four New York cities by the American Public Health Association regarding the extent of their activities brought a response from eleven. There was but little activity at this time, except in Buffalo and New York City (Fairlie, *The Centralization of Administration in New York State*, p. 129).

¶ Peterson, *op. cit.*, p. 101.

lic importance to warrant the imposition of taxes by the common council. The cities of New York now not only provide a network of sewers to carry refuse from the homes and industrial establishments, but have established plants in 160 municipalities for reducing the materials collected to an innocuous and non-offensive form.¹⁰ New York City alone has pending a sewage disposal program amounting to \$300,000,000 providing for the construction of 33 plants during the next decade. One of these placed under construction in 1931, has a capacity of 180,000,000 gallons of sewage daily.¹¹ The expenditures of New York City for 1931 amounted to over \$44,000,000 for sanitation purposes,¹² a sum in excess of the individual net governmental cost payments of nineteen states for the year 1931.¹³

Modern water supplies, the foundation of the health of a city, appeared in New York City and Albany about the middle of the nineteenth century.¹⁴ Now some nine hundred municipalities and districts in the State have public water systems.¹⁵ The problem of meeting the ever-increasing demands made upon the available supply of water in the cities presents as weighty a problem for the twentieth century municipality as it did for those of 1850. The imminence of a water dearth is now forcing the city of New York to develop additional sources of supply in the Delaware watershed.

To meet these problems of internal sanitation and otherwise care for the health of urban dwellers, city governments of New York spent \$74,798,000 in 1934.¹⁶ This figure represents 10.2 per cent of all maintenance expenditures and 8.2 per cent of the aggregate sum, including outlays and interest. The sum of \$74,798,000 represents 82.1 per cent of the total expenditures made by all governmental units for health purposes in 1934.¹⁷ In only two years, 1925 and 1926, of the eleven-year period for which fiscal data are presented, has the proportion of the total expenditures for health borne by the cities fallen below 80 per cent.

¹⁰ *Fifty-second Annual Report of the Department of Health, 1931*, Legislative Document No. 28 (1932), p. 236.

¹¹ *Ibid.*, p. 238.

¹² *A Four-Year Cash Summary of What the City Received and What the City Expended during the Years 1931 to 1934 Inclusive*. City of New York, Department of Finance (May 20, 1935), p. 3.

¹³ Alabama, Arizona, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Kansas, Kentucky, Maine, Maryland, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Utah, Vermont, Washington, West Virginia, and Wyoming (cf. *Financial Statistics of States, 1931*, Table 2, pp. 40 ff.).

¹⁴ New York City, 1834; Albany, 1850 (see Table 15, p. 95).

¹⁵ *Fifty-second Annual Report of the Department of Health*, p. 235.

¹⁶ See Table 17, pp. 106-7.

¹⁷ See Table 69.

TABLE 69
EXPENDITURES FOR HEALTH AND SANITATION IN NEW YORK BY GOVERNMENTAL UNITS, 1924-1934
(Thousands)

UNIT	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934
State ^a	\$3,771	\$3,490	\$4,560	\$5,315	\$4,742	\$5,184	\$5,184	\$5,754	\$5,640	\$6,490	\$5,000
Counties ^b	2,609	2,304	3,245	3,449	3,625	4,047	4,485	4,775	4,785	4,412	4,661
Towns ^c	1,500	2,685	1,905	749	832	1,811	2,223	2,662	1,804	1,848	1,592
Villages ^d	1,095	1,357	1,514	1,773	1,820	2,255	2,537	2,898	2,756	2,631	2,343
Cities ^e	39,147	36,275	39,749	55,345	54,611	70,248	79,595	83,424	89,000	71,709	74,798
School districts ^f	833	1,325	1,008	2,103	1,917	2,408	2,375	2,538	2,775	2,679	2,586
Total.....	\$49,045	\$48,035	\$51,981	\$68,734	\$67,556	\$85,953	\$97,399	\$102,046	\$107,760	\$89,769	\$91,880
Less State aid ^g	2	90	133	188	220	310	515	652	692	775	748
Net total.....	\$49,043	\$47,945	\$51,848	\$68,546	\$67,336	\$85,643	\$96,884	\$101,394	\$107,068	\$88,994	\$91,132
<i>Percentage Distribution</i>											
State ^h	7.7	7.1	8.5	7.5	6.7	5.7	5.9	5.0	5.5	6.4	5.7
Counties.....	5.3	6.0	6.3	5.0	5.4	4.7	4.6	4.7	4.5	5.0	5.1
Towns.....	3.3	5.6	3.7	1.1	1.2	2.1	2.3	2.6	1.7	2.1	1.7
Villages.....	2.2	2.8	2.9	2.6	2.7	2.6	2.6	2.9	2.6	2.9	2.6
Cities.....	79.8	75.7	75.7	80.7	81.3	83.1	82.2	82.3	83.1	80.6	82.1
School districts.....	1.7	2.8	1.9	3.1	2.8	2.8	2.4	2.5	2.6	3.0	2.8
Total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

^a Annual Reports of the Comptroller, Exhibit 17 Expenditures for health, physically handicapped children, and indemnities for tubercular cattle, less expenditures for outlays.

^b Cf. Table 14, pp. 84-85.

^c Cf. Table 3, pp. 44-45.

^d Cf. Table 19, pp. 124-25.

^e Cf. Table 17, pp. 106-7.

^f Annual Reports of the State Education Department, Table 6.

^g Cf. Table 44, p. 249. State aid to counties, laboratories, and physically handicapped children.

^h State aid deducted in computing percentages to avoid duplication.

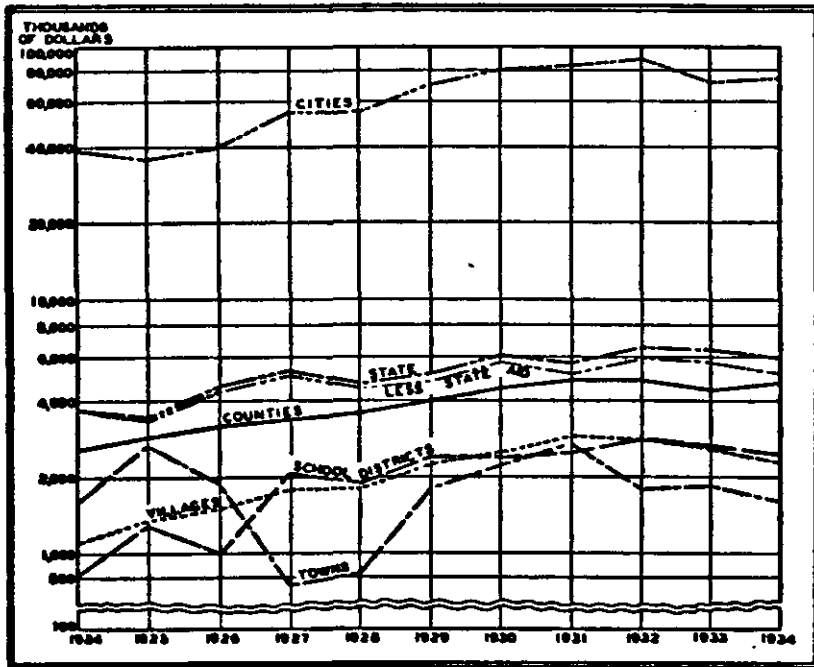


FIG. 19.—EXPENDITURES FOR HEALTH AND SANITATION IN NEW YORK BY GOVERNMENTAL UNITS

The expenditure of these funds is generally under the control of a

board of health with a health officer, or a department of health with a health officer directly responsible to the mayor. In some cities the health organization has the status of a bureau in a department of public safety, with the health officer responsible to the commissioner of that department.¹⁸

All but four of the twelve cities of 50,000 and over are now served by full-time health officers.¹⁹

Villages and towns.—The basic health machinery prevailing in the villages and towns grew out of an organization evolved to meet emergency situations and intended to be temporary in character. An Asiatic cholera plague prevalent in 1832 moved the Legislature to require every city and village in certain named counties to appoint a board of health. Areas in these counties not included in the bounds of any corporate limits were to be under a town board of health composed of the supervisor, overseer of the poor, and a justice of the peace.²⁰ The formation of boards in other parts of

¹⁸ *Public Health in New York State*, p. 85.

¹⁹ *Fifty-fifth Annual Report of the Department of Health, 1934*, Legislative Document No. 28 (1935), p. 21.

²⁰ *Laws, 1832*, c. 333.

the State was optional with the town and village officials. Repeated needs for a local agency to cope with situations such as occurred in 1832 led to action for a permanent organization for cities and villages in 1850.²¹ The matter of organization remained optional with the towns until 1885²² when legislation was enacted making it mandatory for all towns to set up the prescribed form of organization. Even with the mandatory requirement, fifteen years elapsed before every village and town in the State was organized.²³

The status of the village as a health unit was more definitely established in 1885 when the Legislature forbade the exercise of any jurisdiction over an incorporated village by the town board of health.²⁴ It was also about this time that the broadening of village taxing powers in respect to health matters occurred. In 1875 the village board was authorized to form a board of water commissioners. Twelve years later the trustees were to provide for sewage disposal for the village. Its classification as a municipal corporation gave this unit of government authority under the General Municipal Law to establish hospitals in 1910. The construction of garbage disposal plants was recognized as a legitimate village function in 1917. Appropriations for pre-natal work were added in 1921, and in 1926 villages in Westchester county were permitted to engage in child welfare work.²⁵

From a fiscal point of view, neither the town nor the village is important today. Town expenditures for health have never been in excess of 6 per cent of the total net expenditures for maintenance and operation throughout the period from 1918 to 1934. In 1923 they were as low as 1.1 per cent.²⁶ They are similarly insignificant when compared to the aggregate expenditures made by all units for health purposes. The range for the period from 1924 to 1934 extended from a low of 1.1 per cent in 1927 to a high of 5.6 per cent in 1925.²⁷ Expenditures made by villages for health purposes are somewhat more important relative to the aggregate net expenditures than is true in the case of the town. From 1917 to 1934, a period of eighteen years, the percentage ranged from a low of 5.5 in 1924 to a high of 10.7 in 1934.²⁸ Of the various agencies rendering health services, the village is more important than the town and has alternately exceeded and been exceeded by the school district.²⁹

As a result of the provision for consolidation³⁰ and the authorization of county health units in 1921³¹ several of these minor health

²¹ *Ibid.*, c. 324.

²² *Ibid.*, c. 270.

²³ *Public Health in New York State*, p. 56.

²⁴ *Laws*, c. 270.

²⁵ See Table 18, pp. 122-23.

²⁶ See Table 8, pp. 44-45.

²⁷ See Table 69, p. 350.

²⁸ See Table 19, pp. 124-25.

²⁹ See Table 69 and Figure 19, pp. 350-51.

³⁰ *Laws*, 1915, c. 555.

³¹ *Ibid.*, 1921, c. 509; cf. *infra*, p. 354.

units have been abolished. Of the 535 villages in the State, 309 operated as independent health jurisdictions in 1931. Sixty-six lost their identity when the four county units were established and 160 more ceased to function independently when they became a part of a consolidated district. Similarly 76 towns were eliminated by the establishment of county health units and 158 by consolidation, leaving 698 out of the total 932.²²

The services rendered by town and village units, with few exceptions in populous areas, are indeed meager. This limited offering of public health services is not so much due to lack of need as it is to paucity of resources and lack of sufficient volume of work to justify the adoption of a comprehensive program and make provision for its execution. Practically all the smaller units have to depend on the services of part-time officials whose minimum compensation is fifteen cents per capita per annum in all places having a population of 8,000 or less.²³ In 1930, six towns in one county reported no health activities whatever for that year.²⁴

Counties.—The recognized inability of the town and the village to carry on adequately the work of providing hospital facilities, maintaining analytical laboratories, conducting clinics, and providing for inspection of food supplies has necessitated the delegation of health activities to other units more suited to meet the requirements of the task imposed. Any effective health program must be developed on the basis of investigation and research. A State-wide system of laboratories is an indispensable adjunct in this regard—indispensable in insuring a pure supply of milk and water, and in providing depots for the distribution of biologicals. The agency apparently most suited for rendering this service was the county. Accordingly, the supervisors were permitted to establish such agencies in 1908.²⁵ The State embarked on a program of stimulating counties to expand their laboratory facilities in 1923 by a system of grants-in-aid.²⁶ As a result of these efforts, there are now 184 approved local laboratories. State aid is available to 31 of these located in 18 counties and 6 cities.²⁷

At the time the State was directing its efforts toward curbing the ravages of tuberculosis from 1908 to 1910, legislation was enacted making it possible for counties also to participate.²⁸ The success of the movement is evidenced by the fact that while there were only two tuberculosis hospitals in the State in 1907, there were 34 in 1931.²⁹

²² *Public Health in New York State*, pp. 76-77. Since these data were compiled Columbia and Nassau have adopted the county unit plan (cf. following page).

²³ *Public Health Law*, 1935, § 21.

²⁴ *Public Health in New York State*, p. 90.

²⁵ *Laws*, c. 255.

²⁶ *Ibid.*, c. 638; cf. *infra*, p. 359.

²⁷ *Fifty-fifth Annual Report of the Department of Health*, 1934, pp. 23, 87.

²⁸ The law of 1909, c. 341, was voluntary, but in 1917 (*ibid.*, c. 469), the establishment of sanatoria was made obligatory in all counties having a population in excess of 35,000.

²⁹ *Public Health in New York State*, p. 193.

The most significant piece of legislation so far as augmenting the importance of the county as a health unit is concerned occurred in 1921.⁴⁰ This action made it possible for the county board of any county to consolidate part or all of a county into a health district under the direction of a full-time health officer. Cattaraugus was the first county in the State to take advantage of the unification law.⁴¹ Suffolk was added to the county unit group in 1928, Cortland in 1929, Westchester in 1930, Columbia in 1933, and Nassau county voted to revise its organization in 1934.⁴² It is interesting to note that in Westchester county the villages have been abandoning their independent efforts in favor of the larger unit.

During the first year three villages voted to abolish their local health boards; during the second year four other villages took similar action and White Plains, a city of 38,000 population, elected to enter the County Health District and delegate its health functions to the county.⁴³

A further incentive to the adoption of the county as a unit for health administration was made effective in 1923 by offering grants-in-aid to counties.⁴⁴ The range of purposes for which aid will be approved by the State commissioner of health is very wide so long as the projects presented as a basis for the subsidy have heretofore been undeveloped. For example, aid has not been granted for tuberculosis sanatoria on the ground that this was an established county health service.⁴⁵

The development of health policies in areas under the county unit plan rests in the hands of an appointive board of seven members plus one for each additional city electing to use the services of the county. The personnel of the board must consist of one member of the board of supervisors and three licensed physicians.⁴⁶

Numerous health activities are common to the counties. For example, in Cattaraugus county, the program includes school health service, nursing, tuberculosis control, laboratory service, care of crippled children, milk inspection, inspection of water supplies, and an improved system of reporting vital statistics.⁴⁷ The importance of the county as a unit providing nursing service is indicated by the fact that out of a total of 900 nurses employed up-State

⁴⁰ *Laws*, c. 508.

⁴¹ 1921. The reorganization brought about in this county was in a large measure due to its selection by the Milbank Memorial Fund in connection with its study of public health activities in rural districts (cf. C-E. A. Winslow, *Health on the Farm and in the Village* [New York, 1931]).

⁴² *Public Health in New York State*, pp. 99-106; *Fifty-third Annual Report of the Department of Health, 1932*, Legislative Document No. 28 (1933), p. 15; *Fifty-fifth Annual Report of the Department of Health, 1934*, p. 23.

⁴³ *Public Health in New York State*, p. 108.

⁴⁴ *Laws*, 1923, c. 662.

⁴⁵ *Public Health in New York State*, p. 56. See *infra*, p. 359, for a listing of projects approved for State aid.

⁴⁶ *Public Health Law*, § 20-b.

⁴⁷ *Public Health in New York State*, pp. 101 ff.

by public agencies, 40 are employed by county boards of health and 97 by county boards of supervisors.⁴⁸

New York county governments expend approximately five million dollars annually for these various health purposes.⁴⁹ In 1934, this sum represented 4.3 per cent of net expenditures for current county purposes and outlays. During an interval of seventeen years (1917-1934) county expenditures for health have increased 6.3 times. Other expenditures have, however, been sufficiently augmented to make the relative position of health expenditures somewhat less important in 1934 than in earlier years. Beginning with a low for the period of 3.2 per cent, the relative position increased to 6.1 per cent in 1920 from which time health, relative to other functions, has experienced a somewhat steady decline. From a fiscal point of view, the county is the most important local health unit with the exception of the city. County expenditures relative to all funds for health purposes supplied by all units of government ranged from 4.5 to 6.3 per cent for the years 1924-1934.⁵⁰

Other governmental agencies.—Even before the time of regular medical inspection, the school system was looked upon as an important adjunct of the public health system. A curriculum calling for courses in physiology and hygiene was certainly not without its influence in shaping the ideals of the oncoming generation with respect to standards of personal and public health. Within recent years, however, the school has ceased to be merely an expository agency and has instead become one of the important operative health units.

Beginning with a requirement in 1860⁵¹ that all school children should be vaccinated and the more recent requirement in 1913⁵² that medical inspection should be provided in all school units, a rather comprehensive set of health activities is now prescribed by law. Standards have been set with respect to personnel, furnishing of certificates of health, medical inspection, tests of sight and hearing, exclusion of uncertified pupils, care of handicapped children, and State aid for such children.⁵³ Since 1913 the department of education has been responsible for enforcement of the provisions relative to public school health, an agency made puissant through its authority to withhold State aid when legal provisions are not complied with.⁵⁴

In attempting to reduce the disparity between the health services rendered in city schools and those available in the more than 8,000 one-teacher schools, county school hygiene districts were authorized in 1924,⁵⁵ Thus far this form of organization has been adopted

⁴⁸ *Ibid.*, p. 165.

⁴⁹ See Table 14, pp. 84-85.

⁵⁰ See Table 69, p. 350.

⁵¹ Laws, c. 438.

⁵² *Ibid.*, c. 627.

⁵³ Education Law, §§ 571-74, 1206, 1211-12.

⁵⁴ *Ibid.*, § 576.

⁵⁵ Laws, 1924, c. 194; cf. Education Law, § 577-b.

only in Ontario and Cattaraugus counties.⁵⁶ Outside the larger school systems, most of the districts of the State are dependent upon the services of part-time health officials.

There are about 1,300 rural school medical inspectors, practically all of whom are local practicing physicians and about 80 per cent of whom are also town and village health officers. They usually are paid on a fee-basis for the school medical inspections, the fees ranging from 25 cents to \$1.00 per pupil. Often the school board lets the contract to the lowest bidder with no regard to the character of the examination rendered. Careless and superficial work is the rule for this inadequate fee, although there has been a gradual improvement through the years.⁵⁷

The commission on public health also gives a concise statement as to the status of nursing service provided in the public schools.

The State expends about one and one-half million dollars annually for school nursing, or nearly \$1.00 per pupil. Approximately 700 school nurse-teachers are employed, including both full-time and part-time workers. There is, however, practically no school nursing service in the rural districts of 25 counties.⁵⁸

The extent of school health activities is further indicated by the fact that in the rural districts only 37 dentists are employed, generally on a part-time basis.⁵⁹

In spite of the fact that school units devote less than one per cent of their total expenditures to health services, the aggregate is sufficiently large to make this agency exceed the fiscal importance of the town and at times the village as well. School district expenditures of \$2,586,000 for the year 1934 represent an increase of 210 per cent over 1924.⁶⁰

The establishment of sanitation utilities and the rendering of various services of direct concern to the public health have been delegated in some instances to *ad hoc* agencies. Towns were permitted to establish sewer districts in 1901,⁶¹ garbage and ash removal districts in 1925,⁶² and under the general district law of 1926 any interested group could petition for the organization of a district intended to benefit the general health and welfare of the community.⁶³ Incinerator districts were specifically provided in 1930.⁶⁴ More recently all towns outside incorporated areas were

⁵⁶ *Public Health in New York State*, p. 304.

⁵⁷ *Ibid.*, pp. 306 f.

⁵⁸ *Ibid.*, pp. 310 f.

⁵⁹ *Ibid.*, p. 312.

⁶⁰ Cf. Table 69, p. 350.

⁶¹ *Laws*, c. 348.

⁶² *Ibid.*, c. 476 (certain towns).

⁶³ *Ibid.*, c. 470.

⁶⁴ *Ibid.*, c. 222.

permitted, on petition, to form districts for the removal of garbage, ashes, and snow.⁶⁵

STATE HEALTH ORGANIZATION

The degree of State influence brought to bear on the formation of the local health organization described in the preceding pages and the extent of fiscal relationship growing out of health activities of common concern to the State and the localities have varied widely from time to time. The State has moved from a rôle of passivity to one of positive aggressiveness, from the limited range of activities associated with contagious disease control to the broad field of therapeutical medicine. It is rapidly becoming an important operative agency and is at the same time attempting to stimulate and supervise the work of local governments.

From the time of the Dutch down to approximately 1805 the central government made no special effort to prescribe, stimulate, or regulate local health activities. Such action as was taken pertained to the inspection of vessels infested with pestilential diseases.⁶⁶ With the opening of the nineteenth century a new policy was inaugurated with respect to the allocation of responsibility for health activities. The first indication of this shift occurred in New York City in 1805⁶⁷ when the powers of the State commission were transferred to the corporate officials. Albany received a similar increase in local autonomy in 1806 and the village of Brooklyn in 1824.⁶⁸ A universalization of this policy came about in a wholly opportunistic fashion. In attempting to devise an emergency organization to cope with a plague of Asiatic cholera, privileges or duties as imposed on New York City⁶⁹ were extended to all cities, villages and towns in specified counties of the State and other sections might elect to take advantage of the provisions of the act.⁷⁰

The State made no attempt to supervise the work of the local health organization evolved out of the temporary legislation of 1832 until the establishment of a State board of health in 1880.⁷¹ One of the first efforts put forth by the board was to overcome the tardiness on the part of the localities to establish health organizations. Supervisory powers were expanded in 1885⁷² so that local boards were required to use prescribed forms in the reporting of vital statistics, to report data relative to infectious diseases, to summon local boards for conferences on important matters, and by mandamus action to compel local boards to perform their prescribed duties. Supervisory powers were further extended in 1886 when

⁶⁵ *Ibid.*, 1831, c. 685 (snow removal districts in certain towns only).

⁶⁶ Cf. *Colonial Laws*, 1755, chaps. 973, 990.

⁶⁷ *Laws*, c. 31.

⁶⁸ *Ibid.*, 1806, c. 100 and 1824, c. 201.

⁶⁹ It was mandatory for New York City to establish a local board of health in 1820 (*ibid.*, c. 229).

⁷⁰ *Ibid.*, 1832, c. 333. For further development of local boards, see section dealing with this topic, *supra*, pp. 351-52.

⁷¹ *Laws*, c. 322.

all villages proposing to build sewage systems were required to submit plans to the State board of health.⁷³ The culminating act with respect to the formation of local boards appeared in 1893 when the central government was empowered to establish a local board in event the responsibility was not assumed locally.⁷⁴

Within the period from 1890 to 1935 two tendencies are to be noted: first, one on the part of the State to become an operative health agency; and second, one to create a new line of relationships with the localities, especially the rural sections, through extended supervisory powers and by sharing a portion of the fiscal burden incident to realization of these new objectives. The assumption by the State of full financial responsibility for the care of the insane in 1890 has been pointed out previously.⁷⁵ The next activity to be engaged in directly by the State was cancer research. In 1898, an appropriation was made to assist in organizing a laboratory at the University of Buffalo to study the cause and possibilities of cancer cure.⁷⁶ Two hospitals were established in 1900—one for the rehabilitation of crippled children and another for the treatment of tuberculosis.⁷⁷ The importance of organized research and an adequate supply of biological products in an effective health program caused the State to undertake the manufacture of certain serums in 1901.⁷⁸ Public health education became a function of the central government in 1913.⁷⁹ The objectives to be achieved through its efforts were the dissemination of current scientific information relative to public health and the crystallization of public thinking with regard to health problems. The department's expenditures were \$35,519 for the year 1934.⁸⁰ In 1913, New York established the first division of child hygiene in the United States.⁸¹ As a result of Federal appropriations under the Sheppard-Towner Act (1922-1929) and increased State appropriations, the work has been expanded until in 1931 the staff consisted of fifty-one members—six physicians, twenty-five nurses, a nutritionist, and a dental hygienist.⁸²

In addition to these various activities undertaken directly by the State, the years after 1890 are marked by the development of a new concept of joint responsibility devolving upon the State and its minor subdivisions. These new relationships are to be noted chiefly in a modification of the State administrative organization in a way to direct more effectively the work of the local health units and the

⁷³ Cf. *ibid.*, 1886, c. 608; 1887, c. 609; 1888, c. 311; 1889, c. 375.

⁷⁴ *Ibid.*, 1893, c. 661, § 11.

⁷⁵ *Ibid.*, 1890, c. 126; cf. *supra*, pp. 26-27.

⁷⁶ *Laws*, 1898, c. 606, p. 1449. Thirteen years later this laboratory was taken over by the State (*ibid.*, 1911, c. 128).

⁷⁷ *Ibid.*, 1900, chaps. 369, 416. Three additional tuberculosis hospitals were provided for in 1931 (*ibid.*, c. 481).

⁷⁸ *Ibid.*, c. 645, p. 1629.

⁷⁹ *Ibid.*, c. 559.

⁸⁰ *Fifty-fifth Annual Report of the Department of Health*, 1934, p. 33.

⁸¹ *Laws*, c. 559.

⁸² *Public Health in New York State*, pp. 273-77.

adoption of a grants-in-aid program. The revision of the health law in 1913⁸⁸ marks the beginning of many of these readjustments. As a result of this act, the State is now divided into fourteen sanitary districts and an officer assigned to each.⁸⁹ These officers are specifically directed to represent the State commissioner in the local districts, secure enforcement of the public health laws, supervise and stimulate local health work, hold conferences with the local officials, adjust jurisdictional difficulties, and assist local officials in communicable disease control.⁹⁰ Their efforts "have been responsible for a considerable part of such degree of effectiveness as local health programs have attained, particularly in the smaller villages, and in the rural districts."⁹¹

One of the most recent innovations with respect to this newer concept of State and local health relationships is found in the allocating of State funds to the localities for various objects in the public health program. In 1923⁹² the State department was permitted to reimburse any county up to one-half of the amount expended locally for approved hospital facilities, clinic headquarters, or public health purposes.

Among projects approved for state-aid in 1931 are the county health departments of Cattaraugus, Cortland, Suffolk, and Westchester counties which obtain \$194,197.50. In addition, 35 counties receive aid for public health nursing and two, Monroe and Warren, for milk and sanitary inspection. Aid is given to county hospitals in Lewis, Wyoming and Greene counties, and 15 counties receive financial help from the State in the establishment and maintenance of preventive clinics—commonly tuberculosis, infant welfare, or the administration of toxin-antitoxin.⁹³

In the same year specific provision was made to grant aid to counties and cities maintaining approved laboratories.⁹⁴ As much as \$2,500 might be given toward initial costs, and one-half the yearly maintenance costs of each laboratory, with \$7,500 as a maximum grant. Eighteen counties and six cities now maintain thirty-one approved laboratories.⁹⁵ Since 1916 the commissioner of education has had authority to apportion to cities and school districts one-half of the amount paid for physical training teachers.⁹⁶ In 1924 arrangements were made whereby the State would bear one-half of the salary of a director of a hygiene district.⁹⁷ Also the Education Law was modified in 1926 so that handicapped children discovered

⁸⁸ Laws, c. 559.

⁸⁹ *Fifty-fifth Annual Report of the Department of Health, 1934*, p. 17.

⁹⁰ *Public Health Law*, § 4-a.

⁹¹ *Public Health in New York State*, p. 39.

⁹² Laws, c. 662.

⁹³ *Public Health in New York State*, pp. 50-51.

⁹⁴ Laws, 1923, c. 638; cf. *Public Health Law*, § 20-b.

⁹⁵ *Fifty-fifth Annual Report of the Department of Health*, p. 23.

⁹⁶ Laws, c. 567.

⁹⁷ *Ibid.*, c. 194; cf. *Education Law*, § 577-b.

by the children's court or the departments of education and health would be cared for jointly by the State and the county.⁹⁸ Provision was made in 1901 to indemnify farmers for cattle found to be infected with tuberculosis.⁹⁴

2. Development of Centralized Controls

The development of a district organization designed to direct the health activities of the localities and the adoption of the principle of grants-in-aid to supplement local revenues, inevitably result in the establishment of numerous rules and regulations. In some cases these regulatory devices are very far reaching, as in the case of legislation requiring the construction of sewers, water supplies, and hospitals regardless of the local fiscal implications. In other instances they may amount to nothing more than giving advice to local health organizations as to standard practices in matters of public sanitation, clinical practices, and selection of personnel.

Among the regulations belonging to the first-mentioned category, are those mandatory in character. For example, the State names the minimum salary to be paid to local health officers,⁹⁵ may order municipal corporations to construct sewage treatment plants necessary for the protection of potable water supplies,⁹⁶ requires cities of the first and second class to construct free public baths in accordance with the instructions of the local boards of health,⁹⁷ provides for medical inspection of all pupils in the State except in cities of the first class,⁹⁸ imposes upon each county and city the responsibility of providing facilities for the treatment of persons suffering with venereal diseases,⁹⁹ and obligates every county having a population of 35,000 or more to establish a county hospital for the treatment of tuberculosis, unless the county has some other institution approved by the central government.¹⁰⁰

Another class of regulatory device of only slightly less significance in its fiscal implications is that of rule making. In this regard each locality if it is to be entitled to State aid must follow plans of construction, install types of equipment, and maintain a standard of workmanship of sufficiently high quality to secure the approval of the commissioner of health.¹⁰¹ The fiscal decisions of a locality with respect to expenditures for health may be further modified by the exercise of ordinance-making power by the central government. For example, the sanitary code developed by the public health council and approved by the commissioner of health supersedes all local ordinances inconsistent with it.¹⁰²

⁹⁴ *Ibid.*, §§ 1211-12.

⁹⁵ *Laws*, c. 321.

⁹⁶ *Public Health Law*, § 21.

⁹⁷ *Ibid.*, § 76-a.

⁹⁸ *Cahill's Consolidated Laws*, 1930, 25:121.

⁹⁹ *Education Law*, § 570.

⁹⁹ *Public Health Law*, § 345-p.

¹⁰⁰ *Cahill's Consolidated Laws*, 1930, 11:45.

¹⁰¹ *Public Health Law*, § 19-a.

¹⁰² *Ibid.*, § 2-c.

The State may frequently modify the fiscal procedures of a local unit of government by requiring that local undertakings meet the approval of the State department. These regulations were first imposed as regards the construction of sewer systems.¹⁰³ This provision, considerably augmented since its original enactment, may have important fiscal repercussions. All plans for sewer construction or extension, or the establishment of waste treatment plants must be approved by the State.¹⁰⁴ No State aid is to be given to any local laboratory unless the area of the district, the site, design and construction of the buildings are first approved by the State commissioner of health.¹⁰⁵

There are several devices open to the State which are particularly effective in securing compliance with regulations promulgated by the State department. The first of these is that of substitute administration. When a local board fails to appoint a qualified health officer, the commissioner may exercise such powers or if he so elects may appoint someone as his representative.¹⁰⁶ The State is further able to exercise control over local policies by reserving to itself the authority to prescribe qualifications for nurses and local health officials.¹⁰⁷ Further, local health officers coming into conflict with the local officials in carrying out the mandate of the central office cannot be removed unless such action has been approved by the commissioner. In event the local appointee is not performing his duties in a manner satisfactory to the State, he may be removed by the commissioner for cause.¹⁰⁸

The State maintains a check on the fiscal operations of the local units so far as funds are concerned in which it has a special interest. The county treasurers are required to file a report with the State setting forth in detail how the funds received from the State were expended, amount of funds supplied locally, and the disposition of unexpended funds.¹⁰⁹

The giving of advice, the least positive of all the foregoing categories, is not without its fiscal significance. Local actions may in some instances be influenced quite as much by the proper type of persuasion as would be true if mandatory provisions prevailed. One of the duties imposed on the commissioner of health is that he shall submit to municipal authorities recommendations as to the establishment of hospitals for contagious diseases and offer suggestions as to the diseases to be provided for and the extent of the service offered.¹¹⁰

¹⁰³ Cf. *supra*, pp. 357-58.

¹⁰⁴ *Public Health Law*, § 2½.

¹⁰⁵ *Ibid.*, § 20-h.

¹⁰⁶ *Ibid.*, § 11.

¹⁰⁷ *Ibid.*, § 2-c.

¹⁰⁸ *Ibid.*, § 20.

¹⁰⁹ *Ibid.*, § 19-b.

¹¹⁰ *Ibid.*, § 6-a.

3. The Economies of the New York Health Program Analyzed

The local health organization may be subjected in many instances to the same uneconomical practices so generally observed in the execution of other leading governmental functions. The personnel, in many instances, is not properly qualified for the duties it should reasonably be expected to perform; numerous agencies overlapping geographically are engaged in performing services that might better be coordinated as a part of the general health program; levels of government having neither the personnel, resources, nor a sufficient number of subjects to warrant the maintenance of even a perfunctory organization are charged with health responsibilities. In the last analysis the most obvious diseconomies grow directly or indirectly out of attempting to meet the requirements of a modern public health program with governmental organizations designed to serve the needs of an essentially bucolic society.

AGENCIES DETERMINING LOCAL HEALTH POLICIES

One of the greatest impediments to an effective public health organization is the existence of numerous boards clothed with powers of policy determination. Consider first the case of the town. In this unit health policies are determined by the town board¹¹¹ serving *ex officio* in a health capacity. Deducting from the 932 towns in the State those units abandoned as a result of adopting the county plan or eliminated through consolidation, there still remain 698 town health units.¹¹² There are also county boards of health in four counties, thirteen boards of tuberculosis hospital managers in as many counties, fifteen boards established for the management of county laboratories, thirty-seven county public health nursing committees, two boards set up for the management of county general hospitals, county committees for the inspection of milk in three counties, and county school hygiene committees in two counties.¹¹³ Summing up all these local agencies, one finds that there are 1,284 separate boards determining the policies to be pursued in conserving the public health of the State. If it were not for the fact that the State, through its district organization, exerted a positive influence in unifying and directing the efforts of these numerous bodies, the possibility of attaining any comprehensive health objective would indeed be remote. Attempts were made to eliminate a part of the agencies by provision for consolidation in 1915 and county health units in 1921. "Consolidation has taken place at a diminishing rate since the law was enacted in 1915, and except in very few instances no improvement in service has resulted, because of the unwieldiness of the arrangement."¹¹⁴

¹¹¹ Composed of the supervisor, clerk, and justices of the peace.

¹¹² *Public Health in New York State*, p. 77; cf. *supra*, p. 353.

¹¹³ *Ibid.*, p. 88.

¹¹⁴ *Ibid.*, pp. 77, 79.

UNIT COSTS

As a result of attempting to maintain health organizations in uneconomically sized units, costs are disproportionately large and, in spite of the higher unit cost, the service is inferior to that prevailing on an average throughout the State. A recent study of local health costs in New York shows, for example, that in Hamilton county (population 3,929), the per capita expenditure for health was \$3.46, yet they had only seven public health officers, no nurses, and did not maintain a county laboratory. On the other hand, Monroe county (population 95,749) provided nineteen public health officers; nine nurses; spent over \$41,000 for nurses, clinics, and inspectors; almost \$11,000 for county laboratories; and the per capita cost was only sixty cents.¹¹⁵

The commission in its study of public health in New York pointed out that "24 counties, most of which have a population of less than 35,000, cannot afford to establish local sanatoria, nor would it be economical to maintain such institutions if they were established."¹¹⁶ It was pointed out further that the small sanatoria are forced to rely on part-time medical service, and cannot economically maintain even the minimum standards without encountering inordinately high unit costs.

QUALITY OF PERSONNEL

As great as is the need for trained highway officials, for welfare workers with a broad appreciation of social problems, and for assessors with a full measure of sound judgment and a comprehensive understanding of market values, it is probably far more important that those charged with responsibility for guarding the public health should be carefully selected and afforded the best training available. Other services may get along somehow with personnel marked for its incompetence, while a poorly administered public health program might fill the graveyards with its victims.

Even if the rural health officials were superbly qualified for their positions, the present scale of compensation could elicit only a portion of their energies and interests. Practitioners in rural communities could not possibly devote much of their time to problems of public health unless through public spiritedness they were willing to contribute a portion of their personal fortunes. This limitation is again a product of dependence on a governmental unit possessing neither adequate resources nor a sufficient number of subjects over which to spread the costs. In cities, towns, villages and consolidated health districts with a population of 8,000 or less, the minimum compensation is set at fifteen cents per inhabitant.¹¹⁷ The compensation may, however, actually be smaller than the legal minimum if the physician agrees to serve for a smaller sum. In Mr. Haag's study of seventy-one New York towns, it was found

¹¹⁵ *Ibid.*, p. 90. Survey conducted by State Sanitary Officers' Association in 1930.

¹¹⁶ *Ibid.*, pp. 209-10.

¹¹⁷ *Public Health Law*, § 21.

that for 1930 the average annual compensation of the health officers was only \$189.¹¹⁸

Dependence on part-time health officials is an equally great handicap. In most instances local health officials look upon their public health duties merely as an auxiliary source of income when private practice is slack. The situation in New York as regards the status of health personnel is covered adequately by the New York State health commission.

Outside of the State Department of Health, local tuberculosis sanatoria, public health laboratories, city school systems, eight city and four county health departments, there are practically no physicians employed on a full-time basis in public health work. Of those employed on a part-time basis more than half have had no special public health training.¹¹⁹

DIVISION OF LABOR

Specialization of personnel and institutional facilities is particularly important if the maximum economies and benefits are to be realized. The care of tuberculosis patients, the treatment of cancer cases, checking the spread of venereal diseases, the rendering of pre-natal services, or even the more common oral health service—each requires specialized personnel and equipment. In some of the cases mentioned it is virtually indispensable, and in others it is desirable. Specialization of either personnel or facilities is only possible where the agencies providing health services are of sufficient size to insure the necessary volume of work.

UNIFICATION OF HEALTH PROGRAM

Another characteristic of public health work significant in determining where administrative responsibility should be lodged is found in the necessity for unified action. The urgency for a health organization responsible for all phases of health work is clearly evidenced in many phases of activity. Witness how this problem is related to an effective campaign directed against the disease of tuberculosis. The best results can never be achieved so long as the agency maintaining the institutional facilities has no supervision over discharged patients. Similar disadvantages of decentralized responsibility are particularly evident in caring for the health of school children. School supervisors and nurses are charged with the care of the pupil's health only during the hours of school attendance. However effective the work of the school official is, it may all be negated by the failure of local health officials to carry the health program of the school into the homes of the pupils. Centralization of public health functions in the hands of a single agency is further

¹¹⁸ H. M. Haag, *Governmental Costs and Taxes in Some Rural New York Towns* (Ithaca, May 1934), p. 20.

¹¹⁹ *Public Health in New York State*, p. 144.

desirable in that cooperation between private health agencies can be more easily developed, and the efforts of agencies with closely related and in some instances overlapping functions may be coordinated with the general plan of the health department. Synthesizing those aspects of welfare work related directly to the public health program is especially desirable.

STATE OVERSIGHT AND ASSISTANCE

If the requirements imposed on the localities by the State with respect to health matters may be taken as a measure of the central government's interest, this function stands well to the fore. The State names the minimum salaries to be paid to local health officers, prescribes the facilities necessary to protect potable water supplies, requires the construction of public baths, imposes an obligation on school authorities to check the health of school pupils, mandates to cities the checking of venereal diseases, and requires certain counties to provide hospitals for tuberculars. In addition to these "must" provisions, the central government is also interested in the development of county laboratories and other phases of health conservation not commonly engaged in by local governments.

Great as the interest of the State may be, in no instance does it stand ready to meet the full costs of the program considered as a tolerable minimum. The central government believes that the salary of public health officers should not fall below a given figure, yet the whole of the burden incident to meeting this requirement is imposed on the localities. Certainly, general interests require that potable water supplies should be guarded from pollution, but there may be numerous instances where provision of adequate protection may impose burdens out of proportion to that warranted by the local situation. The State says that certain local governments must provide free public baths, yet takes no step to supply revenue necessary for their construction and maintenance. Expansion of the health program may be wholly desirable, but it is indeed doubtful whether the State should impose the portion of added burden on the localities as is now done through a system of percentage grants. If innovations are considered desirable by the central government, let it finance such expansions to the extent of its interest, leaving to the localities the privilege of expending its funds otherwise or supplementing the activities of the State in a way to equate marginal social satisfaction.

Another weakness in the prevailing system of State grants is that "need" is in no wise taken into account. Among the many functions of government there is none where this element should be more seriously considered. Not only is it desirable from a social point of view that funds available for public health purposes should be allocated where most urgently needed, but the availability of statistics dealing with death and disease facilitates the determination of sub-standard areas. In Table 70 selected counties have been ranked according to the number of infant deaths per 1,000 of the

TABLE 70

INFANT DEATH RATES IN RURAL COMMUNITIES AND PER CAPITA STATE AID FOR HEALTH IN SELECTED NEW YORK COUNTIES, 1932^a

COUNTY	DEATHS PER 1,000 INFANT POPULATION ^b		STATE AID PER CAPITA ^c	
	Rank	Rate	Rank	Cents
Clinton.....	1	88.0	13	10.58
Yates.....	2	83.7	3	26.47
Washington.....	3	73.6	14	9.68
Herkimer.....	4	72.2	.....	.....
Rockland.....	5	71.8	17	5.38
Tioga.....	6	70.9	.....	.....
Essex.....	7	68.8	18	6.30
Greene.....	8	67.3	11	11.62 ^d
Oswego.....	9	60.7	22	1.69
Schoharie.....	10	60.1	12	11.19
Seneca.....	11	57.8	16	6.00
Lewis.....	12	52.6	1	63.63
Suffolk.....	13	52.2	4	25.49
Dutchess.....	14	51.2	15	7.38
Orange.....	15	51.1	20	4.60
Ulster.....	16	49.7	.....	.....
Madison.....	17	46.2	7	16.75
Fulton.....	18	45.2	6	18.58
Putnam.....	19	44.4	.....	.....
Montgomery.....	20	42.0	9	16.23
Cortland.....	21	36.6	2	38.10
Westchester.....	22	35.7	5	21.48
Chemung.....	23	30.0	.....	.....
Onondaga.....	24	29.6	21	4.02
Saratoga.....	25	29.3	10	12.64
Niagara.....	26	28.3	19	4.96
Albany.....	27	24.9	.....	.....
Cayuga.....	28	23.1	8	16.63
Broome.....	29	21.0	.....	.....

^a Counties selected alternately from alphabetical listing.

^b *Fifteenth Census of the United States, 1930, Population, Vol. III, Part II, Tables 11, 12, pp. 268 ff.; Fifty-third Annual Report of the State Department of Health, 1932, II, 78 ff.*

^c State aid for health and laboratories as reported in *Annual Report of the Comptroller, 1932, p. xxv.*

^d Exclusive of \$50,000 for capital outlay in hospital construction (*cf. Fifty-third Annual Report of the State Department of Health, 1932, p. 13*).

infant population.¹²⁰ Against these data, figures have been included showing the amount of State aid expressed on a per capita basis. Clinton county ranks first with respect to the number of infant deaths per 1,000 of the population falling within the same age limit, but twelve counties received larger per capita grants for public health purposes. In contradistinction to this situation, Lewis county received the largest per capita grant, but there were eleven other counties with higher death rates. The grant to Lewis county of sixty-four cents per capita was six times larger than the amount received by Clinton, although the death rate of the former was only sixty per cent as great as that prevailing in the latter.

If there is any matter that should be of concern to the State, it is correcting those conditions giving rise to infant death rates four

¹²⁰ It is not for a moment suggested that this one factor is an all-comprehensive measure of "need." Statistics on other diseases amenable to medical treatment, and experiences covering other age groups should also be included. Data such as days lost from illness would be especially desirable.

times greater in some regions than in others. As general as the interest is, the State has chosen to make its action contingent upon the disposition of a given locality. A policy of this character should be abandoned forthright in favor of one defining a tolerable range of health experience and making provision for funds adequate to guarantee achievement of established objectives.

4. State-Wide Problems Arising in Connection with Milk and Water Supplies

Finally, central-local health relationships are maladjusted in that the State has refused to assume full responsibility for those phases of health conservation so extended geographically as to defy the efforts of any local jurisdiction. Consider in this connection the problems incident to guaranteeing an adequate supply of pure milk. When properly handled this liquid is one of the greatest body builders. On the other hand, if subjected to filth and careless handling it possesses potentialities of the most ruthless destroyers. New York City requires approximately two and three-quarter million quarts of milk for its daily consumption.¹²¹ The extent of the shed required to furnish this supply is shown in Figure 20. In 1932 it required ten counties to supply approximately one-half of the milk shipped from within the State to the metropolitan market.¹²² To provide the total amount required, the supply of practically every county must be tapped and in addition milk must be brought in from parts of six states and two foreign provinces.¹²³

Whether this vast quantity of milk produced within the State is fit for human consumption depends upon the nature of the rations given to the 1,370,000 milk-producing cows,¹²⁴ the sanitary conditions existing on 84,000 farms,¹²⁵ the cleanliness and adequacy of equipment in hundreds of local plants, and the suitability of the motor truck and rail facilities transporting the milk to the final market. Problems of this character are obviously beyond the province of a local governmental unit. The State, under the sanitary code, enforces measures of sanitation outside the city of New York. Yet the city of New York finds it desirable to inspect the points of production and marketing in the rural regions. Other cities of the State interested in problems of health and able to bear the costs

¹²¹ *Report of the Joint Legislative Committee to Investigate the Milk Industry*, Legislative Document No. 114 (1933), p. 33. The New York metropolitan market requires four million quarts. The population of New York City is 68.7 per cent of the total included in the market.

¹²² *A Graphic Compendium of Planning Studies*, p. 98. These counties were Cortland, Chemung, Madison, Oneida, Schoharie, Delaware, Orange, Jefferson, St. Lawrence, and Otsego.

¹²³ These states are Connecticut, Maryland, Massachusetts, New Jersey, Pennsylvania, Vermont and the provinces of Ontario and Quebec (*Report of the Joint Legislative Committee to Investigate the Milk Industry* [1933], p. 34).

¹²⁴ *Ibid.*, Table 25, p. 86.

¹²⁵ *Ibid.*, Table 3, p. 30 shows 83,801.

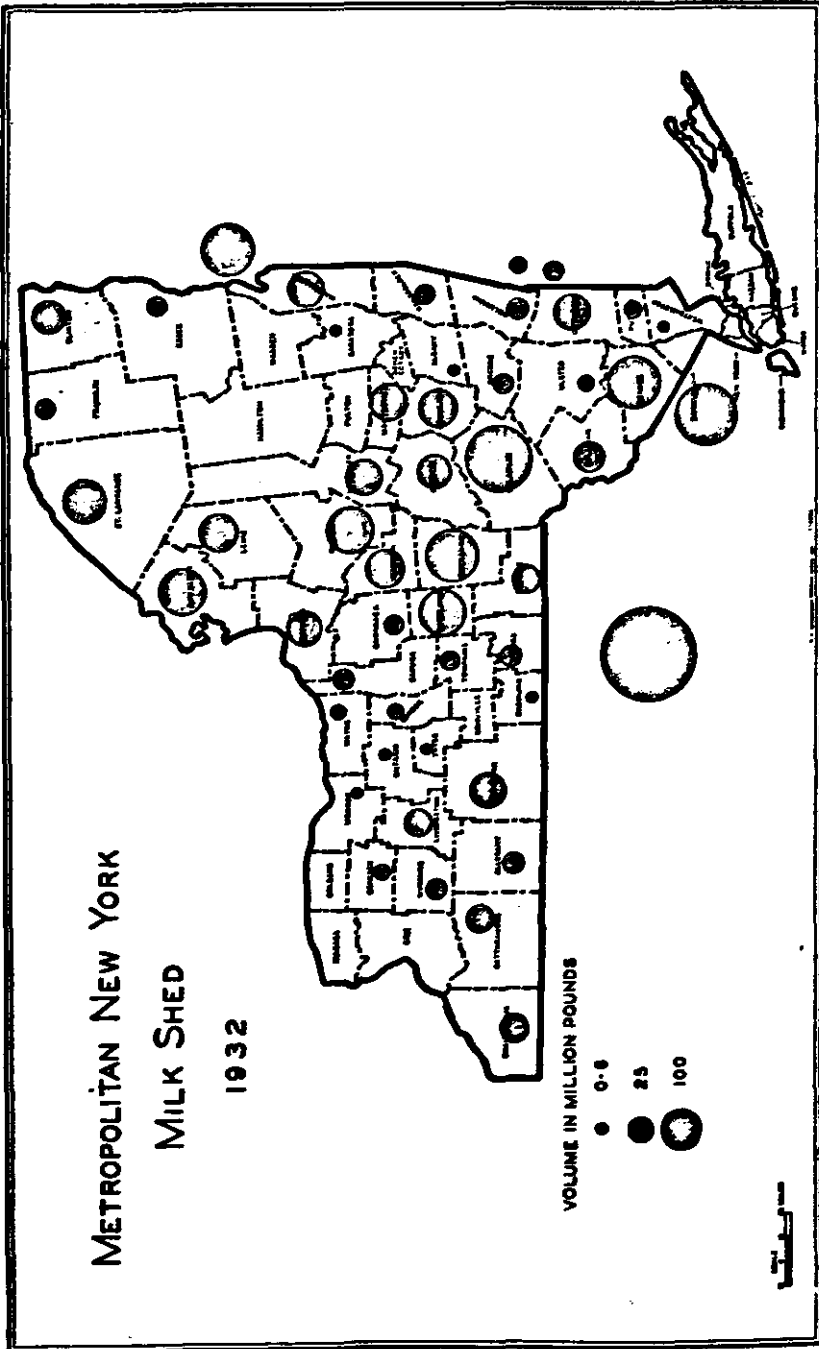


FIG. 20
From a Graphic Compendium of Planning Studies, p. 98.

follow the pattern of this city.¹²⁶ Clearly, duplication of efforts just described should be obviated. Not only should the duplication of effort be made unnecessary, but every urban community, regardless of whether it is able to support an independent inspectional staff should have a wholesome milk supply. The ramifications of the milk market are of such a character that any degree of control to be effective must be administered by the government having the widest territorial jurisdiction. The standards here established should be sufficiently high to satisfy the most meticulous community.

The problems incidental to water supply are common in many ways to those just discussed regarding milk. Water is indispensable to the existence of life; it provides a medium for numerous harmful bacteria; and the supply for urban regions must frequently be brought from remote sources. As some cities have been able to guarantee a reasonably pure supply of milk by establishing elaborate inspectional systems, so a city using surface water sources may operate its own treatment plants. In providing pure water two avenues appear to lie open. The task may be left to the localities in which event every city and village dumps as much of its refuse on its neighbor as is possible, and in turn builds purifying devices to protect its own populace. Disregarding the disastrous effect of certain wastes on fish, water fowl, and plant life, any plan for the elimination of sources of pollution has greater rational appeal than one of protective purification. The great majority of the urban communities is confronted with problems of potential stream pollution.¹²⁷ To indicate the nature and extent of these problems New York City may again be taken as a case in point. The consumption of water in this metropolis has now increased to where the daily demand is in the neighborhood of 900,000,000 gallons.¹²⁸ To provide this amount it has been necessary to tap three watersheds, construct as many dams, and provide an elaborate system of tunnels, sub-storage facilities, and aerators. The area required to provide this supply of water is shown graphically in Figure 21. To protect these supplies of water, "the city owns the land around its reservoir and inspectors constantly patrol these lands to keep away unauthorized persons and to correct any unsanitary conditions that might arise."¹²⁹ More important than the mere policing of the supplies is the prevention of contamination resulting from human wastes arising in the vicinity of these supplies. In order to provide adequate protection it has been necessary for New York City to operate sewage disposal plants for certain small communi-

¹²⁶ *Report of the Joint Legislative Committee to Investigate the Milk Industry* [1933], p. 26.

¹²⁷ *A Graphic Compendium of Planning Studies*, p. 69. Only 1,600,000 out of a total of 10,522,000 urban dwellers derive their water supply from underground sources.

¹²⁸ The daily consumption for the first six months of 1933 was 866.5 million gallons (*New York Times*, September 10, 1933).

¹²⁹ "Safeguarding our Water Supply," *New York Times*, November 5, 1933.

WATERSHED AREAS AND RESERVOIRS OF NEW YORK CITY

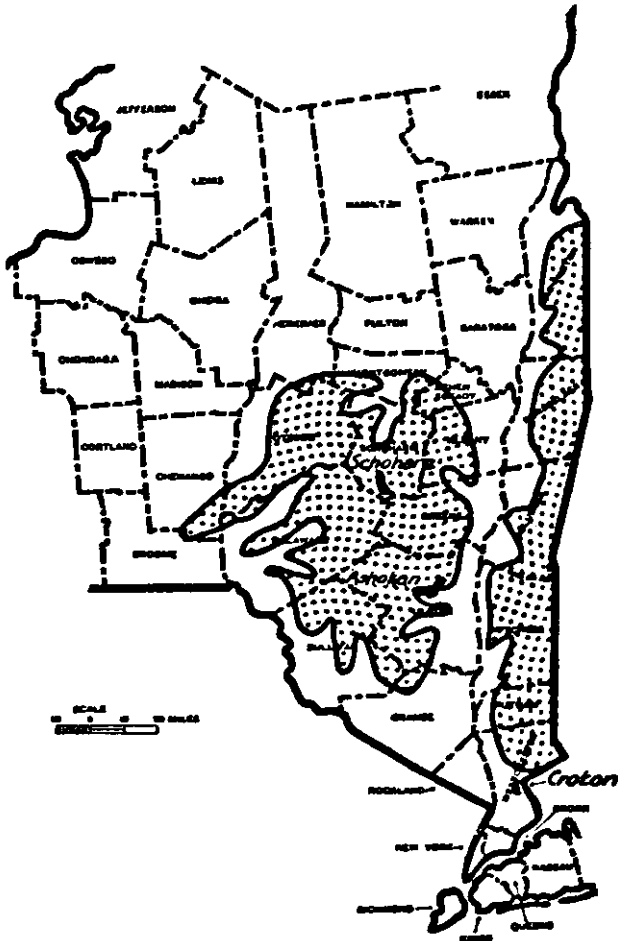


FIG. 21

Adapted from a *Graphic Compendium of Planning Studies*, p. 59.

ties. "There are two such purification plants in each of the up-State watersheds, Schoharie, Esopus and Croton."¹²⁰ Where localities in these critical areas operate their own disposal plants some do so under the direction of city experts.

In the supplying of pure water, as in the case of milk, any program of health, preventive in character, must be carried on far beyond the confines of even the largest local government. Today "over 80 per cent of the sewage of the State is discharged untreated into its streams, lakes, and coastal waters."¹²¹ Communities as wealthy as New York may be able to guard themselves by constructing sewage disposal plants for the offenders, or by purifying their water supply by chemical treatment or aeration.¹²² Smaller communities, however much they might wish to pattern after New York, may not be able financially to do so. They must largely endure until such time as regional problems of this character are given to an authority able to view them comprehensively and willing to act as the best interest of the majority dictates.

5. Readjustment of Central-Local Health Relationships

Proposals for the reorganization of health activities made in connection with a survey of the whole field of governmental activities are apt to differ in some respects from those submitted when the problems of health alone are considered. The differences will probably be most pronounced in respect to the form of the local unit. One interested in all phases of local government contemplates a health organization in its relationship to other phases of local endeavor. The public health advocate, on the other hand, has a propensity to omit from consideration the necessity of providing a local governmental unit that will serve other purposes of government equally as satisfactory as that of health.

Because it is virtually impossible to devise a political unit of appropriate size that is fiscally competent to manage the whole range of governmental services, considerations other than administrative and fiscal competence must first be considered. The boundaries of the local unit should be set up so as to correspond with those economic, social and geographical forces tending to give unity to community life.¹²³ This procedure does not mean that health or any other function will be dwarfed because of local incompetence. Rather, each function will achieve its due development by dividing the work and the responsibility for its financing between

¹²⁰ *Ibid.*

¹²¹ *A Graphic Compendium of Planning Studies*, p. 66.

¹²² New York City while protecting its own water supply is guilty of contaminating other communities. The United States Supreme Court issued a decree on December 7, 1931, to the effect that after June 1, 1933, the city must cease dumping garbage and refuse at sea—a source of pollution for nearby New Jersey beaches ("Great Sanitation Questions That Now Confront the City," *New York Times*, May 7, 1933).

¹²³ *Cf. supra*, pp. 138 ff.

the localities and the State in whatever proportion the aptitudes of each may warrant.

In an earlier analysis of the regional differences in capacity to render governmental services, the State was divided into three sections: first, those areas possessing so few permanent inhabitants and so impoverished in wealth that the maintenance of any local governmental service is difficult to justify; second, the remaining part of the State, except the area identified by common interests with the metropolitan areas; third, the metropolitan regions.¹²⁴ This trichotomous treatment may well provide a basis for arriving at an adjustment of State and local health relationships. In towns where the State owns in some instances as much as 87 per cent of the acreage, where the population density is five or less per square mile, and where such governmental services as are rendered exhibit a per capita cost far in excess of the State average, a definite answer as to the disposition of health functions seems to be close at hand. It is patent, both from what is known about the requisites of good health administration and from reported experiences arising in such sections, that State assumption both as to finance and administration offers the only plausible solution. State assumption of all phases of health activity in regions of this character is further justified because of the special interest the State may have in health conditions in these sparsely settled areas. The major portion of the area comprising the forty-nine towns in which the maintenance of local governmental institutions appears non-feasible, comprise the heart of the Adirondack recreational center. This region provides the playground for New York City, other metropolitan centers, and, in fact, all parts of the State. The guarding of public health in a region subjected to a migratory population drawn from widely separated points in the State can immediately be seen to present a problem of far more than local concern. Preventing the introduction of pestilential diseases, guaranteeing pure water supplies and adequate sewage disposal, and policing of recreational facilities are all functions of sufficient general interest to the State to warrant full State assumption of services of this character.

In those portions of the State falling within the second category, namely, areas possessing sufficiently well-defined communities to warrant the maintenance of governmental institutions, health functions should be divided between the two. The division of responsibility can be based on no other criterion than capacity to administer the services economically. The line of demarcation in this regard would, in general, be drawn as between institutional and non-institutional care, the former being transferred entirely to the State, and the latter remaining a local function. In the case of the larger urban centers, the volume of work will be sufficiently large to permit the local units to provide both institutional and such other health services as may be deemed desirable.

¹²⁴ Cf. *supra*, pp. 150 ff.

By dividing the responsibility for health activities along these lines the burden of supporting an adequate health program would be borne largely by the State, adequately trained personnel secured, compensation commensurate with the responsibilities assured, part-time services dispensed with, adequate clinical services developed, public health efforts coordinated with the work of agencies having allied interests, and the effectiveness of State guidance made infinitely greater.

In order to effectuate a plan of this character it is not only important that the State should assume responsibility for financing and administering the health program for the areas unsuited to organized local government, but upon this unit must also fall the responsibility for financing mandatory standards now so commonly imposed on local governments. Local instrumentalities should be selected as spending agencies whenever their fitness is established, but when thus employed funds should be provided by the agency setting the mandatory requirements.

When adequate revenues are provided for financing a defined minimum program the central government then has a full right to insist that the funds thus provided be economically disbursed. An accounting should be made in full and in those cases where prodigality is persistent, substitute administration should be provided until such time as the malconditions are corrected.

6. Summary

In an attempt to give due consideration to the general problem of governmental organization and at the same time provide for a thoroughly sound health organization, the following points are suggested:

(1) Emphasis on the creation of county health units should be abandoned in favor of a unit better suited for the satisfaction of local wants.

(2) In regions where the population is too sparse to warrant the maintenance of rural governmental institutions the State should assume full responsibility for the organization of public health work and the maintenance of satisfactory sanitation standards.

(3) In those areas with a sufficiently dense population to warrant the maintenance of governmental institutions, the problem continues to be one of division of responsibility between the State and local governments. As the local organism becomes more highly developed the proportion of the work shunted to the State may be materially lessened.

(4) In the larger urban centers and metropolitan areas, all types of health service, institutional and non-institutional, might well be handled locally. There the volume of work is sufficiently large to warrant the maintenance of a complete medical organization.

(5) The regional characteristics of problems incident to the guaranteeing of pure food and water supplies are so universal that this function should be delegated to the central government.

(6) All research, and institutions necessary for the care of persons afflicted with malignant diseases should be provided by the central government.

(7) Complementary to the foregoing is the proper division of responsibility for financing the public health program. Those activities that represent a dual interest should be financed by the localities and the State in proportion to the extent of respective local and general interests. The funds expended by the State should be distributed so as to pare down the unfavorable health conditions prevailing in particular regions; that is, the minima established by the State might be in terms of health experience.

(8) The central government should prescribe the qualifications of persons eligible for appointment to local health offices.

(9) The details of fiscal reporting should be laid down by the central government.

(10) The device of substitute administration should be employed to secure compliance with reasonable standards of integrity and economy.

CHAPTER XIV

OTHER FUNCTIONS GIVING RISE TO STATE AND LOCAL FISCAL RELATIONSHIPS

The preceding pages have dealt with those fields of governmental activity wherein central-local relationships have become definitely established. In addition to education, highways, health, welfare, and revenue administration, other services rendered by local governments are engaging more than a passing interest of the State. As yet they are in the twilight zone, but as time passes they may become matters of considerable State concern.

1. Protection

In 1917¹ a State police system was established. This organization is now performing services unsatisfactorily supplied by the local constabulary and is aiding municipal peace officers in the more efficient execution of their duties. The governing board of any police district, town, or village may contract for a regular assignment of State police. Costs incident to the maintenance of the force are paid by the locality but all details as to administration rest with the superintendent of State police.² In communities where law enforcement is lax, assistance is rendered by making arrests in cases of violation of agricultural and educational laws, cruelty to animals, bigamy, burglary, forgery, fraud, kidnapping, and intoxication.³ During the year 1933, 46,158 arrests were made of which 91 per cent resulted in conviction.⁴ A quarter of a million dollars worth of property was recovered and an almost equal amount of revenue was derived from fines.⁵ In addition to these tangible results, the department has aided the municipalities through the provision of teletypewriters,⁶ State radio,⁷ and a police training school.⁸

¹ *Laws*, c. 161.

² *Cahill's Consolidated Laws*, 1930, 18:99.

³ Cf. *Annual Report of the Division of State Police*, 1933, Legislative Document No. 103 (1934), pp. 21 ff. for record of arrests.

⁴ *Ibid.*, p. 23.

⁵ Fines, \$252,661.28; value of property recovered, \$264,784.18 (*ibid.*).

⁶ Any municipality desiring to avail itself of teletypewriter service bears only the direct costs involved, that is, instrument rental and the purchase of necessary supplies. The State pays all costs of circuit mileage. The Legislature authorized the use of this service in 1931 (*Laws*, c. 633; cf. *Annual Report of the Division of State Police*, 1931, Legislative Document No. 113 [1932], pp. 6-7). If a perpetrator of a felony is not apprehended within five hours, a statement must be dispatched to the nearest teletypewriter point (*Laws*, 1936, c. 37).

⁷ A State radio system was installed in 1933. This service is offered free to municipalities upon notification that their cars have been equipped with receivers (cf. *ibid.*, 1933, pp. 19-20).

⁸ The State police training school supervises municipal police training schools, conducted under the auspices of the Conference of Mayors. The depart-

One of the more recent activities of the police has been concerned with assisting in rendering aid to destitute families. One troop alone administered to the needs of 217 families and 649 children. Investigational work carried on by the police has been of valuable aid to established welfare agencies.⁹

In 1919, two years after the State organized its police force, slightly over \$500,000 was expended for troop hire, rentals, transportation, etc. Table 71 indicates that since 1918 outlays for this

TABLE 71
EXPENDITURES FOR STATE POLICE, 1917-1934*
(Thousands)

YEAR	Amount	YEAR	Amount
1917.....	\$6	1926.....	\$1,453
1918.....	605	1927.....	1,553
1919.....	561	1928.....	1,891
1920.....	569	1929.....	1,887
1921.....	779	1930.....	2,106
1922.....	996	1931.....	2,238
1923.....	1,003	1932.....	2,375
1924.....	1,434	1933.....	2,348
1925.....	1,459	1934.....	2,250

* From Annual Reports of the Comptroller. Exclusive of outlays.

purpose have been increased almost four fold. However, if the whole of the \$2,260,000 expended in 1934 were devoted solely to services aiding localities directly in the performance of their day-to-day duties, the expenditure, compared to State assistance in other fields of endeavor, would be small. Its importance rests not so much in the size of the amount, but the trend which it indicates. Considerable importance also attaches to the work of the traffic commission affecting local policing problems. The work of this agency has now been extended to include the setting of speed limits in certain parts of incorporated places, reporting of punishments imposed, and the offering of advice to local officials regarding traffic problems.¹⁰

2. Economic Development

FARM AND HOME BUREAUS

The first plan of continuous assistance to local governments for purposes of furthering economic welfare occurred in 1917 when

ment "has prepared curriculae, trained instructors and, in a general way, shaped the police training program for over five thousand peace officers representing practically every municipality in the State, with the exception of Greater New York" (*ibid.*, 1932, Legislative Document No. 109 [1933], p. 7).

⁹ *Ibid.*, pp. 9, 11.

¹⁰ *Lawe*, 1936, c. 916.

the State undertook to support county farm bureau work to the extent of \$600 per county, provided the board of supervisors appropriated \$1,800.¹¹ This work was expanded in 1919 to include aid for the development of work in the field of home economics,¹² and in 1924 a junior extension program was added.¹³ The sums provided by the State for this work are set forth in Table 44.¹⁴ Beginning with an expenditure of \$22,000 in 1917 the work has grown until it amounted to \$129,000 in the peak year of 1932, declining to \$104,000 in 1934.

The State exercises control over this activity through Cornell University which acts as its agent. Money raised by the boards of supervisors for the improvement of agriculture, betterment of home conditions, maintenance of farm bureaus, and junior extension workers must be expended under an agreement entered into between the county association and the University.¹⁵

REFORESTATION

In 1935 the State celebrated the fiftieth anniversary of the New York State forest preserve.¹⁶ Starting with 700,000 acres of delinquent cutover lands, the central government now has forest lands in preserves, reforestation areas and parks totaling 2,630,827 acres.¹⁷ In addition to these extensive holdings by the central government, there are 514 community forests owned by towns, villages, cities, counties, and school districts.¹⁸ Of these various units, holdings of the cities, towns, and villages are the most important amounting to approximately 82,000 acres; 28,208 acres belong to county governments.¹⁹

In order to further the program of conservation, grants-in-aid were made available to the localities for reforestation purposes by

¹¹ *Ibid.*, 1917, c. 281.

¹² *Ibid.*, 1919, c. 499.

¹³ *Ibid.*, 1924, c. 248.

¹⁴ *Cf. supra*, p. 249.

¹⁵ *Laws*, 1930, c. 769.

¹⁶ *Cf. ibid.*, 1934, c. 519.

¹⁷ *Annual Report of the Conservation Department, 1934, Legislative Document No. 38 (1935)*, p. 24; *cf.*, also *A Graphic Compendium of Planning Studies*, p. 47.

¹⁸ *Annual Report of the Conservation Department, 1934*, p. 73. The number of community forests are divided as follows:

<i>Governmental Unit</i>	<i>Number</i>
Towns	44
Villages	189
Cities	49
Counties	47
School districts	185
Total	514

¹⁹ *A Graphic Compendium of Planning Studies*, p. 47.

legislation enacted in 1929.²⁰ Under this act the central government agreed to match approved local expenditures up to \$5,000 per county. According to Table 72, the first year the plan was in

TABLE 72
EXTENT OF REFORESTATION WORK IN COUNTIES COOPERATING WITH THE STATE,
1930-1932 ^a

YEAR	Number of Counties	Total County Appropriations	Total State Allotments	Acres Purchased	Acres Planted	Total Trees Planted
1930.....	20	\$67,556	\$48,832	7,440	4,534	4,797,800
1931.....	20	59,178	42,683	7,877	6,838	7,424,000
1932.....	21	64,769	45,508	.....	.....	7,706,400
Total.....	.....	\$191,503	\$137,017	.....	.....	19,928,200

^a Annual Report of the Conservation Department, 1932, Legislative Document No. 28 (1933), p. 73.

^b Data not available.

operation twenty counties appropriated \$67,556 for the purchase of land and the planting of trees. The State assisted the localities in this same year to the extent of \$48,832. Grants were continued through the years of 1931 and 1932 but the stringency of fiscal affairs brought on by depression years caused at least a temporary abandonment of appropriations for this work. Only 1,641,400 and 1,119,000 trees were planted by these counties during the years 1933 and 1934, whereas the total of the three preceding years was approximately twenty million.²¹

As with all other activities financed in part by State funds, some concern has been exhibited in the reforestation policies adopted by local governments. In applying for aid the counties were required to prepare a statement as to the purpose for which State moneys were to be used. By 1932 the department had developed a set of rules to the effect that amounts in excess of \$4 per acre for the purchase of land, expenditures for supervision in excess of 10 per cent of the total, and planting costs in excess of \$10 per acre were not to be considered as expenditures eligible for matching.²² Also, if aid is desired in the purchasing of lands the land acquired must be at least 50 per cent plantable.²³

3. Recreation

New York State opened its first park, the Niagara Reservation, in July of 1885. The St. Lawrence Reservation followed in 1896. Today, there are in addition to the Adirondack and Catskill forest preserves a total of seventy State parks.²⁴ Before the State experi-

²⁰ Laws, 1929, c. 194.

²¹ Annual Report of the Conservation Department, 1934, p. 73.

²² Ibid., 1931, p. 80.

²³ Ibid., 1932, p. 74.

²⁴ Gurth Whipple, *Fifty Years of Conservation in New York State, 1885-1935* (Albany, 1935), p. 161.

enced the stringency of depression years, expenditures for park purposes amounted to more than \$11,000,000, a figure fourteen times as large as that of eight years earlier.²⁵ The planning and expansion of this phase of State activity has not come about without considering its relationships to the local situation. Purposeful cooperation with local governments has been a part of the State's program since 1923. The department in its nineteenth report stated:

The State park program takes into consideration the anticipated growth of the State and especially of the larger cities, the rapid disappearance of shore front areas from public use and the great ultimate cost of further delay in securing such areas, the increased interest in parks, outdoor life and camping, the inadequacy of city parks, and the need of great park areas serving the metropolitan districts, the enormous increase in motor cars, and the further conservation needs of the State and other considerations.²⁶

State and local interests have been especially well unified in Westchester county where the county commission administers many county parks as well as those owned by the State.²⁷ The State council of parks has attempted to meet its responsibility of coordinating State and local park plans by holding conferences with city park officials. The third conference dealing with park problems in the metropolitan area of New York City was held in 1931. On the basis of the program here evolved, New York City appropriated \$30,000,000 as its contribution to the joint undertaking.²⁸

4. Factors Necessitating State Participation

In these minor activities of government the factors accountable for the development of central-local relationships are in many instances identical with those discussed in connection with education, highways, public health, and welfare. The plans of State aid pertaining to reforestation, county farm bureau and home demonstration work are designed to stimulate local initiative, necessitate compliance with rules promulgated by the State departments concerned, and influence the form of local governmental organization. Division of functional responsibilities noted in connection with the development of State police, reforestation of sub-marginal farm lands, and the creation of recreational centers has come about in some instances because of inadequacy of resources possessed by local governments, lack of local interest, technical incompetence, or the degree of regionalism involved.

²⁵ See *infra*, p. 382 note.

²⁶ *Annual Report of the Conservation Department, 1929*, p. 573.

²⁷ *Ibid.*, 1934, p. 325.

²⁸ *Ibid.*, 1931, p. 355.

TECHNOLOGICAL CHANGES

Of the various factors set forth in explanation of the present division of State and local responsibilities for conserving natural resources, providing protection to persons and property, and developing recreational centers, those technological in character are without doubt the most important. No better illustration of technological forces shaping the form of State and local relationships exists than in the case of protection to property and the apprehension of criminals. Before the advent of the automobile, surfaced road, teletypewriter, radio, aeroplane, sub-machine gun, and nauseating gases, the town constable was able to provide a tolerable measure of protection for the citizens of his community. His efforts now, however, are more than futile. An agency capable of curbing modern outlaws must have authority over a geographical range as wide as that in which the crime syndicate operates; it must be equipped with instrumentalities equally effective as those possessed by the fugitive. These requirements make it imperative that the State, in cooperation with the Federal government, should take the lead in police work.

Innovation in the organization of economic activity, urbanized modes of life, popularization of the motor car and trailer, plus a splendid system of highways are the principal elements necessitating a system of State parks. Development of a roundabout system of production has given a large number of persons some leisure time, city life has created a need for relaxation in open spaces, and the motor car and highway system have provided ready means of transportation. The nomadic influence of the motor car is reflected in registrations at public campsites. In 1934, 463,335 persons registered at New York public camps and 1,768 permits were issued for camping at undeveloped locations. The total of these two items represents a number of vacationists almost thirteen times larger than was registered seven years earlier.²⁹ In addition to those registered at camps in the forest preserve areas, it is estimated that in 1934, 18,500,000 persons visited the seventy other parks owned and operated by the State.³⁰

LIMITATIONS OF LOCAL UNITS

The next most important factor impelling State participation in the functions under consideration is that of technical competence. This element is especially pronounced in the field of reforestation and conservation. A program of reforestation alone involves a comprehensive study of land uses, knowledge of trees suitable for various soils, the development of a supply of young trees, and the application of sound forestry management to growing forests. However earnest the local units or private individuals might be in their desire to develop forest areas, serious difficulties would be encoun-

²⁹ *Ibid.*, 1934, pp. 36-37.

³⁰ *A Graphic Compendium of Planning Studies*, p. 90.

tered if it were not for the fact that the eight State nurseries are husbanding some 173,000,000 young trees.²¹ Development of forestry is furthermore dependent upon State leadership because the benefits of adequate forest acreage are not widely appreciated. Individuals in large numbers and the majority of local governmental officials do not realize that underground water levels, floods, stream control, erosion, soil fertility and wind velocity are in part determined by the quantity of wooded area. A government cognizant of these important ramifications must assume the responsibility for doing a large part of the work directly as well as imbuing the localities with a zealous urge to husband small forest areas.

Many phases of police work also may be appropriately considered in this category. The development of radio as a means of casting a dragnet for criminals has probably done as much to relate the work of the State and the localities as any other technical device. The costs of maintenance as well as assignment of wave channels make expedient the establishment of a few regional sending stations. Furthermore, if advantages of a central radio system are to be fully utilized, motor units equipped with radio receivers must be employed, a requirement that can only be economically met by a community of considerable size and wealth. Detective work necessary for conviction of suspected criminals requires skill of a highly technical character. It is essential to have laboratory facilities for making ballistic tests; elaborate recording systems for the indexing of fingerprints, photos and crime data; and an educational organization for the training of persons interested in entering police work.

REGIONAL ASPECTS OF RECREATION AND CONSERVATION

The system of State parks probably represents the best example of a development in response to the regionalistic aspects of the recreation problem. The absence of any restriction in the United States on passing from one political jurisdiction to another has given the provision of free recreational facilities a peculiar bent. Citizens living on Manhattan Island or in Westchester county vacation in the counties of Hamilton, Essex, Franklin, and Fulton. Or the regionalism may overrun State lines as it does on the New Jersey-New York line near the city of New York. So marked is the unity of parts of these two political areas that a joint commission was set up to develop common recreational facilities.²² Reforestation as it pertains to the preservation of watersheds and the conservation of water supplies is also a regional problem. New York City draws its supply from three distant watersheds. Out of 10,522,000 urban dwellers in New York State, 8,992,000 derive their water from surface supplies and are therefore concerned, though probably unconsciously, with reforestation developments in remote watershed areas.²³

²¹ Whipple, *op. cit.*, p. 95.

²² Cf. *supra*, p. 133.

²³ Cf. *supra*, pp. 369-71.

FISCAL CONSIDERATIONS

Of the various factors responsible for the line of central-local relationships developed in connection with providing police protection, furthering economic development, and creating recreational opportunities, that of financial assistance is of least importance. Grants of \$51,000 in 1932 for reforestation and \$104,000 in 1934 for extension work are indeed insignificant when compared to the aggregate expenditures of local governments amounting in 1934 to \$1,012,383,000.⁸⁴ An explanation of State participation in the program of reforestation, park development, propagation of game and fish, and provision of police protection amounting to \$11,342,000 in 1934⁸⁵ rests more solidly on technical bases rather than that the localities do not have the capacity to add a burden of this amount to their budgets.

Though it may be true that fiscal limitations are not primarily responsible for the present division of conservation and recreational activities, the financial assistance given has been designed to shape local action in one way or another. By apportioning funds for reforestation and county farm and home demonstration agents on a matching basis, encouragement is offered to expand local efforts in these fields of activity. Fiscal aid is not only employed as a stimulant but some influence is exerted on the structure of local government. Grants for purposes of encouraging forestry have been made to the county. This same unit is the only one eligible to participate in farm bureau and home demonstration work. To the extent that the central government makes only one type of unit eligible to receive assistance, its functional attributes are fixed with the result that corresponding developments in other units are discouraged. A degree of control has also grown out of the fiscal program of the State. Grants for reforestation are conditioned

⁸⁴ Cf. Tables 3 and 44, pp. 15-16, 249.

⁸⁵ For police expenditures, see Table 71, p. 376. Expenditures for parks, forestry, and fish and game are given below.

YEAR	Parks (000)	Forestry (000)	Fish and Game (000)	Total (000)
1923.....	\$790	\$1,868	\$406	\$3,064
1924.....	1,376	2,618	507	4,501
1925.....	1,728	1,629	493	3,848
1926.....	2,135	1,719	529	4,383
1927.....	5,326	1,760	913	7,999
1928.....	7,112	1,340	1,163	9,615
1929.....	6,649	1,492	1,203	9,344
1930.....	7,265	1,848	1,164	10,277
1931.....	11,323	2,123	1,155	14,601
1932*.....	.....	.....	.....	14,600
1933*.....	.....	.....	.....	10,608
1934*.....	.....	.....	.....	9,083

Data for 1923-1931 taken from *Financial Statistics of States*, Tables 11 and 15, and for 1932-1934 from *Annual Reports of the Comptroller*. Outlays included.

* The comptroller's report does not allocate certain items of expenditure between parks, forestry, and game conservation.

upon the price paid for land, planting and administrative costs,²⁶ and Cornell University acts as an agent of the State in maintaining approved standards of performance in localities receiving money for farm bureau and home demonstration work.²⁷

5. Summary

The incessant flux of economic processes and social relationships making necessary the continuous readjustment of functional responsibilities is nowhere more clearly visible than in the developments discussed in the preceding pages relating to conservation, rural development, recreation, and the provision of police protection. Changed methods of transportation, improved means of communication, more leisure time, vanishing of natural resources, and urbanized modes of life have all combined to create new demands on governmental agencies and to broaden the spheres of common interests. In general, the procedure followed by the State in meeting these new situations has been along wholly defensible lines. Especially is this true in that the central government has assumed responsibility for phases of the work beyond the capacities of local governments. The stimulation of local spending through the employment of percentage grants is not so commendable. Accomplishment of State ends through devices of this character in all probability results in a malapportionment of local funds among their potential uses. The function subsidized tends to become overdeveloped relative to unaided activities. There is considerable merit in the position that if the central government attempts to accomplish State-wide objectives through local instrumentalities it should stand ready to bear the whole of the burden thus imposed.

²⁶ Cf. *supra*, p. 378.

²⁷ Cf. *supra*, p. 377.

CHAPTER XV

A RÉSUMÉ

The importance of the rôle of local government in the development of New York and every other commonwealth of the United States cannot be gainsaid. Whether the requirements of the day have been the dispersion of an Indian horde, the protection of property from the ravages of fire, or provision for modern city streets and public utility services, local government has provided a means for the effectuation of cooperative efforts.

In 1932 when data were last compiled on the expenditures of all levels of government, local units ranked ahead of the Federal government, far ahead of the states, and were only slightly exceeded by the combined expenditures of the two. Whether these units will continue to hold their position of pre-eminence depends upon how rapidly and completely configurational adjustments take place.

It does not require particularly close scrutiny of developments in the field of local government to account for most of the dislocations now commonly recognized. Multiplicity of overlapping governments, non-conformity of political units with regions bound together by common economic and social forces, performance of identical functions by the several levels of government, mal-apportionment of functional obligations between the State and local units, imposition of mandatory obligations on local governments without fully considering the fiscal implications, opportunistic schemes of financial assistance, absence of comprehensive systems of expenditure and debt control, redundancy of elected officials, confusion of matters pertaining to administration with those of policy determination, and the appearance of numerous uni-functional boards and commissions are all directly traceable to differential rates of growth. Functions, in response to modified social and economic conditions, have tended continuously to expand, while the structure or anatomy of government has persistently resisted modification. Town government, patterned for the day of the cow keeper and constable, now attempts to serve a society mechanized and regularized by a "roundabout" system of production. County government, designed originally to serve as an administrative arm of the State, has expanded its range of activities to include every phase of governmental activity, yet it operates with a mechanism designed in 1691. City and village governments, concerned at first with little more than passing and enforcing regulatory measures, are now pressed with demands for services covering virtually the whole range of human desires. Stating the collective wants of that half of the population concentrated in six per cent of the land area creates fiscal and administrative

problems which can only be met by a modernized structure of local government and a readjusted concept of State and local relationships.

How these functional developments have made the structural aspects of government anachronistic can readily be demonstrated. Consider first the overlapping of governmental units. This situation, now so generally decried by all interested in governmental efficiency, would not be a matter of such concern if the activities of towns, villages, counties, and school districts were shrunk to proportions common in the early part of the preceding century. If town governments were now only concerned with regulating use of the common pasture, caring for habitual indigents, and opening pack-horse trails and wagon roads; if county affairs did not extend beyond allowing town charges and exercising judicial prerogatives; if schools were only quasi-public as they were when rate bills provided an important source of revenue—the aspects of overlapping, now so grievous, would be non-existent.

Expanding governmental activities is also partly responsible for the non-conformity of political areas with unified economic and social regions. Consider the relationship between highway building and the outmoding of county boundaries, or, again, the effect on economic and social communities resulting from the construction of other facilities uniting two regions otherwise remote. While the growth of cities has multiplied the problems of government, inducements offered by government have also fostered the growth of urban communities. Suburban developments have been greatly facilitated because of the readiness of municipalities to extend streets, sidewalks, sewers, and gas and water mains. The economic complexion of whole communities has been altered through construction of canals and waterways at public expense. Relocation or consolidation of public schools has likewise played its part in wiping out old community ties and establishing new ones.

Performance of similar functions by several levels of government is a result of functional growth tenaciously clinging to any sort of lifegiving structure. When highway construction reached proportions beyond the capacity of town government, the question of an appropriate unit was not objectively considered, but rather the existing county unit absorbed the overload. Still further expansion of the function brought about an allocation between the county and the State as was just described for the town and county. When public schools were in a nebulous stage, education was almost wholly a matter of State and district concern. Cities, in some instances, assumed financial and administrative responsibility, and more recently counties have established certain specialized educational services.

When social and economic activities were predominantly intra-community in character and affairs of State rarely embraced problems other than defense, questions as to the appropriate relationship between State and local activities had no occasion to arise. The development of a more complex social order has now made

this problem one of prime importance. Changes in the industrial arts, growth of urban centers, building of public highways, development of free public schools, and the regional aspects of health preservation, crime prevention, and resource conservation have all, at one time or another, presented problems beyond the capacities of even the most virile single locality. Where community action was at one time deemed adequate to cope with virtually all problems requiring cooperative effort, there is now scarcely a single phase of governmental activity so completely local in its implications as not to involve the State at large. The magnitude of revenues expended by local governments has so increased that fiscal devices are required which can be economically employed only by the State or the national government. Highway building requires technical direction, equipment, and resources such as can be supplied only by the State. Mobility of population and concentration in urban centers have rendered local governments largely impotent in matters of health conservation and the provision of recreational facilities. Development of a host of functions requiring governmental action beyond the capacity of local units makes determination of a rôle appropriate for the State one of the foremost problems of public policy. No longer can a State insure the development and maintenance of a highly enlightened, healthy, and economically prosperous citizenry by delegating the majority of governmental responsibilities to its political subdivisions. It must assume direct responsibility for administering and/or financing those activities unsuited to local capacities. Even in those instances where local administration may be definitely superior, financial assistance and general oversight on the part of the State may still be necessary.

The confusion of objectives and the multiplicity of devices found in the existing scheme of local financial assistance are partly attributable to the addition of new governmental services or the expansion of old ones. In order to induce local governments to engage in new undertakings or to enlarge their present scope of activity, grants made on a basis of matching have been developed. When functions have grown to the point where a general as well as a local interest is bound up in their execution, the State may have offered to bear a portion of the expense in order to exert its influence in shaping the work without directly engaging in administration. Universalization of the belief that at least a minimum of certain governmental services should be available to all citizens of the State has encouraged the development of apportionments designed to take "need" and "ability" into account. The growing load of local activities has led the State to distribute funds on still other bases. In some instances, revenues are returned to the place of origin; in others, distribution is made to vary in accordance with assessed valuations. The whole system of local assistance, including grants and shared revenues, is permeated with opportunistic characteristics. So suddenly have these added responsibilities been thrust upon government that legislators have not as

yet taken time to consider unification of the fiscal system so as to minimize the burden of taxation and maximize the benefits of governmental services.

The quest for revenues to finance the expansion of local functions has necessitated the exploitation of sources amenable only to State administration. If the State government did not wish to expand further local activities, if it did not care to exercise control over the direction of functional growth, and if local expenditures were decreasing rather than growing, there would be little use either for the device of grants-in-aid or shared revenues.

As the growth of public undertakings is related to the problem of non-correspondence of political units with economic and social areas, duplication of similar services by several levels of government, uneconomical distribution of functions between the State and the localities, and the existence of opportunistic schemes of financial assistance, so there is also a nexus between functional growth and matters of expenditure and debt control, redundancy of elected officials, confusion of matters pertaining to policy making and administration, and the creation of numerous uni-functional boards and commissions. If governmental expenditures were not making heavy inroads on the total income stream, and if the amounts required for public activities were diminishing rather than increasing, those advocating schemes of expenditure and debt control would have very tenuous pretexts for their plea. The necessity for a demarcation of officers chosen to formulate policies from those selected to assume administrative duties has come about as a result of government becoming a "service" agency. As the addition of governmental responsibilities has necessitated distinguishment of policy making from administration, so has it also outmoded the long panel of elective officers. The work performed by school superintendents, directors of public works, coroners, and finance officers, including assessors, collectors, members of boards of review, and comptrollers, is of such a character that eligibility for candidacy must rest on technical competence only—an attribute not determinable by popular acclaim. The names commonly associated with uni-functional districts indicate that they have been established to meet demands only recently imposed on government. Development of sewer facilities, installation of fire alarm systems, removal of garbage, construction of incinerators, and laying out parks and playgrounds—services now rendered by special districts—were not all known in the most advanced city until the latter half of the nineteenth century.

Elimination of the stresses enumerated in the preceding paragraphs can only be brought about by greatly retarding functional developments or completely readjusting the area, administrative machinery, and inter-relationships of local governments. Considering the tenor of economic and social life generally, the latter of these two alternatives is alone worthy of consideration.

In following the evolution of local government and the mutation of central-local relationships through a period of three hundred

years, rather definite notions begin to take shape as to how the structure might be modified, functional responsibilities reallocated, and State obligations determined. Of the various convictions that have come to the fore, none is more fixed than that the cornerstone of reorganization is to be found in the structural rather than the functional aspects of government. The shortcomings of uni-functional investigations are frequently attributable to this cause. A study of health or an appraisal of the organization of highway activities may be admirably done save that no consideration is given to other obligations of government. Areas of political administration are defined irrespective of other requirements that may be of equally, if not greater, importance. Organization of all functions around *ad hoc* districts, as this approach suggests, while satisfying the requisites of optimum-sized operating units for any given service does, on the other hand, multiply the number of governments, weaken fiscal responsibility, increase the number of policy-determining bodies, balk effective citizen control, and lessen the likelihood of apportioning funds among the several public services so as to maximize net social returns.

Because of the difficulties involved in designing a single area that will be appropriate, say, for the administration of highway affairs and at the same time provide an economical unit for carrying on an educational program, and recognizing the fact that national mores must be taken into account, the quest for an appropriately drawn unit must be from some angle other than the functional approach.

The barriers preventing establishment of geographical areas suitable for the optimum operation of all activities of government, plus the impracticable aspects of setting up an increasing number of *ad hoc* districts compels one to search for still other indices for districting local governmental units. It is here posited that those factors determining community areas should likewise set the bounds of basic political units. Limits of cities and villages should be extended so as to embrace all related environs. Rural regions, detached from either a city or a village yet sufficiently active to warrant the support of organized government, should set up units corresponding to community lines as evidenced by affiliation with farm organizations, market areas, racial homogeneity, church attendance, and school registration. In all those regions where population is exceedingly sparse and the resources available for individualistic exploitation meager, the State should develop a sound land utilization policy assuming full financial and administrative responsibility for providing such governmental services as may be incidental to its accomplishment.

Correlative to the foregoing is the proposal that over one area there should be but one level of local government. The basis for this position rests chiefly on the character of economic and social relationships associated with the twentieth century. When the town constable was representative of local law enforcement officers and an organized State police force was unknown, there doubtless

was a place for the county as an intermediate police unit. Surfaced highways, motor cars, aeroplanes, and two-way radio communication have altered this relationship completely. Economical and effective use of police broadcasting requires that the patrols and stations be operated by a unit of no less size than the State, and even this area is too small in certain sections. Local law enforcement agencies in order to maximize their usefulness must associate themselves directly with the State system. Technological innovations preclude the economical building and maintaining of highways by any units other than the State and the larger urban centers. When population was relatively immobile, there might have been some defense for having the town, county, and probably an *ad hoc* agency engage in public health administration. The State, cooperating directly with primary local units, appears to offer the most desirable relationship under present conditions. The same characteristics necessitating a simplification of the structure of government to secure effective police control, economical highway administration, and satisfactory health conditions are equally as apparent when the functions of recreation, education, welfare, or economic development are considered.

Where uni-functional interests do transcend community lines, and conditions are such that the problem is one of local concern, *ad hoc* agencies should not be created, but representatives of the governments concerned should be made directly responsible for shaping necessary policies and providing for appropriate administrative machinery. Appearance of two or more of these uni-functional areas, embracing much the same territory, may indicate that the boundaries of the existing primary units need to be realigned.

In order to make the direction of public affairs efficient and readily responsive to community demands, the policy-determining body should be thoroughly representative and chosen by popular acclaim. The affairs of administration should be sharply separated from that of policy-determination and should be placed in the hands of personnel selected on the basis of technical competence.

With local government constructed in accordance with these specifications the problem still remains of dividing the various public obligations between the central government and the localities. Applying to government the same devices that have increased the efficiency of private enterprise, allocation of duties should be made to depend on principles of labor specialization. How far down the line of smaller units the State can go in delegating responsibility for any given function must be made to turn upon the ability of the unit to employ economically a technical staff and to utilize fully the necessary minimum of equipment. A defensible division can be made on no other basis than that of relative capacities to perform the task in question.

Rigorous adherence to this canon precludes the earmarking of certain functions as suited to central administration and others to administration by the localities. The range is from the unorganised

area, where the central government performs all public services required, to the metropolitan community where activities of the central government are least important and local prerogatives are paramount. Some grades of local government will be competent to administer a public health program, including institutional care; others cannot economically provide hospital and clinic facilities; still others may be able to utilize only the services of a health officer and a small nursing staff. In more sparsely settled areas even services of this character might be more economically administered by the central government.

The designing of governmental units and the division of functional responsibilities in accordance with the foregoing outline do not wholly solve local fiscal problems. Relief is offered to local budgets to the extent that activities are taken over by the State, but financial assistance may still be necessary. State aid is not only justifiable because of "need" on the part of the localities, but an equitable tax system is much more likely of obtainment under a unified fiscal system. Problems inherent in the administration of income and inheritance taxes, or those arising in combining ownership of property with income as a measure of taxable capacity, can only be met by a unit with rather extensive jurisdictional control. The traditional belief that the nexus between administering a function and providing the revenue for its support is an inseparable one cannot be substantiated. If the State can raise revenues more equitably and expeditiously than local governments, and if the localities can perform numerous functions more advantageously than the State, there is no good reason why these specialized capacities should not be capitalized and provision made for the intergovernmental transfer of funds.

Granting that the State is capable of administering certain revenues more effectively than the local governments and assuming that local governments continue to manage those services accounting for a large part of local budgets, on what basis shall the intergovernmental transfer of funds take place? Shall the centrally collected revenues be returned to the localities as shared revenues, or shall the subvention device be employed, or shall grants be made for financing specific functions of government?

Sharing, as it is generally understood—that is, returning a portion of the proceeds derived from a given tax to one or more levels of local government, generally on the basis of collection, but disregarding entirely "need," the extent of local expenditure, or character of performance—falls far short of accomplishing all that should be expected of a local assistance program. As suggested in the definition, no provision is made for varying the apportionment so as to accord with "need." In general, then, communities with adequate taxable resources are able to enjoy increased governmental services, or lower tax rates, while relatively pauperized areas, being unable to contribute to the central treasury, are denied the right to share. The plan of sharing is not only unsatisfactory because it fails to make for equalization of opportunities, but when

used for apportioning levies such as personal income taxes, the purpose underlying imposts of this character is partially defeated. A hypothetical case will make this point clear. Assume that a taxing jurisdiction existed wherein all the inhabitants were equally wealthy and that their incomes were sufficiently large to subject them to the upper-bracket tax rates. That the portion of the revenue shared is returned to the taxing jurisdiction of origin is also a part of the premise. In addition to this uniformly wealthy community, there are others within the jurisdiction of the government collecting the tax which because of their poverty pay little or nothing. If it could be assumed that the services rendered by government with the funds collected from the personal taxes would yield as much satisfaction as if they had been spent privately, then each taxing jurisdiction would be in the same position as if the tax had not been imposed. Actual conditions lessen the force of the case, but equal sacrifice still means little unless the spreading of disbursements is taken into account. To make any scheme of progressive taxation function in the most effective manner, proceeds from such levies should be expended in those areas where "need" is most acute. Schemes of sharing are furthermore unsatisfactory because no consideration is given to the quality of the service maintained by participating governments.

Grants falling within the category of subventions likewise have little that is commendatory. The plan is opportunistic in character, advantages of State oversight are lost, and decadent units are given unwarranted succor.

The grants-in-aid principle appears to provide the most desirable method for transferring centrally collected revenues from the State to the localities. It is suggested, however, that instead of relying on complex formulae to achieve a degree of equalization and to meet the problem of "need," these ends can be reached most expeditiously through State assumption of *full financial responsibility* for all activities of government to the extent that there is a general interest in that function; or stated in other terms, the State should assume full financial responsibility to the extent that a common minimum of service is required in all units. For example, the State has evidenced an interest in higher education by the maintenance of units serving this purpose. The State has likewise exhibited an interest in schools of a lower grade. Rules have been promulgated as to the qualifications of teaching personnel, scales of compensation established, quality of physical equipment prescribed, length of school term stipulated, etc. The method of supplying these two educational services differs in the method of administration and finance. In providing for advanced study the State has assumed responsibility directly; administrative duties arising in connection with common and secondary schools have been mandated to the localities. True enough, the State does meet a considerable portion of public school cost, but the formula now employed only partially approaches the goal of full financial support for the minimum program. Receipt of the maximum

amount granted by the State is now conditioned upon assessed values and local tax rates levied for educational purposes.

Providing each locality capable of economically maintaining any given type of service possessing a joint central-local interest with means to finance a program that would satisfy State requirements has much in its favor. This sort of a program is commendable in that it wipes out entirely any basis for the contention that the State is interfering with local affairs. The only requirement imposed is that funds provided must be fully accounted for and economically expended. Funds raised locally may be apportioned in any way that appears to promise the greatest net return. Advantages lie with this method of assistance in that the likelihood of "equalizing" opportunities is much greater. Pecuniary measures of equalization could be largely replaced by objective standards. If attainment of the minimum standard costs more in one instance than in another, the expenditures may be varied accordingly. The problem becomes a matter of administrative prudence. Shall the outlay be made or should other alternatives be sought? "Equalization" in the sense of tax "burden" also becomes much more meaningful. Assuming that the State builds its revenue system around personal levies designed to reach individual taxpaying capacity, the costs could be so spread as to achieve equalization in the true sense of burden, namely, sacrifice.

All other activities of government suitable for local administration and embracing a degree of general interest present a problem no different from that of education. As the State requires localities to provide certain services it should stand ready to finance the cost of its mandates.

Assuming that functional responsibilities have been properly allocated and that a means has been developed for transferring funds from the State to local treasuries, it is still necessary to determine the extent of oversight to be exercised by the central government. The opinion that governments providing other units with funds have an obligation to insure regularity in their handling is so universally held that extended laboring of the point is unnecessary. The type of control exercised even under these circumstances should be as broad as possible. In no event should the State concern itself with minor administrative matters. If performance is not satisfactory, such broad administrative changes as may be necessary to correct the condition should be instigated. Should a locality exhibit a persistently recalcitrant attitude, the State should be equipped to provide for substitute administration until such time as normal relationships were established.

If the policy of granting funds to local governments were entirely abandoned there would still be a valid basis for State supervision of local fiscal practices. It is an obligation of the State to see that local fiscal systems are reasonably equitable. Establishment of a board or boards to hear complaints of individual taxpayers, direct equalization work, and oversee the work of local assessing officials easily fall within this category.

To the extent that fiscal insolvency results in impairment of governmental services, injury to creditors domiciled without the corporate limits, and a general weakening of municipal credit, the State is interested in local practices pertaining to taxation, short-term financing, and long-term borrowing. Protection of these interests may necessitate the establishment of an authority vested with power to hold public hearings on local budgets and investigate the soundness of all proposals to incur debt.

In order to protect the interests of an unwary citizenry the State may, without violating the sanctity of home rule prerogatives, test the internal operation of local fiscal offices. Effective oversight of matters of this character requires auditing of accounts and general inquiry into the practice of handling public moneys.

Akin to the problem of attaining respectable fiscal practices is that of encouraging economy in the expenditure of public funds. By requiring local governments to file detailed reports on receipts, disbursements, and other data essential for determination of unit costs, creditable standards of public achievement may be developed. If each community in the State could have its accomplishments stated in objective measures and compared with others in like circumstances, budgetary hearings would then begin to accomplish their intended objectives.

Save for a small group of extremely naive or foolhardy reformers, those who believe that it would be possible through democratic processes to modernize local government in one comprehensive overhauling are indeed few. Office holders dependent upon continuation of their position for a livelihood, business men enjoying quasi-predatory privileges permissible only under archaic and impotent governments, banking houses richly rewarded for providing myriads of governments with short-term funds, contractors interested in driving hard bargains and delivering inferior products, urban dwellers fearful that their interests may be jeopardized by agrarian domination, patriotic organizations with thought and action wedded to glories of the past, religious groups favoring the *status quo* rather than prospective eventualities under some new arrangement, and a manifestation of indifference on the part of those who are free to think and act about problems of government make the process of reorganization painfully slow. It might appear at first blush that the cross currents of interests are so numerous and resistless that fate alone can determine the pattern of political institutions. More seasoned thinking, however, does not fit with proposals to abandon all attempt at rational control. On the contrary, the slowness of change makes it doubly imperative that the possibilities of improvement inherent in each revision should be maximized. Each halting step must be ordered so as to bring the existing organization a bit closer to that which would obtain under an ideal system.

By first determining upon the kind of local government and the character of State and local relationships that will best state collective wants, many temporizing adjustments may be made to mark the origin of desirable trends. Proposals to consolidate school dis-

tricts, expand boundaries of cities and villages, and merge the activities of coterminous city and county governments may be dealt with much more intelligently if some previous thought has been given to the relationship between political units and economic areas, and the desirability or undesirability of overlapping governments. Issues arising in connection with the transfer of functions should be resolved in accordance with the relative capacities of the governments considered. In addition to relative capacities, decisions may also be made to turn upon whether intermediate governments, such as the county, are to be maintained or whether all functional responsibilities are to be divided between the State and primary local units. Proposals to increase grants-in-aid; to develop formulae with major emphasis on equalization, stimulation, or regulation; or to shift from grants to shared revenues or subventions should be evaluated in terms of how efficiently the several governments are in gathering revenues, which system will spread the burden of taxation in the most equitable manner, whether formulae can be devised which will meet the criterion of "need," or whether the State should assume financial responsibility to the extent of its interest in all these functions embracing a general as well as a local concern.

As was stated in the first pages of the study, "one must know the direction in which it is desired to move before even the slightest short-run objectives can be developed with certainty."

APPENDIX

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TABLE 73

CORRELATION BETWEEN TEACHER TRAINING AND THE AMOUNT SPENT PER TEACHER IN NEW YORK RURAL SCHOOLS, GROUPED ACCORDING TO COUNTIES, 1930-31*

COUNTY	Teacher Training R_x	Amount Spent per Teacher R_y	$R_x - R_y$	$(R_x - R_y)^2$	COUNTY	Teacher Training R_x	Amount Spent per Teacher R_y	$R_x - R_y$	$(R_x - R_y)^2$
Worcester	1	1	0	0	Ulster	30	33	3	9
Buffalo	2	4	2	4	Oneida	31	10	21	441
Monroe	3	11	8	64	Madison	32	15	17	289
Hamilton	4	3	1	1	Onondaga	33.5	18	15.5	240.25
Orange	5	9	4	16	Tompkins	33.5	28	5.5	30.25
Livingston	6	50	44	1,936	Montgomery	35.5	37	4.5	20.25
Rockland	7	6	1	1	Greene	35.5	32	1.5	2.25
Nassau	8	2	6	36	Clinton	37	25	12	144
Cattaraugus	9	47	38	1,264	Chemung	38	26	12	144
Putnam	10	5	5	25	Herkimer	40.3	24	16.3	265.69
Eric	11	14	3	9	Oswego	40.3	52	11.7	136.89
Schenectady	12	13	1	1	Ontario	40.3	42	1.7	2.89
Ontario	12.5	23	9.5	90.25	Tioga	42	17	25	625
Essex	12.5	5	7.5	56.25	Seneca	43	43	0	0
Dutchess	15	16	1	1	Jefferson	44	49	5	25
Wayne	16	30	14	196	Washington	45	38	7	49
Sullivan	17	20	3	9	Saratoga	46	21	25	625
Columbia	18	31	13	169	Niagara	47.5	48	.5	.25
Chautauque	19	84	15	225	Lewis	47.5	44	3.5	12.25
Genesee	20.5	45	24.5	600.25	Chemung	49	27	22	484
Delaware	20.5	35	14.5	210.25	Schoharie	51.3	36	15.3	234.09
St. Lawrence	22	56	34	1,156	Cayuga	51.3	53	1.7	2.89
Franklin	23	7	16	256	Broome	51.3	46	5.3	28.09
Cortland	24	51	27	729	Steuben	53	55	2	4
Warren	25.5	12	13.5	182.25	Bennington	54	41	13	169
Allegany	25.5	40	14.5	210.25	Schuylar	55	22	33	1,089
Orleans	27	39	12	144	Yates	56	57	1	1
Wyoming	28	84	26	676	Fulton	57	29	28	784
Albany	29	19	10	100					
					Total				14,189.54

STATE AND LOCAL RELATIONSHIPS IN NEW YORK

* Data compiled from Twenty-eighth Annual Report of the State Education Department (1932), II, 60, 120.

$$1 - \frac{6\sum(R_x - R_y)^2}{N(N^2 - 1)} = +.460$$

TABLE 74

CORRELATION BETWEEN TEACHER TRAINING AND THE AMOUNT SPENT PER TEACHER IN NINETY NEW YORK VILLAGES UNDER SUPERINTENDENTS, 1930-31.

VILLAGE	Teacher Training R_s	Amount Spent per Teacher R_t	$R_s - R_t$	$(R_s - R_t)^2$	VILLAGE	Teacher Training R_s	Amount Spent per Teacher R_t	$R_s - R_t$	$(R_s - R_t)^2$
Malverne.....	1	33	32	1,024	Pelham.....	45.5	6	39.5	1,560.25
Newark.....	2	9	7	49	Westbury.....	47.5	14	33.5	552.25
Boota.....	3	68	65	4,225	Endicott.....	47.5	78	30.5	930.25
Mount Kisco.....	4	34	30	900	Solvay.....	49	39	10	100
Seneca Falls.....	5	70.5	65.5	4,290.25	Port Washington.....	50.5	7	43.5	1,892.25
Baldwin.....	6	48	40	1,600	Dansville.....	50.5	51.5	1	1
Oswego.....	7	84	77	5,929	Woodmere.....	52.5	18	34.5	1,190.25
Rockville.....	8	17	9	81	Sloan.....	52.5	48	4.5	20.25
Rocklyn.....	9.5	20	10.5	110.25	Spring Valley.....	54	54	0	0
Ferry.....	9.5	79	69.5	4,830.25	North Tarrytown.....	55.5	42.5	13	169
Walden.....	11	87	76	5,776	Massena.....	55.5	85	29.5	870.25
Long Beach.....	12	11	1	1	East Rockaway.....	57	44	13	169
Haverstraw.....	13	35.5	22.5	506.25	Malone.....	58	68	8	64
Bronxville.....	14	1	13	169	Bay Shore.....	59.5	45	14.5	210.25
Ilion.....	15	82	67	4,489	Lancaster.....	59.5	55	4.5	20.25
Fairport.....	16.5	80	63.5	4,032.25	Garden City.....	61	2	59	3,481
East Aurora.....	16.5	41	24.5	600.25	Harrison.....	62	29	33	1,089
Mamaroneck.....	18	8	10	100	Northport.....	63	38	25	625
Huntington.....	19	25	6	36	Peekskill.....	64	23	41	1,681
Medina.....	20	53	33	1,089	Bath.....	65	65	0	0
Hempstead.....	21.5	13	8.5	72.25	Ticonderoga.....	66	56	10	100
Fredonia.....	21.5	76	54.5	2,970.25	Saranac Lake.....	67	28	39	1,521
Bayville.....	23.5	19	11.5	132.25	Catskill.....	68	57	11	121
East Rochester.....	23.5	81	57.5	3,306.25	Lansingburg.....	69	72	3	9
Sourdale.....	25	3	22	484	East Syracuse.....	70	75	5	25
Port Chester.....	26	31	5	25	Waverly.....	71.5	64	7.5	56.25
Herkimer.....	27.5	88	60.5	3,660.25	Mincola.....	71.5	37	34.5	1,190.25
Albion.....	27.5	51.5	24.0	576	Nyack.....	73	40	33	1,089
Great Neck.....	29	5	24	576	Kenmore.....	74	26	48	2,304
Elmira Heights.....	30	73	40	1,600	Johnson City.....	75	70.5	4.5	20.25
Penn Yan.....	31.5	67	35.5	1,260.25	Canastota.....	76	83	7	49
Oswining.....	31.5	19	12.5	156.25	Dobbs Ferry.....	77	21	56	3,136
Le Roy.....	33	62	29	841	Bailleton Spa.....	78	69	9	81
Patchogue.....	34	42.5	8.5	72.25	Carthage.....	79	49	30	900
Wallville.....	35	63	28	784	Gouverneur.....	80	88	6	36

Lynbrook.....	37.3	22	5.2	28.09	Saugerties.....	81	61	20	400
Hicksville.....	37.3	30	7.2	53.29	Oceanside.....	82.5	47	35.5	1,260.25
Hastings-on-Hudson.....	37.3	22	15.3	234.09	Hamburg.....	82.5	60	22.5	508.25
Mamaroneck (Rye Neck).....	39.5	16	23.5	552.25	Hudson Falls.....	84	50	34	1,156
Freeport.....	39.5	24	15.5	240.25	Frankfort.....	85	89	4	16
Oyster Bay.....	41	15	26	676	Waterford.....	86	90	4	16
Depew.....	42	35.5	6.5	42.25	Hosack Falls.....	87	59	28	784
Tarrytown.....	43	10	23	1,099	Tupper Lake.....	88	53	36	900
Lawrence.....	44	27	17	289	Manhasset.....	89	4	85	7,225
Whitehall.....	45.5	77	31.5	992.25	Green Island.....	90	74	16	256
					Total.....				98,332.47

* Data compiled from *Twenty-eighth Annual Report of the State Education Department* (1932), II, 62,122.

$$1 - \frac{6\sum(R_s - K_s)^2}{N(N^2 - 1)} = +.191$$

TABLE 75
CORRELATION BETWEEN TEACHER TRAINING AND THE AMOUNT SPENT PER TEACHER IN THE CITY SCHOOLS OF NEW YORK (EXCLUSIVE OF NEW YORK CITY), 1930-31 *

CITY	Teacher Training R_s	Amount Spent per Teacher R_p	$R_s - R_p$	$(R_s - R_p)^2$	CITY	Teacher Training R_s	Amount Spent per Teacher R_p	$R_s - R_p$	$(R_s - R_p)^2$
New Rochells.....	31	1	30	900	Amsterdam.....	35	30	5	25
White Plains.....	29	2	27	729	Geneva.....	4	31	27	729
Mt. Vernon.....	30	3	27	729	Lockawanna.....	20	32	12	144
Yonkers.....	42	4	38	1,444	Oneonta.....	23	33	10	100
Rochester.....	54	5	49	2,401	Rensselaer.....	50	34	16	256
Olen Cove.....	38	6	32	1,024	Ithaca.....	10	35	25	625
Buffalo.....	45	7	38	1,444	Watervliet.....	57	36	21	441
Saratoga Springs.....	12	8	4	16	Oswego.....	11	37	26	676
Schenectady.....	48	9	39	1,521	Batavia.....	2	38	36	1,296
Poughkeepsie.....	31	10	11	121	Jamestown.....	52	39	13	169
Troy.....	58	11	47	2,025	Elmira.....	15	40	25	625
Plattsburg.....	22	12	10	100	Auburn.....	47	41	6	36
Byrrouse.....	55	13	42	1,764	Cortland.....	5	42	37	1,369
Tonawanda.....	37	14	23	529	Kingston.....	25	43	18	324
N. Tonawanda.....	30	15	14	196	Rome.....	4	44	9	81
Niagara Falls.....	28	16	12	144	Binghamton.....	34	45	11	121
Albany.....	46	17	29	841	Newburgh.....	18	46	28	784
Middletown.....	14	18	4	16	Oneida.....	6	47	41	1,681
Olena Falls.....	16	19	3	9	Johnstown.....	3	48	45	2,025
Lockport.....	32	20	12	144	Little Falls.....	36	49	13	169
Norwich.....	53	21	32	1,024	Fulton.....	1	50	49	2,401
Watertown.....	43	22	21	441	Mechanicville.....	17	51	34	1,156
Canandaigua.....	51	23	28	784	Hornell.....	8	52	44	1,936
Utica.....	27	24	3	9	Ordenaburg.....	44	53	9	81
Dunkirk.....	19	25	6	36	Salamance.....	49	54	5	25

Beacon.....	12	24	12	189	Corning No. 9.....	32	55	32	484
Fort Jarvis.....	26	27	1	1	Cobles.....	38	26	2	4
Oran.....	24	23	4	16	Corning No. 12.....	41	37	16	256
Gloversville.....	7	29	22	484	Endicott.....	40	36	18	324
					Total.....	.....	.....	.....	37,404

e Data compiled from Twenty-eighth Annual Report of the State Education Department (1927), II, 64, 124.

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 1- N(17-1)

TABLE 76
CORRELATION BETWEEN PERCENTAGE OF TEACHERS FOR SPECIAL SUBJECTS AND THE AMOUNT SPENT PER TEACHER IN NINETY NEW YORK
VILLAGES UNDER SUPERINTENDENTS, 1930-31 *

VILLAGE	Per Cent of Special Teachers R_s	Amount Spent per Teacher R_p	$R_s - R_p$	$(R_s - R_p)^2$	VILLAGE	Per Cent of Special Teachers R_s	Amount Spent per Teacher R_p	$R_s - R_p$	$(R_s - R_p)^2$
Manhasset.....	1	4	3	9	Whitehall.....	45.5	77	81.5	902.25
Kenmore.....	2	26	24	576	Hastings-upon-Hudson.....	47.5	22	25.5	650.25
Oceanside.....	3	47	44	1,936	Roalyn.....	47.5	20	27.5	756.25
Hamburg.....	4	60	56	3,136	Fredonia.....	49	76	729	729
Bath.....	5	65	60	3,600	Herkimer.....	50	88	36	1,444
Garden City.....	6	2	4	16	Dewey.....	52.3	35.5	16.8	282.24
Dobbs Ferry.....	7	21	14	196	Fairport.....	52.3	80	27.7	767.29
Lansingburg.....	8	72	64	4096	Massena.....	52.3	85	32.7	1,069.29
Pelham.....	9	6	3	9	Peekskill.....	54	23	31	961
Tiandaroga.....	10	56	46	2,116	Lancaster.....	55.5	55.5	.5	.25
Waterford.....	11	90	79	6,241	Saugerties.....	55.5	61	5.5	30.25
Woodmere.....	12	18	6	36	Penn Yan.....	57	67	10	100
Tupper Lake.....	13	58	45	2,025	Perry.....	58	79	21	441
Gouverneur.....	14.5	86	71.5	5,112.25	Green Island.....	59	74	19	361
Spring Valley.....	14.5	54	39.5	1,560.25	Hoosick Falls.....	60	59	1	1
Nyack.....	16	40	24	576	Ossining.....	61.5	19.0	41.5	1,072.25
Solvay.....	17	39	22	484	Patchogue.....	61.5	42.5	19	361
Great Neck.....	18	5	13	169	Huntington.....	63	25	38	1,444
Oyster Bay.....	19	15	4	16	Lawrence.....	64	37	27	1,369
Scarsdale.....	20	3	17	289	Wellsville.....	65	63	2	4
Westbury.....	21	14	7	49	Malverne.....	66	33	33	1,089
Ilion.....	22	82	60	3,600	Harrison.....	67	29	38	1,444
Mamaroneck (Rye Neck).....	23	16	7	49	East Aurora.....	68	41	27	729
Bay Shore.....	24	45	21	441	Walden.....	69	87	18	324
Lynbrook.....	25	32	7	49	Ballston Spa.....	70	69	1	1
Newark.....	26	9	17	289	Haverstraw.....	71	35.5	35.5	1,260.25
Catakill.....	27	57	30	900	Scotia.....	72	68	4	16
Rockville Center.....	28	17	11	121	Johnston City.....	73	70.5	2.5	6.25
Danville.....	29	51.5	22.5	506.25	Port Chester.....	74	81	43	1,849
Bronxville.....	30.5	1	29.5	870.25	Medina.....	75	53	22	484
Tarrytown.....	30.5	10	20.5	420.25	Minerals.....	76	37	39	1,521
Port Washington.....	32	7	25	625	Northport.....	77	38	39	1,521
East Rochester.....	33.5	81	47.5	2,256.25	Fresport.....	78	24	54	2,916
Long Beach.....	33.5	11	22.5	506.25	Baldwin.....	79	46	33	1,089

Mount Kisco.....	35	1	1	1	1	60	96	4	15
Franklin.....	36	52	2,800	3,800	3,800	61	73	8	64
Hicksville.....	37.5	7.5	66.25	66.25	66.25	62	70.5	11.5	133.25
Malone.....	37.5	25.5	612.25	612.25	612.25	63	8	70	5,425
Hempstead.....	39	26	676	676	676	64	45	35	1,225
Hudson Falls.....	40	10	100	100	100	65	75	7	49
Barre Lake.....	41	13	169	169	169	66	12	74	5,476
Le Roy.....	42	20	400	400	400	67	51.5	36.5	1,260.25
Cornwall.....	43.5	20.5	1,660.25	1,660.25	1,660.25	68	75	13	1,160
North Tarrytown.....	43.5	1	1	1	1	69	44	45	2,025
Waverly.....	45.5	15.5	242.25	242.25	242.25	90	45	43	1,764
Total.....									94,608.07

* Data compiled from Twenty-ninth Annual Report of the State Education Department (1933), II, 65, 122.

$$1 - \frac{6Z(N_2 - N_1)^2}{N(N_2 - 1)} = +.350$$

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