THE ONTARIO COMMITTEE ON TAXATION

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THE ONTARIO COMMITTEE ON TAXATION

VOLUME II

THE LOCAL REVENUE SYSTEM

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VOLUME II THE LOCAL REVENUE SYSTEM

Table of Contents

VOLUME II

TABLES

Chapter 16: THE POLL TAX

TABLE

Chapter 17: LOCAL NON-TAX REVENUES

TABLES

Chapter 18: LOCAL REVENUE AND PROPERTY ASSESSMENT APPEALS

Chapter 19: SOME POSSIBLE NEW SOURCES OF MUNICIPAL REVENUE

TABLES

Chapter 23: RECONCILING STRUCTURE WITH FINANCE

TABLES

Chapter 9

Introduction to Volume II

INTRODUCTION

1. More than thirty years ago an American public finance authority remarked that "If any tax could have been eliminated by adverse criticism, the general property tax should have been eliminated long ago."[1] The briefs presented to us and the more recent public discussion confirm that the property tax is still unpopular. In a sense our recommendations also confirm the view that the property tax is still invulnerable to criticism. For while we propose major reforms in the form of the property tax and a reduction in the weight placed upon it, we too are unable to propose that it be abolished.

2. We take this position because we have been unable to discover or devise a workable alternative to the real property tax as the major revenue source of local governments that would not drastically reduce, or even destroy, either local automony or local fiscal responsibility. To explain why we have reached this

[1]Jens P. Jensen, *Property Taxation in the United States*, University of Chicago Press, 1931, p. 478.

conclusion we must first discuss why we think local autonomy and responsibility are important and what the relationship of the taxing powers of local governments is to the realization of these objectives.

LOCAL AUTONOMY AND FISCAL RESPONSIBILITY

3. Some of the goods and services that people want can only be provided by government. To the economist, such "collective" goods and services have the characteristic that, once they are available, the benefits are enjoyed by all, including those who have not paid for them. If those who do not pay for goods or services cannot be excluded from their enjoyment, the cost of providing them can only be recovered through taxation—a compulsory and to some extent arbitrary allocation of the cost.

4. The problem is to arrange the powers and responsibilities of government so that the majority of the people can obtain the quantity and quality of collective goods that they want through the election of representatives who, in turn, make the taxing and spending decisions that reflect these wants.

5. In a full-employment economy the total supply of goods and services cannot be augmented, at least in the short run, because the resources required to produce them are both fixed in supply and completely utilized. People can be made materially better off only by improving the allocation of resources. Ideally, resources should be allocated between the provision of collective goods and the provision of private goods in such a manner that the majority of the government's constituents are indifferent to whether a small increase in public goods and services is achieved at the expense of a small reduction in private goods and services, or vice versa. Resources within the public sector should be allocated in the same manner.

6. The ideal allocation of resources both between the public and private sectors and within the public sector can, of course, never be fully attained. But this objective can be approached more closely when the electorate recognizes that more public goods can be obtained only at the cost of fewer private goods. To put it in another way, the material benefits that government makes available to the people are the alternative to goods and services that might have been provided by private enterprise. Awareness of this can be encouraged by imposing on governments the requirement that they finance public goods and services by taxing those who benefit from them. In other words, maintaining fiscal responsibility is one method of encouraging an efficient allocation of the community's resources.

7. Local autonomy is another and complementary means to the same end. If, for any reason, wants differ significantly from area to area, more people can be provided with the public goods and services that they want by granting the majority of the residents in each area the power to determine the collective goods to be provided in that area. But in order to avoid a misallocation of resources, local autonomy must be coupled with fiscal responsibility. Otherwise the residents of

an area may be able to obtain more public goods for themselves at the expense of fewer private goods for people elsewhere. This is not likely to reflect the real cost of more public goods.

8. The implications of fiscal responsibility and local autonomy can be illustrated through an examination of the advantages and disadvantages of the delegation of provincial powers and responsibilities to local governments.

9. There would be no need for local governments if the province were physically and demographically homogeneous; if economic activities and hence incomes were the same everywhere in the province; and if all residents had the same tastes and preferences. All decisions could readily be made by the provincial government because the wants of all of the residents of all local areas would be uniform and hence could readily be determined. It is obvious that these stringent conditions would be difficult to meet in any society, let alone one as large and diverse as Ontario. The provincial government is therefore faced with three alternatives:

(1) It can provide the same quantity and quality of public goods and services throughout the province and ignore all differences in local wants.

(2) It can try to differentiate the public goods and services it provides in each local area in order to meet the particular wants of the residents of the area.

(3) It can delegate some or all of its powers and responsibilities to local governments that it establishes for the purpose.

10. The first alternative is simple to comprehend and administer but could prove unsatisfactory. Uniformity could be achieved either by holding public services down to a lowest common denominator of wants and of capacity to meet the cost of services or it could be raised above these minimum levels through departures from known local wants and financial abilities. Adoption of the former course would satisfy only a fraction of local service requirements. A shift in the latter direction could provide community benefits that were neither of the people's choice nor within their means. Either would result in a clear misallocation of resources between the public and private sectors of the economy.

11. In principle, the adoption of the second alternative would not lead to the same misallocation of resources. But it would be almost impossible to accomplish in practice. Not only would it be difficult for a provincial government to ascertain what the residents of each local area wanted, but the legislation and provincial administration required to provide different public goods and services in each area would be extremely complex.

12. One has only to contemplate how troublesome it would be for a provincial government to attempt to allocate its tax burden among local areas either in a way that matched the differing quantities of goods and services supplied by the Province or in one that ignored all such differences. The residents of each local area would claim that they did not want the benefits they had obtained from the provincial government or that their share of the benefits was not commensurate with their allotted share of the provincial tax burden.

13. The adoption of the third alternative would mean that the residents of each local area would be free to "buy", through the tax-expenditure system of their local government, the quantity and quality of public goods and services that they wanted. The word "buy" is used advisedly, because it is intended to connote that the residents would be free to choose, through the democratic process, both the level and composition of public goods and services that would be supplied in the area to the extent that they accepted the obligation to pay for them through their taxes. Unlike the first alternative, local wants would be taken into account. Unlike the second alternative, it would be relatively easy for the local government to determine these wants, and provide the legislation and administration required to satisfy them.

14. We do not wish to imply that decentralization provides the perfect solution. For reasons that need not detain us here, a provincial government could not delegate all of its responsibilities to local governments. It alone can protect minority interests in local areas. It alone can offset the tendency each local government would have to underspend on programs that bestow substantial benefits on the residents of other areas. Finally, only the provincial government can, through equalization grants, make it possible for those local governments with relatively weak fiscal capacities to provide their residents with adequate public goods and services without inordinately high tax rates.

15. There is, however, a middle course between no delegation and complete delegation of provincial responsibilities. This middle course is, we believe, clearly superior to either extreme. By minimizing the functions performed solely by the provincial government, by giving local governments the opportunity to enrich, at local expense, programs financially supported by the Province to a minimum standard and by an appropriate mix of provincial grants designed to equalize and supplement local tax revenues, local governments can be given a high degree of autonomy and fiscal responsibility while avoiding many of the pitfalls of complete delegation of provincial responsibilities.

16. If a provincial government delegates some of its responsibilities to local governments, it must also delegate to them some of its powers. Local governments must be granted taxing powers consistent with their responsibilities. If, to achieve fiscal responsibility, local governments are to be required to finance their discretionary expenditures, they must not be denied the power to raise the revenues necessary to finance these expenditures.

17. In assessing whether or not the taxing powers of local governments are consistent with their spending responsibilities, it is important to take into account both the collection costs and the degree of public acceptability of the taxes that they are empowered to impose. To give local governments the power to levy a tax that was believed to be seriously inequitable, or one that could only be collected at a cost that consumed a large fraction of the gross proceeds, would be to delegate no effective taxing power.

18. On the other hand, the provincial government clearly must retain enough

power to fulfil effectively the responsibilities it has not delegated to local governments. Moreover, the provincial government should not delegate to local governments taxing powers that would make it possible for one local authority to provide its people with amenities that it pays for by imposing taxes on residents of other areas. Such an arrangement would make a mockery of local fiscal responsibility.

19. It is apparent, then, that local autonomy and fiscal responsibility can be looked upon as means of achieving an efficient allocation of resources between public and private uses and among public uses. But local autonomy and responsibility can be frustrated if local governments are not granted the appropriate powers of taxation.

20. The tax source or sources to which local governments are given access should, ideally, have the attributes listed below:

(1) It must be possible for local authorities to impose rates of tax that differ significantly from area to area without engendering widespread evasion of massive shifts of resources from high to low tax rate areas.

(2) Changes in local tax rates from year to year by small amounts must not result in great delays or confusion or impose heavy administrative costs.

(3) In all but the poorest areas, local governments should be able to finance the provision of public goods and services that would satisfy the residents' most exacting demands if they are willing to pay high local tax rates.

(4) The tax should not provide a means whereby the residents of one area can tax the residents of another in order to finance more collective goods for themselves.

(5) Administration and compliance costs must be moderate.

(6) Local residents and their representatives must be able to determine the cost, in terms of higher tax rates, of a proposed increase in local government expenditures.

(7) Most of the constituents of most local governments must accept the tax as a generally fair method of allocating the costs of local government.

21. These specifications are unfortunately vague. Some attributes are more important than others. Probably no tax meets all of the requirements simultaneously. They provide, however, a rough-and-ready standard against which a local tax can be assessed. We now proceed to make such an assessment of the real property tax.

THE EFFECTS OF THE REAL PROPERTY TAX

22. The real property tax completely meets some of the specifications listed above. It is conceptually simple, not expensive, not overly difficult to administer, compared to other taxes, and poses few problems of compliance. Elected representatives and their constituents can readily determine the implications for the rate of real property tax of a proposed increase in local expenditures. More so than

with any other tax, the rate can be changed frequently. The extent to which the real property tax meets the other specifications cannot be so readily determined. An analysis of the impact of the tax is required.

23. In analysing the impact of changes in the real property tax it is important to separate the effects of changes in the rate of tax from the effects of changes in other factors. The changes in other factors may offset or compound the effects of tax rate changes. We will consider the interaction between changes in the rate of tax and changes in the level of demand. We will not take into account the distinction between tax increases resulting from the higher costs of providing a given level of public services and tax increases required to provide a higher level of services; nor will we separate demand increases caused by general inflation from those resulting from increases in population and per-capita real incomes.

24. In the absence of changes in other factors, increases in property taxes would be capitalized in lower property values. By considering the change in demand, while holding other factors constant, we can show that, in the long run, tenants will bear the real property tax. Taking other factors into account would not alter this result.

RENTED RESIDENTIAL PROPERTIES

25. Let us first consider what would occur with respect to rented residential properties in the absence of a change in tax rates. When, as has been true since the war, incomes and populations are both growing rapidly, there is constantly increasing demand for more and better living accommodation, particularly in urban areas. Under these conditions, even if there were no changes in the property tax rate, most residential rents would rise. In response to the higher rents the supply of residential rental accommodation would be augmented both by the construction of new properties at the periphery of urban areas and by the replacement of lower-density with higher-density residential properties at the centres of urban areas. However, even if labour and material costs remained the same, this additional construction would in all likelihood not hold rents down. As the distance increased from the new construction at the ever-expanding periphery of urban areas to the cores of those areas, the premium paid for comparable accommodation near the core would constantly increase. Rents would rise inside the periphery in order to ration the inherently scarce commodity—convenient location. With rising rents for most residential properties, most property values would also rise, for properties are priced to give the same rate of return to investors as they can obtain on other assets of comparable risk.

26. Now let us consider the effects of a higher rate of tax. If demand was expected to remain constant and a higher rate of tax was imposed on residential properties, the prices of rental properties would immediately drop. Rents would not be affected, because neither demand nor the immediate supply would be altered by the tax change. If the structures were extremely durable, virtually the whole of the tax increase would be capitalized in lower property prices. Those who hold residential rental property at the time of the tax increase would bear

almost all of the tax either in the form of a capital loss on disposal or in the form of a lower net return if the property were held. But the same result probably would not obtain if property taxes were raised at a time when demand was expected to grow.

27. Consider an investor contemplating the construction of an apartment building on the periphery of a rapidly growing urban area. If the proposed development was just viable prior to the tax increase, it would not provide an adequate expected rate of return after the tax increase. Expected costs would be higher and expected rents unchanged in the short run. The project would be abandoned unless the landowner was willing to sell the site for less—that is to say unless the higher property tax was capitalized in a lower price for land. The landowner, faced with this situation, would have to decide between a lower price now and a higher price at some future date brought about by the expected increase in demand for residential accommodation. If the landowner expected he would obtain a higher return from holding the land than he would from holding other assets, he would refuse to cut the price to the developer. The construction of the apartment would be delayed until rents increased.

28. The more buoyant the expectation of landowners about the demand for accommodation the less likely they will be to cut land prices following a property tax increase and the greater the barrier to new construction created by such a tax increase.

29. With a reduced rate of increase in the supply of residential rental accommodation, rents would rise still more rapidly. This would tend to restore property values, but the stock of accommodation would be less than it would have been in the absence of the tax increase.

30. The main point is this: when demand is expected to grow, landlords bear the increase in the property tax in the short run through a relative reduction in property values or through lower net returns. In the long run the tax is shifted forward to those who rent living accommodation as the result of a reduction in the stock of residential accommodation relative to what it would have been without the tax increase.

OWNER-OCCUPIED RESIDENTIAL PROPERTIES

31. Turning now to owner-occupied homes, the annual cost of owning a home is increased as a result of an increase in the property tax rate. If the owner tries to sell his house immediately after the tax increase it commands a lower price because potential buyers are faced with a situation in which the rents for equivalent accommodation have not changed as a result of the tax increase but the cost of home ownership is higher. Builders find that new houses can be sold only at lower prices. They are forced to bid less for the land. If demand is expected to increase rapidly, landowners will hold their land rather than accept the lower price. Fewer new homes will be built. Over time, if this expected increase in demand materializes, the prices of homes will be restored.

32. This does not mean that the home-owner is unaffected after this adjustment. As long as he lives in the house, his accommodation costs him more as a result of the tax increase. If he sells it immediately, he suffers a relative reduction in price. If he sells it after a period of adjustment to the new tax levels, the price is restored, but if he then seeks equivalent rental accommodation he has to pay higher rent. The increased rent is brought about by the reduction in the stock of rental accommodation resulting from the tax increase. Clearly, selling his original house and buying another in the same tax area would provide no relief. The prices of both properties would be affected in the same way and living costs would be higher in both.

33. To sum up, in the short run those who own residential accommodation at the time of an increase in the property tax bear the tax through payment of the tax itself or through lower net returns that may be partly capitalized in lower property prices. In the long run, particularly if population and incomes are growing, higher property taxes result in a reduced stock of living accommodation and higher residential rents. This tends to restore the value of real property. But landlords do not recover the reduction in net rents during the transitional period and after the transitional period tenants bear the higher tax through higher rents. Those who own their own living accommodation never escape the burden, for while property values recover, they are faced with higher costs if they continue to own their own homes or higher rents if they sell and become tenants.

BUSINESS PROPERTIES

34. The story with respect to business and commercial property taxes is fundamentally the same. In the short run an increase in the property tax reduces the net income from property for those who are in the business of renting property to other businesses and it increases the costs of those businesses that own the property they occupy. As was true of residential properties, rents remain unchanged in the short run because the tax increase does not affect the supply or demand for business properties. Similarly, in the short run the prices of goods and services supplied by businesses are not changed as a result of the tax increase, for it is reasonable to suppose that most businesses were charging what the traffic would bear before the tax increase and neither the supply nor demand for goods or services is immediately affected. In the short run those who own business properties are, therefore, less well off as a result of the tax increase. Such properties are less valuable and the costs of holding them are higher. Profits are reduced or losses sustained. Some marginal businesses, particularly those businesses in which property tax costs are a large fraction of total costs, may be forced to close.

35. Those contemplating the construction of business properties find that the expected rate of return on the project has been reduced as a result of the tax increase. Unless landowners are willing to absorb the tax increase in the prices they charge for land, the construction of new facilities is reduced. Eventually this, combined with an increasing demand, raises business rents.

36. Following a real property tax increase, those businesses for which rent (whether actual or imputed) is a relatively important part of total cost will attempt to substitute labour and other kinds of capital for real property. To the extent that this substitution cannot be achieved, such businesses are faced with a lower rate of return relative to businesses for which real property is less important. This inhibits the expansion of these real-property-intensive businesses relative to the expansion of others. This in turn raises the relative prices of goods and services produced by such businesses. In this way the consumer pays most of increased real property taxes on businesses through higher prices.

37. On the basis of this brief analysis we can now consider how well the real property tax meets the remaining requirements for a good local government tax source.

EFFECTS OF SUBSTANTIAL DIFFERENCES IN RATES IMPOSED BY LOCAL GOVERNMENTS

38. Local autonomy and fiscal responsibility require that the residents have both the right and the power to choose a high level and a high quality of public goods and services if they are willing to pay for them through higher taxes. For example, it would be meaningless to offer local governments the opportunity to choose the quantity and quality of their fire protection and then require them to finance this protection through the sale of dog licences. As the rate of tax on dogs was increased many residents would destroy their pets and others would leave the area. At some point higher rates would result in lower rather than higher revenues. Unless the residents were unbelievably attached to their pets, the expenditures on fire protection would be severely limited by the restriction on the municipality's

39. The provincial government must provide local governments with taxing power commensurate with the responsibilities assigned to them. It is difficult to give this general statement a precise meaning, however. Whatever the tax base or basis assigned to local governments, if the majority of residents want public goods and services provided on an ever more lavish scale, so that rates are persistently rising, beyond some point higher rates will yield less rather than more revenue. The minority who want more private and fewer public expenditures will tend to change their behaviour to avoid the tax as we shall explain later. Virtually no tax, other than taxes on so-called "economic rents",[2] can be imposed that will not lead individuals or businesses to change their actions in such a way that the tax take is reduced and activities distorted relative to what would have occurred in the absence of the tax.

40. It is reasonable to assume that higher property taxes do not materially reduce labour effort, or the desire to save. Almost certainly, however, they change the allocation of saving. At the personal level, higher taxes on real property induce greater investment in cars, appliances and other movable physical assets than in

[2]"Economic rent" is the return to a given resource over and above what that resource could earn in its next most favourable employment. An example would be the amount by which the return on capital invested in mineral development exceeds the return where capital is employed in the best alternative areas of investment.

housing. Higher property taxes in all likelihood also induce a greater investment by businesses in movable physical assets than in buildings, structures and attached equipment. Undoubtedly, too, higher property taxes can induce individuals and businesses to move to other areas where taxes and land costs are lower.

41. Whether these tax-induced changes improve or worsen the allocation of resources is a moot point, for we certainly cannot assume that the allocation would have been perfect in the absence of the property tax. Of more immediate concern here is whether or not these adjustments preclude local governments from providing the public goods and services they want and are empowered to supply to their constituents.

42. The analysis given earlier suggests that the point of diminishing revenue return from the real property tax will be reached much earlier by local governments in areas where incomes and population are stable or, worse still, declining. Under these conditions the higher taxes will lead landlords to refrain from maintenance and repairs until the stock of buildings has been reduced to the extent necessary to raise rents to the point where the earlier rate of return is restored. Not only will the higher taxes immediately result in lower property values in the area, the earlier values will not be achieved until the physical stock of buildings has been significantly reduced.

43. In rapidly growing areas the negative effect that higher taxes have on property values will be quickly offset by increasing demand. Will areas be able to grow, however, if the local governments impose higher effective property tax rates? If people and businesses are extremely sensitive to property tax differentials, the distinction between the revenue potential of the property tax in stable and growing areas may be an illusion.

44. When different communities have different rates of property tax the rate of growth of the community and the rate of property tax in that community probably are not completely independent. For example, a community with a high growth rate may well experience high costs, and hence high taxes. If these high taxes create a differential with other areas that is sufficiently great, some existing businesses in the community may now expand through increased investment in areas with lower taxes; new businesses may be repelled. Conceivably, individuals who do not own real property in the area could be induced to move through higher rents. When individuals and businesses have alternative locational opportunities, the optimum real property tax rate is less than if they do not.

45. The available evidence does not lend much support to the foregoing *a priori* reasoning. Recent studies made in the United States suggest that property tax differentials apparently have virtually no effect on the location of individuals or on businesses except within fairly narrowly defined regions. Apparently the insensibility to differences in property taxes arises because these costs are not a sufficiently large portion of the total costs for most individuals and businesses to cause them to forsake the location and accommodation they deem most suitable to their needs. Many businesses are tied to particular areas because of supply or

market conditions; and the majority of individuals are tied to these businesses through employment opportunities. Most of those businesses that are not tied to an area presumably are more influenced in choosing their location by such factors as labour cost than by property tax costs. For individuals, if one assumes that high residential property taxes are associated with high levels of public goods and services, these tax levels are not a burden except for those who have a strong preference for private goods and services.

46. The same studies do suggest, however, that the location of businesses within an area can be strongly influenced by differences in real property taxes. In other words, differences in property taxes may lead businesses to locate just outside the boundaries of a city or town, rather than in it; or in one municipality within a metropolitan area rather than another, but are not likely to affect the location between one widely defined city or town and another.

47. If differential property rates affect the location of businesses and individuals only within narrow geographic limits, real property tax revenue potential could be increased by defining local government boundaries broadly. In this way all businesses considering a location in or near Toronto, for example, would pay the same tax anywhere in the neighbourhood of Toronto. As a unit, "greater Toronto" could then impose a higher rate of tax than any smaller unit within this area could impose without driving business away. We have more to say about the need for larger units of local government in later chapters.

THE EFFECTS ON NON-RESIDENTS

48. Property taxes would be a poor revenue source for local governments if such governments could use the tax to raise revenue from non-residents in order to finance benefits for residents. The residents would be certain to elect representatives who promised to provide more generous public goods and services at the expense of those who could not vote.

49. If the above analysis is correct, higher taxes imposed on residential properties will immediately affect landlords adversely and rents in the short run will be unchanged. This means that where a substantial part of the residential property in a community is owned by non-resident landlords, local governments can, in the short run, tax non-residents for the benefit of the residents through higher tax rates on residential real property. In the long run rents will be higher as a result of a reduced stock of accommodation, but in a stable or declining community the adjustment may not take place for some years.

50. If the effective rate of tax on business properties were not tied to the effective rate of tax on residential properties, a local government could, under some circumstances, tax non-residents through raising the tax rate on business properties. For example, if there were no such control, a community wholly dependent on a single, profitable business with costly plant and machinery installations, owned and operated by a corporation with non-resident shareholders, could raise the property tax on the corporation to the point where it was on the verge of closing. If its product was sold primarily in world markets, the corporation could

not recoup the tax through higher prices. The high property tax would, in effect, be borne by the non-resident shareholders. If a community has particular locational advantages to businesses that sell outside the community at prices determined in an external market, higher taxes will be borne largely by the shareholders if they are not passed back either in the form of lower wages or lower payments to the firms' suppliers.

51. Only where a community includes businessess that dominate a wider market is it possible for a local government to raise the taxes on those businesses and thereby tax non-resident consumers. Conceivably, a community embracing all automobile manufacturers, for example, could, by raising property tax rates, reduce the rate at which facilities (and hence production) were expanded with the result that automobile prices would be raised to non-resident and resident buyers alike. This danger is to some extent self-policing, however, for at some point businesses will expand their operations outside the community, or leave it altogether even if it offers particular locational advantages or the costs of relocation are substantial.

52. It should perhaps be pointed out that where communities compete with one another to attract business there is a danger of undertaxation, rather than of overtaxation, of business firms. If businesses whose goods and services are sold and priced outside the community are not taxed at rates as high as they would pay if they were located elsewhere, a windfall gain to the resident or non-resident owners of such businesses results. If local businesses sell in a wider market, unless they are taxed at a rate that covers the full cost of the benefits they obtain from the community, local residents are, in effect, subsidizing non-residents by making it possible for local businesses to sell goods at prices that do not cover their total cost.

THE INCIDENCE OF THE PROPERTY TAX

53. Local governments require a tax source (or sources) that allocates the cost of providing public goods and services in a manner that is accepted as fair by most residents of the community. This requires that residents in the same circumstances be treated in a similar manner. There should be no discrimination. This is a basic canon of equity that must be applied to the allocation of all taxes. In addition, to be accepted as fair the allocation of taxes between residents in different circumstances must also reflect community beliefs either about the differences in the benefits received or the differences in ability to pay or some mixture of the two. In any event the allocation is inherently arbitrary, because neither benefits nor ability to pay can be determined objectively. This is not to say that it does not matter, but rather that the standard is subjective and determined by the individual views of the residents of the community.

54. Complete reliance on either the benefit or the ability-to-pay principle for the allocation of taxes is impossible for local governments. To require those with children in school to meet the full cost of education would be unfair because the benefits are not confined to the parents. In addition, too little education would be supplied in terms of the community interest. Some of the public goods and services provided by local governments have as their purpose the relief of distress and

poverty. To require welfare recipients to pay higher taxes to match their higher benefits would defeat the whole purpose of welfare assistance. Practical considerations also limit the extent to which costs can be allocated to those who particularly benefit. In principle some of the costs of fire protection could be allocated very precisely among the residents in accordance with the value of their real *and* personal property, taking into account the risk for each class. The expense and inconvenience of carrying out such an allocation may be too great relative to the inequity done by allocating the cost wholly in terms of the real property assessment.

55. To allocate all of the cost of local government in accordance with ability-to-pay principles would avoid the preceding difficulties but would not make the majority of the residents conscious of the real cost of more public consumption —forgone private consumption. Those with below-average ability to pay (somehow defined by the community) would demand more public goods and services because these would be paid for largely by those with a greater ability to pay. It is thus most uncertain how communities would want the costs of public goods to be allocated if they had an instrument that made it possible for them to achieve any desired result.

56. Just as it is unclear who benefits from a large part of local expenditures, it is also unclear who bears the burden of the property tax. As we explained above, because the tax is imposed on real property, it does not follow that landlords bear all of the tax. At least in a growing community rents will rise quite rapidly to restore the return to the landlords. Tenants as well as home-owners will be adversely affected (ignoring the benefits obtained), and under most circumstances higher taxes imposed on businesses will ultimately result in higher product prices borne to some extent by resident consumers.

57. The problem with the property tax, as with most other taxes, is not that the costs are allocated to the wrong people but that it is impossible to say to whom they are allocated.

58. One specific criticism of the property tax must be considered, however. It has often been observed that those with low incomes spend a larger fraction of their incomes on the provision of shelter than do those with high incomes, whether the costs are incurred through owning or renting such accommodation. This being so, those with low incomes carry a property tax load that is relatively heavier than the load carried by those with larger incomes. The property tax is, in effect, a regressive tax. Real property taxes on business that are are passed on to consumers through higher prices have the same effect, for low-income individuals spend a larger fraction of their incomes than upper-income individuals do.

59. This criticism of real property taxes has itself been criticized. It has been argued that when all taxes and government expenditures are considered, the fiscal system as a whole is not regressive and that the incidence of each tax and each expenditure should not be judged separately. To this the rebuttal has been made

that incidence studies are based on averages and that while the group with low incomes may be net beneficiaries of government there are important individual differences.

60. It has been argued that the quantity and quality of living accommodation occupied by individuals and families reflects their expected lifetime incomes rather than their temporary or current incomes. It has also been stated that those with high expected lifetime incomes spend proportionately more on housing than those with more modest expectations. This suggests that on a lifetime basis the residential real property tax may in fact be progressive rather than regressive. If this were true, it would be unnecessary to try to provide a tax system that would be progressive at each point in time. What the individual or family overpays early and late in life, while housing absorbs a large part of a small income, is compensated for by the fact that in the prosperous middle years the reverse is true.

61. As discussed in a recent authoritative work on the property tax,[3] the statistical evidence in support of this interesting hypothesis is too weak for us to rely upon it.

GENERAL APPRAISAL OF THE REAL PROPERTY TAX

62. It must be frankly admitted that the real property tax has some important shortcomings as the major tax source for local governments. But because of the magnitude of the revenues raised from municipal and school board property and business taxes, the simple fact is that it is virtually impossible to find any feasible substitute whose yield would be sufficient. To raise an equivalent amount of revenue for local governments it would be necessary to double all of the major general taxes now levied by the Province. Local property and business tax levies in Ontario for the 1965 calendar year amounted to $879 million, while in its fiscal year ended March 31, 1966, the Province collected only $821 million from its personal income tax, corporation income tax, retail sales tax and succession duties and its share of the federal estate tax. It is, therefore, clear that the utilization of any of these taxes for the local level could at best reduce but not eliminate the present reliance on property and business taxes.

63. In Chapter 19, we consider but do not support the introduction of local government income taxes at the present time. We suggest, however, that if larger units of local government are formed which would be able to administer such taxes, the matter might well be reviewed, although we have considerable doubts concerning its practicability. Even if the collection problems were to be solved, it is very likely that the yield of the tax on a per-capita basis from one municipality to another would vary widely. In this event, the provincial government would necessarily become involved in major equalization grants, and so the result would be little different from the vastly simpler approach of supplementing the property tax in the first place by carefully structured provincial grants.

64. In that chapter, we also consider and reject a hotel and motel room tax as a source of municipal revenue. We conclude that such a levy on transient accom-

[3]Dick Netzer, *Economics of the Property Tax*, Washington, D.C.: The Brookings Institution, 1966, pp. 62-6.

modation can be justified only as a part of a general tax on services under a retail sales tax. In the same chapter, we discuss the desirability of a retail sales tax at the local level. As such a tax would be difficult to enforce even with larger municipal taxing units, we conclude that it is not an appropriate tax for Ontario municipalities. We also reject the even less suitable alternative of local taxes on such specific items as amusements and land transfers.

65. We discuss the desirability of municipal levies on motor vehicles in Chapter 30 where we state that such levies should not be used as a source of municipal general revenue. Their only legitimate purpose is that of collecting from motor vehicle owners their share of road costs. If our recommendation in Chapter 21 that the Province should meet the total road-user portion of municipal road costs is accepted, there would be no need for them. On the other hand, as we suggest in Chapter 23, upon rationalizing the structure of local government it would be administratively possible to impose a local motor vehicle fee and reduce provincial motor vehicle levies accordingly. This also would involve a reduction in the proposed provincial grants, so there would be no improvement in the financial position of municipalities.

66. If the revenue yield of the property tax is such that no alternative can feasibly replace it, then this tax must be tolerated despite its shortcomings. In our view, the most important weaknesses of the property tax are the following:

(1) Probably the most serious weakness of the real property tax arises because few, if any, residents believe that it provides a fair method of allocating the costs of local government. Some believe that local taxes should be allocated to a greater extent according to ability to pay and think that this is not achieved through the real property tax. They want local governments to tax those at the upper end of the income scale more heavily on the ground that they can more readily bear the cost or that those at the bottom end of the scale should receive more net benefits from government. They generally favour more rather than less public expenditures. Others, holding just the opposite point of view, want a closer relationship between costs and benefits than they think can be achieved through the real property tax. They generally believe that the benefits from most local government expenditures can be allocated quite specifically and that if those who obtained the benefits were forced to pay for them they would quickly reduce their demands for more public expenditures.

(2) Local governments can, and under some circumstances do, tax non-residents through the real property tax. Safeguards are necessary to prevent this from happening. Certainly local governments cannot be allowed to tax natural resource properties or they might well capture all of the profit in excess of that necessary to keep the properties active. Forcing them to adopt a fixed relation between the tax rates on residential and on business properties would largely eliminate the danger of local governments taxing non-residents.

(3) Local governments that are required to rely almost exclusively on real property taxes to finance their discretionary expenditures certainly do not have complete freedom within this sphere. Unless demand is increasing rapidly, large increases in the tax rate on residential properties will seriously reduce new construction in the short run and raise rents in the long run. Imposing higher taxes on business properties will have similar effects; in addition, if the local effective rates on business properties differ from those in other areas, some local businesses will be at a competitive disadvantage and will either die or stagnate. Others may leave. Still others that might have come to the area will be repelled by the higher taxes. Autonomy is far from complete. Defining local government boundaries to encompass whole regions would help to eliminate this weakness of the real property tax.

67. As in most things, the above shortcomings of the property tax become more material the greater the reliance placed upon it. We believe that the proposals we put forward in the succeeding chapters of this volume will mitigate them substantially. By reducing the weight of real property taxes through increased provincial grants, the more vehement objections to the present system of local government taxation would be eliminated. By providing a basic shelter exemption for each unit of living accommodation, the burden of the remaining tax would be allocated in a manner that would be more consistent with the standards of equity that are held, we believe, by most local residents. By reducing the weight of business taxes and by tying this reduced rate to the rate of tax on residential property, the danger that local governments will tax non-residents or damage the competitive position of local businesses will be minimized.

68. All of these improvements can be obtained while achieving some increase in local autonomy and fiscal responsibility by the adoption of our proposals for the reorganization of local government in Ontario. These organizational reforms are desirable in their own right. Not least among their advantages is that they would go a long way toward overcoming the most difficult problem of municipal tax imbalance. This problem, which is often attributed to the property tax, stems in fact not so much from the taxing instrument itself as from the size of the taxing unit.

MUNICIPAL TAX IMBALANCE

69. In this province, residential and business taxpayers have been accorded somewhat different treatment in all stages in our history. From the earliest times, farmers have not been required to pay as much tax as normally imposed on people in other lines of endeavour. From shortly after the turn of the century, occupants of business properties have been subjected to a supplementary assessment and tax over and above the ordinary realty tax. In addition, mining properties and various transportation and communications properties have been accorded special treatment, for the most part in their favour.

70. Differential tax treatment by class of taxpayer has been common practice also in other Canadian provinces and in other countries. All ten provinces make

some use of supplementary business taxes for which property in one form or another is the base. Similarly, favoured treatment of farm properties is general, although the extent of the benefits differs considerably. The greatest preference to farms is accorded by the prairie provinces. In England, industrial properties enjoyed a 75 per cent reduction from normal property rates between 1929 and 1959, but after a period of adjustment, the reduction was eliminated in 1963. Neither industry nor shops and offices in England are subject to any supplementary business tax, however. Again, agricultural lands and buildings apart from dwellings have long been entirely exempt from tax in England and continue so today. In the United States, differential treatment by class of taxpayer has been much less common, although in the depressed thirties, fourteen states adopted homestead tax exemptions or preferences which were of particular help to farmers. In Maryland, preferential assessment of farm land to emphasize present use has survived challenge in the courts and has continued in effect for more than a decade. In short, it has been common to make the property tax weigh differently against different classes of taxpayers in many taxing jurisdictions over many years, and we have found it useful to examine the case for differential weights of taxation in seeking a definitive approach for future taxation in Ontario.

71. Major consequences flow from the way in which the Province requires the real property tax to be used. In a municipality that contains a balanced mixture of residential and business properties, whether urban, rural or a combination of the two, the purely residential property on the average generates more local government cost requirements than revenue expectations. The average business property stands in precisely the converse position, while the farm property lies somewhere in between. Because farm properties are not subject to business tax and are accorded the more favourable residential mill rates, the average farm comes closer to a residential property in its cost-revenue relation than to the average business property. In municipal budgeting, the position of farm properties is aided by the fact that the provincial road grants are more generous to municipalities that are designated as rural or that can show particular financial need. Similarly, school grants provide additional help to municipalities that have low total assessments in relation to school population. The rural areas are major beneficiaries.

72. It is important to recognize the implications for municipalities of lack of balance in the tax base. On average, a municipality with less than a normal share of business properties must impose heavier than normal taxes to pay for an average complement of local government services, notwithstanding some equalizing effect from provincial grants. Conversely, the municipality with more than the usual proportion of business properties will, on average, be able to provide adequate services with lower than normal taxation.

73. The financial advantages to a municipality of increasing its proportion of business properties (or lowering its proportion of residential or farm properties) stimulate strong competition to secure industrial or commercial developments and create positive antipathy to residential development unless its value per dwelling is much above average.

74. During the past twenty years, this province has been experiencing a remarkable increase in urbanization, far outstripping the over-all rate of growth. Much of the development has been concentrated in large-scale subdivision projects. As these have progressed, the municipalities in which they are situated have been faced with rapidly mounting school costs as well as a variety of other expanding expenditures of less importance. Part of the initial cost is met by the land developers, including, usually, a cash contribution toward future school construction. But the long-run financial position of the municipality remains unsatisfactory unless its residential growth carries much above average assessed value or is complemented by an adequate balance of commercial and industrial developement. Sometimes the municipalities where development is sought succeed in requiring the land developer to guarantee that industrial and commercial expansion will keep pace with residential construction. But this form of agreement may break down in practice or have the effect of driving developers away.

75. Recently, the rate of residential construction in Ontario has been a topic of serious controversy. Strenuous efforts are being made to step up the housing program. In the opinion of land developers, one of the obstacles to be overcome is the financial disadvantage that municipalities see in prospective residential development. We recognize that the problem is serious. In a later chapter we give consideration to developer agreements with municipalities and to the appropriate means of meeting the immediate capital costs of urban expansion. In addition, we believe that municipalities must be assured of a sufficiently satisfactory long-term financial outlook to overcome any reluctance to sponsor urban residential development as required. Moreover, unless something is accomplished along these lines, the problem may become more severe because of the extended commuting range made possible by a reduced work week and improved transportation.

76. A number of approaches might be made to the problem, not all of which involve changes in the use of real property taxation. We list and discuss four possible courses of action that merit consideration.

(1) Groups of municipalities might pool and redistribute part of their real property tax revenues, for example industrial and commercial taxes.

(2) The Province might alter the relative weights of taxation on residential, farm and business taxpayers in order to proportion their taxes to the cost of the demands for services that they respectively make upon municipalities.

(3) The Province might expand its use of equalizing grants.

(4) The municipal units might be substantially enlarged, possibly by the creation of new regional units of government.

MUNICIPAL TAX POOLING

77. The municipalities could be encouraged or required to form groups encompassing large enough areas to embrace a reasonable balance of land-use developments. Contributions could then be required on an equalized basis from

the individual municipalities within each such group according to financial capacity, which would then be distributed among them according to need.

78. A common suggestion is to pool industrial tax revenues for use in financing education. But such an arrangement would fall short of the desired goal in terms of both the source and distribution of funds. First of all, it would be difficult to draw a satisfactory line if any kind of business property were excluded from the pooling process. A municipality with no industrial plants might nevertheless have a very satisfactory taxable capacity because a large shopping plaza or the head office of an insurance company or some other form of business development provides a sufficient proportion of its taxable assessment. Furthermore, a municipality that contains a high concentration of expensive homes could have a better than average taxable capacity without having a single business property of any sort within its boundaries. The present potential for scattered growth permits departures from the old self-contained community to take many forms and to produce, for a variety of reasons, municipalities of remarkable financial strength or weakness.

79. Revenue pooling that will act to reduce inequalities in municipal financial capacities should, we suggest, extract contributions from all taxpayers at standard rates, thus requiring equal tax effort, and should then redistribute the funds according to some definition of need. To find a formula that will recognize and compensate for financial need in all its forms is itself no easy task. An obvious approach is to use the money to support the particularly costly services such as education. But other needs also will have to be recognized. For example, it would be unreasonable to expect one municipality to assist others with their schooling costs when it faced a particularly heavy welfare burden to which the other municipalities were making no contribution. Another question would have to be considered. Should a system for redistributing local taxes take account of the differing levels of cost the municipalities incur in providing particular services? For example, a municipality that is situated on the Precambrian Shield might have to pay double the average cost to lay sewers and watermains.

80. What we suggest is that inter-municipal pooling and redistribution of realty tax revenues constitute an undertaking sufficiently complex that municipalities could not be expected to embark upon it unless required to do so and unless assisted in the task by the Province. Furthermore, reliance to any extent upon municipal co-operation would necessitate a very careful grouping of municipalities so that all the municipalities in the area over which funds were to be redistributed would have common interests and compatible relations.

81. In the light of these considerations it seems doubtful that the Province would find it worth while to attempt to draw the municipalities into a plan for pooling and redistribution of tax revenues in preference to developing a provincial grant scheme that would serve the same broad purpose.

ADJUSTING THE RESIDENTIAL-FARM-BUSINESS TAX RATIOS

82. Municipal antipathy to residential expansion could be brought to an end if the property tax were changed in such a way as to relate the weight of taxation

upon each class of property to its expected service requirements. Such a change would necessitate either substantial increases in residential and farm taxation or sharp reductions in taxation of business properties or a combination of the two. If neither residential nor farm taxes were to be increased, the taxation of business properties would have to be reduced very sharply indeed. The amount required to reduce the tax on business property to the level of services used by them would mean the elimination of business taxes entirely plus one-third or more of ordinary property taxes from business. The Province would be left with a very substantial gap to fill either through grants or through the introduction of some new form of local taxation. But what new tax could be found that would fill such a substantial gap? In the present circumstances there is none. On the other hand, to accomplish the adjustment by raising residential and farm taxes in relation to business taxes would mean a complete reversal of the Province's policy over the past decade of introducing and enlarging the split mill rate. If residential and farm taxation is genuinely heavy today, it would be rendered intolerable by the extent of the required change.

83. Adjusting the weight of taxes between the main classes of property taxpayers would eliminate much of the problem of unequal financial capacities that discourage municipalities from accepting residential development. At the same time, it would not remove all the difficulties. Imbalance in the tax base may exist within property classifications, not just between them. A suburban municipality of expensive homes is not likely to welcome a low-cost housing development, even though it can afford it. Such reluctance would be even greater if their taxes were increased relatively. Indeed, it would be unfortunate to sacrifice a large part of the productivity of the property tax by cutting back the weight of taxation upon business properties if the results were not to overcome the problem of "planning by assessment". We think it preferable, therefore, to look for a different means of attacking this problem in order that the present productivity of the real property tax may be maintained or even enhanced.

EQUALIZING GRANTS FROM THE PROVINCE

84. Municipalities would not be unduly concerned about residential expansion —especially if the initial capital outlays could be met by developers—if their continuing tax and revenue prospects were sufficient to meet the continuing expenditure load.

85. The Province already provides a large portion of local government revenues through grants, which in total have a considerable equalizing effect. The process would have to be carried a good deal further, however, to bring the cost-revenue position of each municipality into balance with no more than average tax effort.

86. One serious objection to the use of grants as the sole or prime means of overcoming sharp inequities in the tax base is that some municipalities would still be left in an unjustifiably preferred position. Why should a municipality that happens to have a high proportion of business properties within its boundaries be able to provide its people with ample public services at very low levels of taxation?

Our own examination of tax ratios has gone far enough to make us aware of a number of municipalities that enjoy an obviously privileged tax position. Fragmented urban development coupled with local dependence upon property taxation is the prime cause.

87. The problem of unsupported residential development would be reduced more significantly through a given amount of grant assistance if it is directed to, or calculated according to the cost of, those services that are required by residential development. The very substantial increase in school grants has done much more to alleviate the problem than would a distribution of the same amount of money on a less pertinent basis than the school population within each municipality. We see the present grant pattern as highly beneficial in relation to the problem of unbalanced growth, but we think other means must be found to supplement what grants can do.

LARGER MUNICIPALITIES

88. The creation of much larger municipalities would ensure, under present growth conditions, a considerably better balance in the forms of land-use development than now obtains. Such, for example, was a prime result of the creation of the Municipality of Metropolitan Toronto in 1953. The regional developments proposed as a consequence of local government reviews would be of similar effect. Among the recommendations have been plans for enlargement of local municipalities as well as the creation of regional municipalities larger than the existing counties.

89. Of all the remedial measures we have considered, the development of larger units of administration would go furthest to reduce the problem of imbalance in the local tax base. In the concluding chapter of this volume, we take up the question of the size of municipal units and their relation to the financing of local government operations. We have stressed the need to strengthen local government through revenue and boundary improvements rather than take the alternative of urging a reassignment of what are now local functions to the Province. The latter course would hardly be consistent with the strengthened local governments we advocate. But there is one spending responsibility that we feel should definitely be removed from local governments. We refer to the administration of justice.

TRANSFER OF JUSTICE RESPONSIBILITIES

90. Throughout Canada and in other English-speaking countries, the suitability of requiring local governments to share responsibility for administration of justice functions has long been questioned. The point was raised in 1901 by the Royal Commission on Local Taxation in England and Wales, and has been taken up repeatedly ever since. The question of administration of justice expenses came under extensive review more than a decade ago by the Attorney General's Department. One outcome of that inquiry was the inclusion of one dollar per capita in the unconditional grants payable throughout southern Ontario in place of a substantial proportion of the provincial contributions for shared expenditures

involving costly reporting and verification procedures. More recently, grants have been established by the Province toward the cost of constructing and operating county jails or regional detention centres.

91. The assignment of responsibility for administration of justice has not been uniform among Canadian provinces through the years. Today, the four western provinces, Quebec, Prince Edward Island and Newfoundland assume full responsibility for constructing, staffing and maintaining the county courts, the jails and the land registry or land titles offices. In the two remaining provinces, where substantial responsibility continues at the municipal level, recent tax inquiry reports have included recommendations that the Province take over these functions.[4] Furthermore, the position in both Manitoba and Quebec is the result of changes effected since World War II. But it is not necessary to look beyond our own borders to find precedent for provincial assumption of justice responsibilites. Throughout northern Ontario where the county system has never been instituted, responsibility for the administration of justice has been borne from the beginning by the Province and remains so today.

92. The extent of opinion in favour of provincial responsibility for administration of justice is sufficient that we see no need to labour the point. Local government has at best fulfilled a menial role with respect to administration of these justice functions. Again, as has been pointed out in one of our supporting studies, administration of justice "is of general interest, of no benefit to property, and warrants provincial rather than local administration 'to ensure that uniformity and impartiality are maintained' ".[5]

93. While respected opinion[6] and established practice have long lent overwhelming support to provincial jurisdiction over the county courts, the jails and the land registry services, the position is less clear with respect to other aspects of the administration of justice. In addition to the courts presided over by our federal judiciary, there are throughout Canada other courts functioning in areas of more immediate local interest where judges appointed by the federal government do not or need not preside. In Ontario, these include the magistrates' or police courts, the division courts and the juvenile and family courts. Here, a shared provincial-municipal responsibility is virtually a standard pattern, though some expansion of the Province's area of interest has been occurring. Throughout both northern and southern Ontario, such courts are accorded limited municipal backing. If municipal government has a particular interest in these courts, it is because they

[4]New Brunswick, Royal Commission on Finance and Municipal Taxation, *Report*, 1963, p. 22; and Nova Scotia, *Provincial and Municipal Taxation Study,* Touche, Ross, Bailey & Smart, 1964, p. 151.

[5]J. Stefan Dupré, *Intergovernmental Finance in Ontario*, a study prepared for this Committee. The part quoted itself includes a quotation from Lionel D. Feldman, "Administration of Justice: A Municipal Burden?", *Canadian Tax Journal*, Vol. X, No. 3, 1962, p. 209.

[6]See also K. G. Crawford, *Canadian Municipal Government*, Toronto: University of Toronto Press, 1954, p. 361; Ontario Select Committee on The Municipal Act and Related Acts, *Second Interim Report*, p. 51. *Fourth and Final Report*, p. 177; *Niagara Region Local Government Review* (H. B. Mayo, Chief Commissioner), 1966, p. 27; *Peel-Halton Local Government Review* (T. J. Plunkett, Special Commissioner), 1966, pp. 81-2.

deal in part with infractions of municipal by-laws and in part with petty offences of local concern. Certainly the juvenile and family courts are as much involved in public welfare undertakings as in criminal justice proceedings. Municipalities are concerned with the magistrates' courts in particular because they constitute a source of municipal revenue from fines. These facts notwithstanding, we find it difficult to see the equity or necessity of charging local government with any responsibility for or costs of providing even these court facilities. Fines should be identified with law enforcement, not the administration of justice.

94. One further function is sometimes classified under administration of justice but should properly be considered as law enforcement. We refer to local policing. In our opinion, strong reasons support the classification of this service as a continuing local responsibility. First of all, policing was one of the early functions justifying the creation of autonomous urban municipalities in this province. Even today, the policing requirements of a local community are still related in part to the number and nature of its property holders. Again, the local street pattern has a bearing upon the extent of traffic control functions that the police must perform. Of more importance is that a division of policing responsibility between central and local authorities affords a safeguard against the arbitrary exercise of state authority that could override the rights of the local citizen. This is, we think, enough to support the retention of policing, presuming units of adequate minimum size, as both a functional and financial responsibility at the local level of government.

95. For all of the reasons expressed above, *we recommend that:*

All local responsibilities for the administration of justice related to the functioning of the county courts, the county jails, the regional detention centres, the registry offices and the land titles offices be transferred to the Province, and the local responsibility for all other courts be transferred to the Province under arrangements providing for **9:1**

(a) an appropriate apportionment of the revenue from fines between the municipalities and the Province, and

(b) recognition of the interest of local public welfare officials in the proceedings.

DATA ON MUNICIPAL FINANCE

96. We cannot end this introductory chapter without a brief discussion of the sources of data on which so much of the material in the remainder of this volume is based. During the course of our inquiry we have wanted, sought and sometimes found data on a very wide range of municipal financial operations. Through use, we have learned a great deal about the strengths and weaknesses of the ways in which the statistics are gathered and reported. Clear, accurate and comprehensive information is necessary not only for the study and supervision of

local authorities, but also for the effective exercise of their responsibilities by office-holders and electors. Although much good information is available, much is not. In this last section of this introductory chapter we mention some of the improvements that should be made and that would have been of considerable help to us.

97. The *Annual Report of Municipal Statistics*, published each summer by The Department of Municipal Affairs, is the prime source of data. Indeed, the publication contains a wealth of information, although a regrettably large portion is probably inaccurate or at least misleading. Thus half the space devoted to assessed value of property is given over to a detailed breakdown of assessed values of exempt properties by class of property. Yet quite apart from the haphazard nature of many local assessments of exempt properties, municipal reporting of such figures by class of property on the annual return is quite unreliable. Schools tend to float about between municipal and educational, while separate schools may turn up in religious as well. Hospitals may be provincial, municipal, or other, sometimes without reference to their actual ownership. Municipal utilities are shown as both taxable and exempt. In view of this lack of uniformity, the statistics showing assessed values of exempt property by class are meaningless, and barring considerable educational effort in improving municipal reporting, they might just as well be reported as total exemptions.

98. Such a change would leave space for a more detailed analysis of taxable property, which would be very useful. At present we are given no breakdown of taxable assessment by such property classifications as residential, commercial, farm and special assessment. Yet such data could be tabulated from returns just as easily as the exemption data, and would have the advantage of containing genuine information. This type of breakdown should be extended to the tax revenues, thus giving the reader some idea not only of the functional distribution of the tax base, but also of the relative distribution of the tax by class of property holder. The most grievous deficiency of the current method is that no figures are available on the yield of the business tax, or on the total weight of local taxes on businesses. A further breakdown of each category into land and buildings assessment might be helpful—the present breakdown of the aggregate is not.

99. As long as assessment practice varies throughout the province, reporting assessment and tax rates on an unequalized basis is useless for purposes of inter-municipal comparisons. At the very least the provincial equalization factors, properly explained, should be given. It would be even more useful and not very difficult to give all assessment figures on an equalized basis.

100. It appears that reporting of municipal investment in capital assets is inconsistent and unreliable. Some municipalities report general fixed assets of nil or of one dollar. Again, areas of approximately equal size report widely divergent asset values, leading one to suspect strongly that the figures are determined and stated on completely different bases. Thus in 1964, the cities of Kingston and Sarnia reported almost equal populations, 51,451 and 50,979. Their tax levies were both $7 million, and debenture debt issued and assumed $14.8 million and

$16.4 million. Yet one reported fixed assets of $7 million and the other of $16.5 million. In a more extreme case, the towns of Oakville and Brampton reported fixed assets of $14.6 million and $0.6 million. Such figures are surely incompatible; and if no uniform pattern of reporting can be laid out and enforced, then there is no purpose in continuing to publish them. The Province should develop procedures that each municipality is required to use in maintaining a complete record of all its capital assets, setting out an appropriate description of each asset, date acquired, location, original cost, recorded depreciation, and other pertinent information.

101. In large part the definitions used for the Ontario statistics concur with those of the Dominion Bureau of Statistics. D.B.S. has worked diligently for a number of years to create common definitions so that it can publish data that are comparable across the country. Unfortunately, Ontario does not follow D.B.S. practice completely. Even more regrettably, nowhere does it consolidate the definitions or departures from D.B.S.

102. In addition to the limitations already mentioned, the Annual Report has such others as:

(1) Not all local boards and commissions are incorporated in the figures; some are omitted, depending on their formal organizational relationship to the municipality.

(2) Different bases are used for figures within the Blue Book,[7] and between the Blue Book and certain other provincial government reports.

(3) The collection costs of taxes, licences and so on are not given.

(4) Debt service charges are not segregated into capital repayment and interest.

It is not our purpose here to make specific recommendations for revising the *Annual Report of Municipal Statistics*, but only to point to some of the obvious improvements that could and should be made in the near future.

103. One final point deserves mention. The Annual Report gives no details of the grants paid to municipalities by the Province. The provincial Public Accounts report grants on a fiscal year basis in a degree of detail that varies from grant to grant. Similarly loans to municipalities are given in varying detail in the Public Accounts. In his Budget Statement the Provincial Treasurer aggregates all assistance to local authorities—a figure that includes loans and grants made to municipalities, school boards, and a host of other local boards, commissions, societies and associations. Our plea is for uniform, detailed, comprehensive treatment.

104. In accord with the foregoing, *we recommend that:*

The Province take steps to improve the reliability and comprehensiveness of the reporting of municipal financial statistics. **9:2**

[7]The Annual Report of Municipal Statistics is commonly referred to as the "Blue Book".

Chapter 10

Taxes on Property: Their History and Present Use in Ontario

1. The property tax is the colossus among local forms of revenue-raising in Ontario and it is one of the half-dozen giants that dominate the Canadian tax and revenue scene. The status of this tax is closely matched in most other Canadian provinces, although local government relies somewhat more heavily upon it in Ontario than elsewhere.[1] The strength of the property tax is of very long standing in Ontario, as it is among English-speaking nations generally. Since the earliest days of settlement in this province, it has been the sole local tax of significance, but its position has been subject to frequent controversy. Time after time the property tax has been altered in its particular application, but it has at all times retained its unique ascendancy. Throughout more than 175 years, the suitability of the property tax as a leading revenue producer has often been seriously challenged, but in all that time actual replacement of the tax has never become a practical possibility. It is therefore fully to be expected that we should take a long

[1]In 1963, municipal revenue from property taxes and from property-based business taxes approximated 90 per cent of locally derived municipal revenues in three of the ten provinces, Ontario, Nova Scotia and New Brunswick. In all other provinces the percentage was substantially lower. See Dominion Bureau of Statistics, *Municipal Government Finance, 1963*, Ottawa: Queen's Printer.

and hard look at the property tax with the object of defining the precise role it might be expected to fill in the coming years. To this end, we have completed painstaking studies of the present role of the real property tax and we have weighed what seemed to us to be some realistic measures by which its employment might conceivably be modified. Our discussion of this subject is developed in the several succeeding chapters.

THE EARLY HERITAGE

2. Local government first became a necessity in this province as a direct consequence of the American Revolution and the resulting influx of United Empire Loyalists. The initial move was the creation, by proclamation in 1788, of four districts. In each, responsibility for local government, along with other aspects of the maintenance of law and order, was entrusted to Justices of the Peace appointed by the colonial government and acting through Courts of Quarter Sessions. For more than half a century this quasi-judicial and paternalistic arrangement prevailed, except in a small but growing number of urban communities, which gradually gained significant rights of local self-government. Under the system of government by Justices of the Peace, which was buttressed by the intervening passage of the Constitutional Act, specific provision was made in 1793 for the selection of local assessors and tax collectors and for the compulsory levying of property taxes upon the inhabitants.[2]

PIONEER LEGISLATION

3. What is popularly called The Assessment Act of 1793 required the assessors to prepare a roll which became a combined assessment and tax roll when signed by the Justice of the Peace. As initially enacted, the legislation exempted property assessed at less than £50 and imposed a tax of 2/6d for each additional £50 worth of property or fraction thereof, a rate which was equivalent to 2½ mills on the dollar. This addition of 2/6d tax for each £50 of property value continued to what was presumably regarded as a realistic upper limit: those assessed at £400 or more were taxed at 20s. The approach was adapted to the times in that taxable property was described in the legislation merely as the "real or personal property, goods or effects" of the inhabitants. From the time they took office the assessors were allowed six weeks to complete their valuations and return the roll.

4. Even in those days tax laws changed frequently, and after a year, the tax brackets were extended. The 20s rate was limited in its application to property worth £400 to £450. From £450 to £500 a levy of 22/6d was introduced and at £500 the tax amounted to 25s. From this point on, however, the inhabitants were placed in an Upper List within which tax increases were made in amounts of 5s per £100 of added property value. At the low end of the scale,

[2]Under The Parish and Town Officers Act, 1793, the inhabitants of populated townships were required to meet and choose two assessors, one tax collector and certain other municipal officials, who were thereupon expected to carry out their duties under the direction of the Justices of the Peace. At the same session, the Legislature passed the first assessment and taxing statute. Of interest is the fact that the session also legislated to prevent the further introduction of slaves, and to limit the term of contracts for servitude in this province.

the initial exemption was repealed and owners of property worth less than £50 were made subject to a tax of 2s.

5. Another change was made one year later. The Justices were now required to estimate the total expenditures for the year and to levy only that fraction of the full rate that would cover the requirements. Furthermore, the Justices could not make a new levy until three-quarters of the proceeds of the preceding rate had been expended.

6. The Assessment Act of 1793 was scarcely in operation before the fundamentals of the system came under strong criticism. The assessors, as Aitcheson[3] notes, were often illiterate, and their difficulties were accentuated by the brevity of statutory guidance and the short term of office. Despite the requirement that Justices of the Peace review the roll before its adoption and despite the right of aggrieved persons to appear before the Court of Quarter Sessions, the valuations were said to be arbitrary and capricious. Since a part of the local tax money was raised to pay members of the Legislative Assembly, the townships engaged in competitive under-assessment, in which they were said to be upheld by their own local Justices of the Peace. Attempts at new legislation were begun in 1798, but it was not until 1803 that these became law.

STATUTORY VALUATION OF PROPERTY

7. The Assessment Act of 1803 scrapped the plan of assessment and taxation instituted a decade earlier. In place of arbitrary brackets of property value subject to a common tax levy, arbitrary values were placed by statute upon various items of real and personal property. If the property was not named in the statute, it was not taxable, and it was said, for example, that some quite substantial houses were constructed of mud bricks to escape property taxation. A few illustrations will reveal the essentials of the system. Arable land was to be assessed at £1 an acre; a milch cow at £3; a grist mill with one pair of stones at £150, plus £300 for each additional pair of stones; a merchant's shop at £200, regardless of size. Town lots were to be assessed at several specific rates according to their location: Sandwich, Queenston, York, Kingston, etc. Houses with not more than two fireplaces were assessed at £40 and an additional fireplace brought an extra £10 assessment. Under the new Act, the process of striking the rate was transferred to the Courts of Quarter Sessions, which became responsible for all townships within their districts. The maximum rate was stepped up to one penny in the pound (the equivalent of 4⅙ mills), and the levy was applied to the precise assessed value of each person's property. The Act of 1793 had allowed tax collectors to be paid 3 per cent of total taxes collected. The new assessment legislation extended the same pay to assessors for carrying out their onerous but now routine duties. Subject to changes in the percentages, including the later introduction of a sliding scale, the percentage payment of both assessors and tax collectors continued as a

[3]A fruitful source of information upon which we have drawn considerably is J. H. Aitcheson, *The Development of Local Government in Upper Canada, 1783-1850*, Unpublished Thesis, Department of Political Economy, University of Toronto, January 1953.

feature of the legislation. In recognition of the arbitrary nature of the new assessment system, The Assessment Act was to be reviewed at four-yearly intervals in order that the valuations set for various kinds of property might be altered and items added to the list. New legislation in 1807, 1811, 1815 and 1819 resulted from the periodic review. From an historical viewpoint, the changes effected between 1803 and 1819 hold interest. We see, for example, indications of growing prosperity in the addition in 1807 of billiard tables and in 1819 of vehicles kept for pleasure. A review of the amendments in detail, however, need not detain us.

8. In 1825 the Legislature gave permanence to The Assessment Act, as a result of which it remained in effect with little change until the mid-century. The other changes in legislation effected in 1825 were concerned entirely with election procedures and penalties. Where the sale of a person's goods and chattels would not yield enough revenue to cover his unpaid taxes, authority was given to sell the land itself at public auction. The owner was allowed twelve months within which to redeem his property. To do so, however, he had to rebate the purchase price and, in addition, to compensate the purchaser for relinquishing the property by a further 20 per cent payment.

9. Collection problems prevailed, even in those early days. Assessment legislation in 1828 recognized the difficulties of travel by enabling taxpayers for a fee of 5 per cent to pay their taxes to the Treasurer of one district, although due to another, "in consequence of the difficulty of transmitting Monies".[4]

CHANGES IN THE MAKING

10. The District Councils Act of 1841 brought government by the Justices of the Peace to an end. Thereafter, each township within a district constituted an electoral area for membership on the district council. The district council was empowered to levy taxes on its own behalf and to meet the requirements of the townships for their local purposes.

11. Efforts at governmental reform had been stirring in Upper Canada for some years. The need for local reform played a large part in the Rebellion of 1837 and in the Durham Report that followed. Dissatisfaction grew over the arbitrary system of assessment and taxation which had long since been done away with in the neighbouring State of New York. In particular, there was a desire to place heavier taxation on wild lands held for speculation by absentee owners. Such lands were taxed at 1½d per acre and it was impossible to change this rate without legislative changes.

12. By the early 1840's, new assessment legislation was in the making. A bill was introduced to the Legislature in 1843 which had been largely copied from the assessment law of the State of New York.[5] The property subject to assessment and taxation was carefully defined and the responsibility for determining value was

[4] 9 George IV, c. 3, 1828.

[5] According to Aitcheson (*op cit.*, p. 293), forty-two of its sixty-nine sections were copied directly.

restored to the municipal assessor. In essence, today's definition of "land" in The Assessment Act dates from the bill introduced in 1843. But this bill was not to become law. Opposition to the measure centred on the proposed assessment and taxation of personal property including personal income, which was regarded as an undue invasion of an individual's right to keep his own affairs confidential. Not only was the reform measure blocked but the reform ministry was defeated.

13. Not until 1849, when the Baldwin-LaFontaine ministry was once again returned to office, was new assessment legislation introduced. The income tax provisions were eliminated from the initial draft and the assessment of personal property was confined to a short specified list which included only horses, cattle, carriages for pleasure or for hire, stock of merchants, mechanics, manufacturers, etc., and stock or shares in water craft for freight or passengers. A particular feature of the Act, a provision introduced on petition, was the substitution of annual rental value for capital value as the basis of assessment in towns and cities.

REFORM MEASURES

14. The assessment legislation introduced in 1849 became law in the following year. It was part of the substantial local government reform in Upper Canada that followed the Rebellion of 1837 and it was built upon the Durham Report of 1840.

15. The most important Act, adopted in 1849, became the foundation of our present Municipal Act. Known familiarly today as the Baldwin Act, that comprehensive piece of legislation gave the inhabitants of Upper Canada a full-fledged structure for local self-government thirty-nine years ahead of the Mother Country. Our present array of local municipalities, cities, towns, villages and townships, our county system for Southern Ontario and that traditional stepping-stone to urban autonomy, the police village, all date from 1849. The Baldwin Act made provision for the levying of property taxes by the local municipalities and for the requisitioning of tax funds by the counties, much as is done today.

16. Closely rivalling The Municipal Act in importance was the Act passed in 1850 which constituted the authority for a mandatory state-supported school system. The name of Egerton Ryerson is inseparably linked with that legislation. Among other things, it gave the school trustees for the first time the undisputed right to require taxes to be levied on property for school support. Although dating from 1841, the right to demand property taxes for school support had continued to be challenged until given a firmer legislative base. In urban municipalities, The Common Schools Act of 1850 placed responsibility upon municipal authorities to provide the money and left to them the problem of collection. In townships, the public school trustees had a choice between providing their own tax collectors and placing the onus upon municipal authorities to perform this function. They retained the choice until 1877 when their position was made uniform with that of the urban boards. The Act for the better establishment and maintenance of Common Schools in Upper Canada, like The Municipal Act which preceded it, provided a much more progressive framework for community action than the Mother Country enjoyed then or for many years to come.

17. The third plank in this remarkable platform of reform legislation was The Assessment Act. In a sense, it could be viewed as an extension of both The Municipal and The School Acts since it ensured a strong independent source of funds for both municipal and school services. The assessment legislation sought to establish that all inhabitants would be required to join in the support of local self-government according to their ability. The objective was acknowledged in the title of the statute itself: "An Act to establish a more equal and just system of Assessment in the several Townships, Villages, Towns and Cities in Upper Canada."[6]

18. The framers of the legislation produced a statute that was well reasoned and thorough. It contained most of the concepts and much of the wording expressed in the present-day Assessment Act. It included a definition of land and of taxable properties. The exemptions were quite similar to those still allowed: Crown properties, churches, schools, charitable institutions and public libraries. Property taxes constituted a lien on land, and in the event of default land could be sold for taxes, subject to a right of redemption by the former owner within three years. Provision was made for the first Courts of Revision. Five members of any local municipal council were authorized to hear assessment appeals. The assessor was empowered to obtain information from a property holder and required to notify a property holder of the amount of his assessment. An amendment of 1851 spelled out the power of county councils to effect county assessment equalizations. In the same amendment, it was provided that "all machinery so fixed . . . as to form in law part of the realty, such shall be . . . assessed as part of such . . . property".[7] The problem of making a clear distinction between real and personal property had begun.

19. The Assessment Act of 1850 was further revised in 1853. In the amended statute, we find the beginning of the special treatment of properties that ordinarily span a number of municipalities. As noted above, the assessors had the right to require property holders to file an annual return setting out the value of their real property holdings. Railway companies, however, were assigned this responsibility by statute. More important, the companies' returns were expected to differentiate between the roadway and all other real property and the assessors were to draw the same distinction in placing their valuations on railway property.

20. The Assessment Act of 1850, with its amendments to 1853, constituted a settled and accepted piece of legislation, except for three features that were the subject of debate from 1843 to 1853 and that continued to cause dissension through the succeeding years. These were the treatment of personal property, the designation of income as part of personal property, and the alternatives of assessing real property at its annual rental value or its capital value.

21. The original intention was to make personal property taxable on a broad basis but, as a consequence of the resulting barrage of public criticism, personal

[6] 13 and 14 Victoria, c. 67, 1850.

[7] 14 and 15 Victoria, c. 110, 1851.

property was confined in the Act of 1850 to a few specified items. Next, the amendment of 1851 made clear that a manufacturer's raw materials and goods in process were to be regarded as part of his taxable personal property. Then the amendment of 1853 introduced a relatively broad definition of personal property including all goods, chattels, shares in incorporated companies, money, notes, accounts and debts at their full value.

22. Under The Assessment Act of 1850, income was taxed to a limited extent as the personal property of the recipient. The original intention in 1843 had been to make most income subject to tax as personal property. As the bill was reintroduced in 1849, that provision had been entirely eliminated. As finally passed, however, earned income in excess of £50 derived from any trade, calling or profession, became an item of taxable personal property. The amendment of 1851 made it plain that farm income was exempt. Finally, some additional exemptions were contained in the 1853 legislation.

23. The adoption of annual rental value as a base for property taxation in urban municipalities apparently was not contemplated by the drafters of either the abortive bill of 1843 or the bill presented in 1849. This provision was placed in the latter bill on amendment in response to petitions. The legislation as enacted specified capital value for rural municipalities and rental value for urban municipalities. The amendment of 1851 defined the method of reconciling the two for county equalizations. The Assessment Act of 1853 introduced the term "rack rent" as the level of rental value that the assessor was expected to apply to real property, thereby emphasizing that the rental value should approximate full annual value. It continued to regard the annual rental value of personal property as equal to 6 per cent of its capital worth.

GAINS CONSOLIDATED

24. From 1853 to 1866, the assessment legislation in this province remained virtually unchanged. Amendments introduced in 1860, 1861 and 1863 were in general of such a minor nature as merely to underline the stability of the consolidation of 1853. One change does merit mention, however. In 1861, two provisions were inserted in the Act with the object of limiting the assessment of vacant farm or garden properties within urban centres to their value for farm use.

25. In 1866, new consolidations of both The Municipal Act and The Assessment Act were prepared and adopted as part of the statutes of that year. The principal changes in The Assessment Act reflected the growing gap between English precedent and Canadian practice as increasingly influenced by American experience. All municipalities were now required to employ capital value as the base for taxation. Assessments were to be expressed in dollars rather than pounds. Income was to be added to the now broad definition of personal property and both earned and investment income were to be counted in reckoning income of the year as a taxable asset. The total was then subject to a basic exemption of $300. Another less striking change permitted counties to appoint valuators whose reports would provide the basis for county equalizations.

26. The tax concept advocated by the Baldwin-LaFontaine ministry as early as 1843 found its full expression for the first time in The Assessment Act of 1866. That legislation, which combined real and personal property as the tax base and included personal income as a component of personal property, was no sooner in effect than it became subject to a mounting barrage of criticism. Such disapproval notwithstanding, the tax base remained fundamentally little changed, with three significant exceptions, until the landmark revision of 1904.

NEW STIRRINGS OF CHANGE

27. The first change of importance from the position adopted in 1866 occurred in 1868 when municipalities were permitted to exempt industries from taxation for a limited term. This power, although progressively curtailed in later years, was to remain in the statutes for almost a century. In some municipalities, there are still fixed assessments having several years to run.

28. A second change of great potential significance took place in the legislation of 1890. As an alternative to taxing a mercantile business on its personal property assessment, a municipal council could by by-law substitute a business tax. The maximum levy was to be 7½ per cent of the annual value of the business premises and the annual value for this purpose was to be computed at 7 per cent of the assessed real value. The by-law could classify businesses and fix such percentages within the permitted maximum for each class as seemed reasonable to the council. Under the statutory relationship between capital and annual value, the maximum business tax was equivalent to a levy of 5¼ mills against the assessed value of the business premises.[8]

29. Thirdly, the assessment legislation of 1892 introduced a unique approach to the taxation of farm property, and one that has remained in the statutes to the present day. Where land held and used for farm purposes in blocks of five or more acres did not receive as much benefit from certain services as other lands in the municipality, the council by by-law was expected to make such lands wholly or partly exempt from the tax imposed to support these services. The listed services were of the type ordinarily furnished by urban municipalities but not by purely rural municipalities. The striking feature of that legislation was that it constituted an attempt to tailor property taxation more closely to the benefits-received principle.

30. In addition to these key changes, the period to 1904 produced other lesser amendments and continued the practice of periodic consolidation of the assessment legislation. Other important dates in this chronology are 1869, 1877 and 1897. Among the changes of note were: the provision for assessment of mining properties at the value of agricultural lands in the neighbourhood; the introduction of an additional classification of property of railway companies for valuation purposes, that of vacant lands; the assessment of personal property of incorporated companies against them rather than their shareholders; the raising of exemptions from personal property and income assessment; the enlargement of the sections dealing with exempt properties; and the limitation of the tax levy to 2 per cent of

[8]53 Victoria, c. 55, 1890.

taxable assessment for other than school purposes. A more important development was the establishment of inquiries into the assessment and tax system. No less than six successive bodies were appointed at increasingly frequent intervals.

31. In 1878 the Province named a Select Committee on Taxation and Exemptions. As part of its work, the Committee obtained information on exemptions from property taxes in all other Canadian provinces except Prince Edward Island, in twenty-six states of the United States and in New Zealand and England. From the evidence thus assembled and reviewed in the same year, it was clear that the range and nature of the exemptions from property taxation in Ontario found their counterpart in most of the other taxing jurisdictions studied. Included in the testimony placed before and noted by the Committee was some strong dissatisfaction with the property tax. In 1879, the Committee issued a second report which set out the responses to inquiries directed to municipalities, financial institutions, business and professional organizations and other key groups in the community.

32. Neither committee report contained recommendations. Nevertheless in 1880, an Act was passed respecting municipal assessments and exemptions which was doubtless influenced by the committee's efforts. Under one provision of this Act places of worship were made subject to local improvement levies and under another the special provisions respecting assessment of vacant farm or garden lands within urban municipalities were made permissive at council's discretion.

33. The second body to study property assessment and taxation was the Commission on Municipal Institutions, which issued its initial report in 1888 and its final report the following year. The latter contained an historical review of local government from 1793 to the passage of the Baldwin Act in 1849. It also contained a strong condemnation of the personal property tax, already stated in the first report of the Commission.

34. In 1893 there followed a report issued by a three-member Commission on Taxation. The sole objective of that Commission was to collect information on taxation, an undertaking it carried out with some ability. Its report furnished further evidence of dissatisfaction with personal property as a base for taxation and of the continuing concern over the extent of property tax exemptions.

35. The most important inquiry during this period was that of the Ontario Assessment Commission appointed on September 10, 1900, with responsibility to inquire into and report upon questions of municipal assessment and taxation. It was expected to deal thoroughly with thorny problems of long standing. Its seven members were persons of distinction and included two Justices of the Supreme Court of Ontario, one of whom, The Honourable Mr. Justice James Maclennan, was the chairman. The Maclennan Commission issued reports in 1901 and 1902, the latter containing the Commission's conclusions and recommendations.

36. The government's reaction to the second Maclennan Commission Report was to appoint a committee of the Legislature in the following year to review its proposals and confirm or modify its recommendations. Included in the subject matter covered by the Maclennan Commission and the legislative committee that

dealt with the report was the assessment and taxation of railway properties, which ordinarily extend through a number of municipalities. The action taken by the government to resolve problems of railway taxation was the appointment in 1904 of yet another body of inquiry, the Commission on Railway Taxation, which in turn produced a report in 1905.

ABANDONMENT OF THE PERSONAL PROPERTY TAX

37. The personal property tax was the subject of debate in this province when it was first proposed in 1843, and from the time of its first broad application in 1853 until its abandonment half a century later in 1904. Dissatisfaction with the personal property tax became a major reason for the appointment of commissions or committees of inquiry into the local tax system. The reports of these bodies, moreover, reinforced the continuing public clamour for change and resulted in its eventual repeal. The Commission on Municipal Institutions of 1888 stated that "the valuation of personal property varies so much as almost to prove *prima facie* that this cannot be an equitable basis of taxation".[9] In 1893, the Commission on Municipal Taxation noted the interest of witnesses appearing before it in replacement of the personal property tax either by an income tax or a business tax based on the rental value of occupied premises. Finally, the second report of the Maclennan Commission sought to deal the personal property tax a death blow when it declared: "One conclusion which can unhesitatingly be drawn is that the tax on personal property is a failure, and that it is a hopeless task to attempt to perfect it by further legislation. It should therefore be abolished; and if taxation is not to be borne by land alone some substitute for it must be devised."[10]

38. Criticism of the personal property tax was not, of course, confined to Ontario. Its removal from this province was certainly influenced by experience elsewhere. Within the province of Quebec, where in the pioneer period smaller demands had been placed upon the property tax, personal property never became a significant part of the base. When more revenues were required, the largest cities introduced business taxes as then found in France. Montreal obtained authority to impose a rental value business tax in 1876 and Quebec City eleven years later, in 1887. Similarly, Winnipeg, which operated under its own charter, replaced the personal property tax with the business tax in 1893. Brandon followed suit in 1900. Several years later, the towns and villages of Manitoba were authorized to impose a business tax in place of the personal property tax on business. In Edmonton, a similar development occurred when it became a city in 1904. The following year a commission of inquiry recommended abolition of the personal property tax in British Columbia, a proposal that fell on deaf ears.

39. Within the province of Ontario, the yield from personal property was never very great, notwithstanding the inclusion of income in the base. The Report of the Commission on Taxation in 1893 revealed that over a ten-year period the yield from the tax on personal property in the City of Toronto averaged only 12½

[9]Quoted in Solomon Vineberg, *Provincial and Local Taxation in Canada*, New York: Columbia University Press, 1912, p. 39.

[10]Ontario Assessment Commission, *Second Report*, 1902, p. 24.

per cent of total property tax revenues. Furthermore, if the portion obtained through a levy on income is deducted, the yield was a mere 8 per cent. For the year 1892, a comparison was made between the cities of Toronto and Boston. In the former, personal property produced only 10.7 per cent of the total while in the latter it brought in 23.9 per cent. The Toronto figure also reflects the declining relative yield from the personal property portion of the property base. A few years later, the Second Report of the Maclennan Commission likewise contained figures showing the comparatively small yield from personal property and the declining share of revenue from this source. In addition, their published data revealed wide differences in the yield between one municipality and another. Figures were presented for thirteen principal Ontario cities covering thirteen years. They indicated that the proportion obtained from personal property taxation varied from a peak yield in one particular year of 23.3 per cent in Kingston to a low in another year of 3.4 per cent in Windsor. From all the evidence available, it is quite apparent that the small and declining revenues from the personal property base can be attributed, first, to an increase in the exemptions of particular intangibles, intended to prevent double taxation but in fact responsible for growing inequalities in tax treatment and second, to increasing tax evasion through such devices as the deduction of fictitious debts in calculating taxable property. As one writer of the time saw it:[11] "In actual practice, the personal property tax had become a tax on the stocks-in-trade of merchants, except in the few cases where income was reached."

40. Having concluded that the personal property tax ought to be replaced, the Maclennan Commission proposed an alternative that it felt would tax all persons with reference to their income either directly or indirectly. The Commission recommended flat-rate occupancy taxes on both business and residential properties subject, on the one hand, to certain basic exemptions and, on the other, to direct taxation of investment income and of business income in excess of a stated level. This emphasis on an indirect method of reaching income doubtless reflected the fact that the taxation of income had been strenuously resisted through the years and was only just beginning to gain importance in taxing jurisdictions throughout the world.

41. The Select Committee of the Legislature developed its own proposals for replacing the personal property tax. It favoured a business tax with a graded rate structure and concluded that the residential occupancy tax would not be necessary. Taxation of income was to remain a separate matter. The Committee felt confident that its plan constituted "a satisfactory substitute for the assessment of personal property."[12]

THE BUSINESS ASSESSMENT ALTERNATIVE

42. Despite the opportunity granted to Ontario municipalities by statute in 1890 to replace their personal property taxes with business taxes calculated in relation to the rental value of premises, no municipality availed itself of the option. This abortive legislation had contemplated differing rates of tax assessed against

[11]Vineberg, *Provincial Local Taxation*, p. 41.

[12]Legislative Assembly of Ontario, *Journals*, 1904, Vol. 38, p. 139.

different kinds of mercantile business, as seemed reasonable to each municipal council. Perhaps it was too much to expect individual municipalities to exercise this kind of discretion. In any event, the Maclennan Commission expressed its clear preference for a flat-rate tax, a system that existed at the time in a number of other Canadian cities.

43. A flat-rate business occupancy tax was designed by the Maclennan Commission as the chief means of taxing income indirectly. For persons engaged in trade, manufacture and financial or commercial businesses (other than certain exempted businesses), the occupancy tax was applicable regardless of a person's income level. For persons deriving income from other offices, professions or callings, the business occupancy tax applied to those with incomes in excess of $1,000. Above the $4,000 level, income was also taxed directly. Persons with income from all other sources, including investment income, were to pay tax on it directly. In urban municipalities, including police villages, residential occupants were to pay a house tax which was subject to a basic exemption determined according to the population of the municipality in which the property was situated. There was but one serious departure from principle. The farmer was to escape both the business and house taxes just as he had escaped responsibility under the personal property tax legislation for paying tax based upon his income from the farm.

44. The Select Committee of the Legislature undertook to recommend changes from the Maclennan Commission proposals and these were of such a nature as to involve a complete departure from the principles on which these proposals had been based. Rather than accept the value of business and urban residential premises as an appropriate measure for a basic amount of tax, the Select Committee endeavoured to relate the new tax to the old by setting differing percentages by class of business, with the intention of producing about the same revenues as the personal property tax had done. In the Committee's own words:

> The 'Business Assessment', in its amended shape, besides having been put into a form which harmonizes with the mode of assessment of land and income, so as to enable a single municipal rate to be struck, has been so graded, and the persons subject to it so classified, that the assessments under it when made will, it is hoped, relatively, if not actually present amounts which might be assessed against each person if they had been arrived at by an actual inspection and valuation of the personal property of the person. . . .[13]

45. Like the Maclennan Commission, the Legislative Committee favoured retention of income as a base for taxation after dropping the remainder of the personal property tax base. The objective was, as they put it, "to reach all those who would not be adequately assessed in any other way".[14]

46. Like the Maclennan Commission plan, the proposed combination of taxing arrangements could be expected to secure wide coverage but not equity. In this respect, the Select Committee's plan was plainly inferior. Although the Commis-

[13] *Ibid.*

[14] *Ibid.*

sion specifically advocated the exemption of farming operations both from the household tax and from the new form of personal income tax which it recommended, in other respects it held reasonably well to its objective of spreading tax responsibility widely. By contrast, the Select Committee opposed the house tax proposal and thereby advocated in effect a split weight of taxation between residential and business properties. In addition, the rate structure smacked of expediency in taking as a model the weight of taxation under an existing tax system which was itself far from adequate. Moreover, with respect to some classes of taxpayers, the relationship to the old personal property tax was surely suspect, as for example, the rates of 150 per cent for distillers, 75 per cent for brewers and 75 per cent for various financial institutions. In addition, the plan of business assessment and taxation advocated by the Select Committee came hard on the heels of Ontario's first corporation tax. That tax really represented a group of special levies upon financial institutions, transportation and communications companies, and utilities. Thus the rate structure proposed for the municipal business tax constituted one more departure from uniformity of tax treatment without any evidence that the modifications would improve tax equity. Finally, the following opinion again drawn from Solomon Vineberg, a tax student of the time, is relevant: "It is evident that the scheme of business assessments, being based on the old system, is inequitable to the extent that personal property was evading taxation at the time of calculating the percentages."[15]

SPECIAL-FRANCHISE PROPERTIES

47. At the turn of the century, railroads, telephone and telegraph companies, gas companies, street railways and other utilities were for the most part, if not entirely, private enterprises whose status in each municipality was ordinarily determined by a special-franchise arrangement, including where necessary the use of public thoroughfares for poles, wires, pipe lines or trackage.

48. The basis for valuing such special-franchise property, like other forms of real property, had from 1853 onward been "the full value of property as it would be taken from a solvent debtor in payment of a just debt". At the turn of the century, the accepted interpretation of this phrase in assessing special-franchise properties was demolished by a notable decision of the Court of Appeal[16] which was dubbed the "Scrap Iron Case". The decision of the Court was that "in assessing the poles, wires, etc. of a telephone company, such property . . . must be valued as materials which, if taken in payment of a just debt from a solvent debtor, would have to be removed and taken away by the creditor."[17] It was this problem which led the Maclennan Commission to issue an interim report in 1901. In it, the Commission recommended that the valuation section of The Assessment Act be changed to provide that properties of all sorts be "assessed at their actual value".

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[15]Vineberg, *Provincial and Local Taxation*, p. 54.

[16]*Re Bell Telephone Co. and City of Hamilton*, (1898) 25 O.A.R. 351.

[17]Ontario Assessment Commission, *First Report*, 1901, p. 41.

49. We think it unfortunate that the Legislature did not see fit to make the simple and comprehensive change the Commission proposed. Instead, the following new wording was introduced applicable only to the special-franchise properties: "actual cash value as the same would be appraised upon a sale to another company possessing similar powers, rights and franchises . . . and subject to similar conditions and burdens. . . ."[18] This special and somewhat controversial definition of value has governed these specified properties for widely differing lengths of time. Its application to telephone and telegraph companies ended in 1904, and it ceased to apply to light, heat and power companies, and to transportation companies other than railways, in 1957. Railways still come under its terms.

50. In its second and final report, the Maclennan Commission recommended a distinctive approach to the valuation of special-franchise properties, by which it hoped to overcome the long-standing difficulty that faced municipal assessors in dealing with them piecemeal. Its remedy was a simple one: to transfer the responsibility to a provincial board of tax commissioners who could value such properties in their entirety and apportion the relevant assessed values among the municipalities in which they were situated. A novel provision gave the assessed property owner, as his first right of appeal, recourse to the very provincial board that had made the assessment. A further appeal could be made to the Court of Appeal. The Commission proposed that the taxes on such properties be payable to the Provincial Treasurer. The tax revenues, after deducting the costs incurred by the provincial board of tax commissioners, would thereupon be distributed to the municipalities concerned. The latter proposal was severe, if logical, and may have contributed to the plan's subsequent rejection by the provincial government.

51. The Select Committee that reviewed the Maclennan Commision Report advanced its own proposal for taxation of telephone and telegraph companies. It advocated imposing tax on another base such as gross receipts or mileage of wire. As to railway companies, the Select Committee thought that any increase in taxation upon them should take the form of additional provincial taxes. These would come in the wake of the first corporation taxes, which had just been imposed upon railways and other selected strategic enterprises. The Assessment Act of 1904 gave effect to both methods of taxing telephone and telegraph companies advanced by the Committee. The gross receipts basis was adopted for urban municipalities while a statutory levy based on mileage of lines was applied to rural municipalities. As to the railways, the government decided to institute a further inquiry in consequence of the problems disclosed in the hearings before the Maclennan Commission. Thus the Commission on Railway Taxation was appointed in 1904 and it reported a year later. One of the Railway Commission's major recommendations was that municipal authorities should restrict their own taxation to the real property of railways exclusive of the roadbed, but that municipalities should receive in addition a share of the provincial taxation of railway companies. In 1906, the Legislature implemented this recommendation, and in return for narrowing their railway tax base, the municipalities were compensated to the extent of half the provincial

[18] 2 Edward VII, c. 31, 1902.

revenue from railway taxation, less $30,000. The transferred funds were distributed according to population. For reasons by no means obvious, deductions were made from these payments for the cost of maintaining each municipality's patients in Ontario asylums.

52. In 1908, as a further response to the Report of the Commission on Railway Taxation, the mileage levies payable under the corporation tax legislation were considerably increased and in 1911 they were stepped up further. As Professor Mavor noted:[19] "The method of levying the Corporation Tax is so diversified that it is quite impossible to arrive at any conclusion regarding the fairness or otherwise of the distribution of tax. It will be noticed that there has been a tendency to increase the rate of taxation . . . chiefly in the case of railways and in that of banks."

THE ASSESSMENT ACT OF 1904

53. The Maclennan Commission couched its recommendations in the form of a substantial rewriting of The Assessment Act together with explanatory notes on the important changes. As already indicated, the commission report was challenged on a number of major points by the Select Committee of the Legislature appointed to review its proposals. Consequently, the draft bill introduced in the Legislature differed materially from the Maclennan Commission recommendations, and it had a stormy passage. During the processing of the bill, the House went into committee no less than eight times for discussion of the bill.[20]

54. The Assessment Act of 1904 introduced the concept of apportioning the value of a property between land and buildings and of regarding the value of the buildings as the value they added to the land. In the Maclennan Report draft statute, the explanation accompanying the proposed change read: "In regard to buildings upon any land, their condition on account of disrepair or inappropriateness, might *by possibility* not enhance the value of the land in the market, by as much of the cost of their erection, or they may not increase the value at all, or may even perhaps detract from its value."[21] To give full effect to this concept, the legislation should have permitted buildings to carry a negative value in some circumstances. Yet neither the Commission draft nor the 1904 Act made provision for that eventuality.

55. Since 1869, mineral lands had enjoyed preferential assessment at values equivalent to agricultural lands. The Maclennan Commission felt that investors in mineral lands no longer required such encouragement and proposed that the privilege be withdrawn. Their views were overridden and the provision was retained in the Act of 1904.

56. The Assessment Commission introduced the concept of exempting machinery from real property assessment. This problem had become significant as a consequence of the abandonment of personal property assessment and taxation.

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[19]Shortt and Doughty, Eds., *Canada and its Provinces*, 1914, Vol. XVII, p. 256.

[20]Reported in "The Evolution of Assessment Practice in Ontario", Correspondence Lesson of the Institute of Municipal Assessors of Ontario.

[21]Ontario Assessment Commission, *Second Report*, 1902.

The Commission proposal was accepted but, by comparison with the Commission's draft, the wording was greatly expanded in the statute.

57. The Maclennan Commission had proposed that a provincial body be given responsibility for valuing railway lands. Because that approach was rejected, the special classifications for railway land as roadway, vacant lands or other lands were retained and a further classification, public lands, was added. The Act of 1904 also exempted steam railway companies from business assessment. Finally, it stipulated that the ordinary assessment of steam railway properties was to be carried on quinquennially rather than annually. None of these measures had been developed by the Maclennan Commmission.

58. As already noted, members of municipal councils had constituted the courts of revision since the enactment of The Assessment Act of 1850. In 1890, the larger cities had been permitted to set up courts whose members were drawn from outside council. In 1897, all cities were required to do so. Thus two different systems based upon conflicting principles existed side by side. The Maclennan Commission was prepared to support the two arrangements and accordingly the inconsistency was written into the Act of 1904.

59. Finally, The Assessment Act of 1904 accomplished a complete overhaul of the municipal income tax provisions that had formerly been part of the personal property tax. As one writer has noted: "The Act was made considerably more effective by the introduction of source reporting of salaries, wages, and other payments. For the first time a definition of income was introduced, which, incidentally, was to be the definition of income adopted in 1917 for the new Dominion Income War Tax Act."[22] This one feature of the legislation illustrates the quality of the Maclennan Commission's effort.

60. The Assessment Act of 1904 has provided the legislative base for property assessment and taxation in Ontario to the present day. Although it has been subject to periodic revision, it has undergone few fundamental changes. Commonly it is regarded as the legacy of the Assessment Commission chaired by Mr. Justice Maclennan. In particular, that body is frequently held accountable for the classified business tax system which has now held sway for more than sixty years. A more valid view, we suggest, is that the Act of 1904 represented the consequences of a tug-of-war between the views of the Maclennan Commission and the attitude of the provincial government guided by a Select Committee of the Legislature. At this distance, the product appears materially inferior to the assessment act that the Maclennan Commission had drafted in the first instance.

TWENTIETH-CENTURY DEVELOPMENTS

SINGLE TAX FLIRTATION

61. Municipal assessment and taxation was examined by three select committees of the Legislature between the passage of The Assessment Act of 1904 and

[22]J. Harvey Perry, *Taxes, Tariffs, & Subsidies*, Toronto: University of Toronto Press, 1955, Vol. I, p. 133.

the end of World War I. Thereafter, for more than thirty years, no use was made of select committees for this purpose. One theme ran through the deliberations of all three committees—the single tax. The idea that ownership of land should provide the sole focus of taxation was first advanced by Henry George in his remarkably popular book, *Progress and Poverty*, which first appeared in 1879. The single tax movement had already caught the imagination of many people throughout the North American continent and in other parts of the world before it gained substantial notice in Ontario.

62. The earliest of the three select committees was appointed in 1909. The most notable feature of its deliberations was the receipt of petitions from about 230 municipalities throughout the province asking for power to tax improvements at a lower rate than land. The petitioners wanted the differential to be fixed in each case by the municipality. Such a change was clearly in the direction of the single tax and would have constituted a natural transition toward it. The Committee was not moved to recommend any such development, however, and no legislation resulted.

63. Quite naturally, the same Committee was also interested in the subject of business assessment. On that question, its conclusion was that "It is generally conceded that the business assessment is preferable to the assessment of personalty."[23] The Committee did favour some changes in business tax rates and recommended the imposition of a business tax on all clubs where meals or alcoholic beverages were served whether or not carried on for profit. The subsequent legislative enactment subjected "proprietary or other clubs" to a 25 per cent business assessment. Since then, however, the courts have interpreted the legislation less widely than the Committee's evident intent. Clubs that are not conducted for profit and are neither proprietary[24] nor similar in form have escaped the net.

64. The next Select Committee, appointed in 1912, spent a large part of its time hearing representatives of the Single Tax Association and of the Tax Reform League, two organizations with similar objectives. The Committee acknowledged some concern that buildings were in some instances subject to excessive assessment by comparison with the assessments placed upon land and it turned interest in the single tax in this direction. But the Committee concluded that in most municipalities buildings were not assessed at too high a level in comparison with land. In the few places where they were out of line, the Committee felt that excessive reliance was being placed upon cost data, which usually overstated the present worth of buildings. The Committee was not prepared to propose any differential in assessment or taxation, by way of moving in the direction of the single tax. Its recommendations did include higher exemptions under the municipal personal income tax provisions and termination of the special assessment of farm lands situated within urban municipalities. Both recommendations were implemented, although the favoured treatment of farm lands was re-established a mere two years later.

[23]Legislative Assembly of Ontario, *Journals*, 1910, Vol. 44, p. 18.

[24]W. S. McKay, *The Assessor's Guide*, St. Thomas: The Municipal World, 1962, 21st Edition, p. 58.

65. Bearing in mind the climate of opinion in the more westerly provinces and the variety of pressures placed upon government to move toward the single tax, the absence of favourable recommendations by either the 1910 or 1913 select committees was surprising. Legislation in the direction of the single tax had been adopted by all four western provinces. Considerable interest in the subject had likewise been evidenced in the Maritime provinces. The Union of Ontario Municipalities had endorsed the principle of exempting improvements in 1911. Bills with this intent had been introduced in the Ontario Legislature in 1910 and again in 1912. In 1913, the electors of the City of Toronto had approved the notion by referendum. Still the Province did not act.

66. The third Select Committee did its work at the close of World War I. It was interested in post-war reconstruction and veterans' benefits. It favoured permissive legislation to allow partial exemption of dwelling units, with the extent of the tax relief on improvements graduated inversely to value and confined to properties assessed within modest limits. This proposal, which was translated into legislation, could be interpreted as a concession to single tax advocates but it was more specifically concerned with helping returning veterans. The Select Committee of 1918-19 also recommended legislation to enable municipalities to grant a ten-year exemption on veterans' dwelling houses when assessed at not more than $3,000. This measure was implemented in the same legislation.

67. The partial, graded exemption was taken up by only two Ontario municipalities, the City of Toronto and the Town of New Toronto. In both municipalities it has remained in effect to the present time, despite repeated efforts to revoke the privilege. In 1955, the Province removed the permissive legislation but retreated from its initial intention of requiring Toronto and New Toronto to relinquish their exemption by-laws. However, the creation of the Municipality of Metropolitan Toronto diluted the benefits of the partial exemption, and it may lead to its eventual disappearance.[25]

68. Indicating the temper of the times, the same Committee proposed, in the light of prohibition, the suspension of the business taxes applicable to brewers and distillers. It considered whether places of worship should be taxed and concluded that it was not in the public interest to make so sweeping a change in the law at that time.

69. Permissive legislation that would have allowed Ontario municipalities to confine their tax base to land was passed at the 1920 session of the Legislature. The Municipal Tax Exemption Act, 1920, permitted municipalities to withdraw in whole or in part from the taxation of improvements, income and business, in a series of steps extending over a minimum of four and a maximum of ten years. An amendment in the following year enabled 10 per cent of those persons qualified to vote on money by-laws to obtain consideration of the required local by-law by petition. The legislation remained on the books without result until its repeal in 1924.

[25]The 1966 amendment to The Municipality of Metropolitan Toronto Act enables the area municipalities concerned to abolish their partial, graded exemptions in stages over five years without electoral assent.

70. Presumably, the reason that Ontario escaped the single tax was that other jurisdictions were beginning to have doubts about its efficacy, with the result that the pressures did not build up sufficiently to induce municipalities to put the tax into effect in this province. In 1919 the Report of the Manitoba Assessment and Taxation Commission attacked the principles of the single tax in what Perry called "a document that should rank among the Canadian classics in taxation literature".[26] Municipalities throughout the four western provinces began moving away from the single tax after World War I, influenced no doubt by the Manitoba Report and the firm opposition of recognized tax experts. The nearest approach to the single tax in Ontario has been the partial, graded exemptions that have persisted for so long in Toronto. From time to time, interest in the single tax has been revived in Ontario as in other taxing jurisdictions. It is now commonly called site-value taxation, a more accurate designation under present conditions. A few years ago this idea found enough supporters in tax circles to warrant its inclusion as a major topic at a Canadian Tax Foundation conference. Some interest was also expressed in this taxing device in submissions to our own Committee.

TAXATION OF MINING PROPERTIES

71. The years that produced the most active consideration of the single tax also firmly established the exemption of most mining property from municipal taxation, accompanied by a compensating flow of revenues to the same municipalities through a tax on the profits of mining operations. In 1907, an amendment to The Supplementary Revenue Act of the Province imposed a 3 per cent tax on the profits of producing mines in excess of $10,000 per annum. The legislation described in detail the procedures to be followed in determining mining profits and provided for the appointment of mines assessors to administer the legislation. An amendment to the Act in the following year gave mining municipalities the right to as much as one-third of the revenues from mining profits through the application of the municipal income tax provisions to profits from mining. With this assured source of municipal revenues from mining, the Province expanded the favoured treatment of mining properties under The Assessment Act. In addition to requiring mining land to be valued by comparison with agricultural lands in the neighbourhood, an amendment of 1910 exempted from realty assessment and taxation the buildings, plant and machinery used for obtaining and storing minerals. The new legislation also made it clear that the mineral wealth of the land was not to be assessed and that mining properties, except when utilized for non-mining business purposes, were exempt from business assessment. This approach, once adopted, has remained the central feature of mining assessment and taxation in Ontario. Upward adjustments have been made periodically in the amount of money available to municipalities from mining profits. Moreover, when municipalities were stripped of the right to impose personal income taxes in 1936, the municipal assessment of income from a mine was deemed to be realty assessment in order that it might continue as a local revenue source.

[26]Perry, *Taxes, Tariffs, & Subsidies*, Vol. I, p. 181.

72. In 1952, a major change was made in the legislation by which municipalities obtained mining revenue payments. Instead of allowing such municipalities to tax mining profits directly, the Minister of Municipal Affairs was given authority to issue regulations under which a complex formula would serve to determine the extent of mining revenues payable to "designated mining municipalities". Detailed consideration of this legislation is left to a later chapter. Here it is enough to note that the formula included both the size of the mines' profits and the extent of employment in mining. It took into account the place of residence as well as the place of employment of miners, thus permitting dormitory municipalities to qualify for mining payments. It included floor provisions and the phasing of payment cutbacks when a mine's profit diminished, when its operations were curtailed, or when it ceased production. The formula contained no factor to adjust for changes in the value of the dollar. Lastly, a designated mining municipality was required to obtain provincial approval of its current estimates before a determination of its annual mining payment was made.

73. The special tax and revenue position of mining municipalities has subjected the provincial government to repeated representations from mining municipalities and has required protracted and difficult negotiation. Mining municipalities in northern Ontario formed an association which has continually pressed the case for more favourable mining payments. As might be expected, that association was among those that made detailed submissions to our Committee.

MUNICIPAL INCOME TAX

74. The local taxation of income dates from 1850. At the higher levels of government, corporation taxes were first imposed, on a selective basis, by the Province of Ontario in 1899, and a general income tax, both personal and corporate, was levied initially in 1917 by the federal government. Its Income War Tax Act of 1917 was confidently regarded as a temporary emergency measure. Had it not been for a different kind of crisis, the depression of the 1930's, the national government's use of these major direct taxes might indeed have been dropped for a time. With the advent of World War II, it soon became obvious that personal and corporate income taxes would assume a position of dominance among the federal government's sources of revenue, a position they have retained to the present time.

75. The depression brought Ontario into the corporation income tax field with a flat levy of 1 per cent. The municipalities were not required to withdraw from this field, in which the Province's participation remained small, until the beginning of World War II. In 1936, however, Ontario deliberately terminated the long-standing municipal personal income tax and replaced it by a provincial levy. In making that move, the Province was not merely meeting its own pressing demands for more revenues. Although the municipal income tax, both personal and corporate, had been by law a required supplement to the property tax, evasion in practice had been widespread. In 1929, a Select Committee of the Legislature had rejected a proposal that would have made the local income tax optional among

municipalities. Yet a number of non-complying municipalities continued to serve as tax havens for the well-to-do. Thus the Province was quite prepared to remove this municipal taxing power and to compensate the municipalities for the loss of the revenue source by a one-mill subsidy which, with the temporary intervention of the police and fire grants, became the predecessor of the present unconditional per-capita payments to municipalities.

76. Initially, municipalities lost only the right to tax personal incomes; they retained the power to tax corporations until the exigencies of World War II disturbed their position. In 1942, when the Province entered a first war-time tax agreement with the Government of Canada, municipal access to corporation income taxes was suspended. The last year in which municipal collections were permitted was 1943. In 1947, as an outcome of the first post-war tax agreement, municipal authority in the corporation income tax field came to an end.

77. The circumstances under which municipalities lost in turn their rights to tax personal and then corporate incomes has perhaps diverted attention from the consequences of this major change. In 1935, the year before access to the personal income tax was removed, the personal and corporate income assessment constituted only 2.4 per cent of the total taxable assessments of Ontario municipalities. By 1941, the last year in which corporation income tax rights remained undisturbed, the income assessment total amounted to a mere 0.3 per cent of taxable municipal assessments. But in spite of the failure of municipal government to use these taxing powers fully or well, they did represent a key source of potential revenue capable of yielding large amounts of money, broadening greatly the base for local taxation and materially improving its over-all equity. It is questionable whether the local level of government was capable then or would be capable now of using the income tax equitably and, at the same time, to good advantage as a source of revenue. In any event, the real property tax was left to fill a place in the Ontario taxation system that was bound to strain its capacity to contribute to an equitable tax and revenue system.

ASSESSED VALUE IN LAW AND PRACTICE

78. The Assessment Act calls for assessment of property at its actual value, a requirement that has been part of the law since 1850. Over the years, as the assessment function has progressed beyond a casual, common-sense estimate of value and as the demands upon the tax base have expanded, it has become steadily more difficult to reassess property frequently and to maintain assessed values at levels that coincide with current values.

79. In the thirties, the prolonged depression necessitated sharp reductions in assessed values in the wake of declining real property values, if assessments above market prices were to be avoided. Then during World War II, when municipal expenditures were greatly curtailed, it was possible to obtain sufficient tax revenues at existing mill rates without reassessing, and assessed values therefore continued to lag behind current values. At the war's end, a number of developments combined to widen further the gap between assessed value and actual value. Because

of low values attached to property during the depths of the depression, an adjustment to property price levels at the beginning of the war constituted a major upward adjustment in itself. To catch up on the course of post-war inflation would have been too much to expect. The tendency to settle upon 1940 values as a satisfactory level for reassessment purposes was reinforced by the Department of Municipal Affairs itself. The Assessment Manual, which was first issued by the Department in 1950, took 1940 as an appropriate base year for valuation purposes. By doing so, it encouraged those municipalities in which under-assessment had been flagrant to reach 1940 levels and those municipalities that had already done so to remain there. The revised manual, issued in 1954, retained the 1940 base year. It will remain the Province's unofficial guide for assessors until the newest assessors' handbook, released in the summer of 1964, is gradually put into use.

80. In 1946, the Province sought to strengthen the simple concept of actual value, contained in The Assessment Act of 1904, by listing the factors to be taken into account by the assessor in determining value. With respect to land without buildings he was to consider present use, location, revenue, normal sale value and any other circumstances affecting the value. Where lands had been built upon, he was also to give attention to cost of replacement and normal rental value. In 1955, the word "normal" was deleted, presumably because in a period of steeply rising values the expression would tend to support retention of assessed values below current values on the grounds that current values were not normal.

81. The first provincial equalization of assessment, carried out primarily for school grant purposes in the mid-1950's, established 1940 values as its base. It was only with the equalization figures issued early in 1966 that the factors were related to a new up-to-date base period, approximating current values. In making the change, the Department of Municipal Affairs took a giant step forward.

RELIEF FOR THE PROPERTY TAXPAYER

82. Throughout World War II, Ontario municipalities lived in a climate of self-imposed austerity, in the interests of the war effort. With peace restored, an expanding agglomeration of new requirements was piled upon a sizeable backlog of unfilled needs. That taxes on property had reached their limit was a view that soon became widespread among hard-pressed taxpayers.

83. In this province, relief for the property taxpayer has been confined to two interrelated forms: first, a massive enlargement of grants and payments to local authorities, including the indirect support afforded by greatly expanded aid to public hospitals, and second, the channelling of some grant assistance to the exclusive benefit of residential and farm properties, thereby specifically easing the situation of these particular taxpayers.

84. The extent of all forms of provincial financial assistance to local governments in Ontario has grown tremendously since World War II, even when account is taken of the shrinking value of the dollar. In 1942, the total of this assistance

was less than $20 million, but by 1946 it had reached $50 million. It is estimated that in 1965 it was close to $600 million. As a proportion of total municipal and school spending, provincial grants and payments have not always moved forward at a faster rate than local spending. Between 1955 and 1965, however, provincial subsidies to municipalities and local boards jumped from $184.5 million to an estimated $594.5 million, an increase of 222 per cent, whereas municipal taxation rose from $336.2 million in 1955 to $877.8 million ten years later, an increase of 161 per cent. Grants-in-aid from the Province to local governments have for the most part been conditional. They have been attached to a variety of spending programs, both capital and current, and their form has been engineered by a number of separate departments of the provincial government. In recent years, the proportion of the total related to education has grown greatly and now amounts to some two-thirds of all provincial grants and payments. School grants are payable directly to the local school boards whereas the remaining assistance is, for the most part, channelled through municipal corporations.

85. In 1952, the Province passed The Municipal Tax Assistance Act and amended The Power Commission Act to establish a system of payments in lieu of taxes on designated properties of the provincial government and its Crown corporations. This development followed by two years the introduction of a narrower scheme of payments in lieu of taxes by the federal government. The amendments to The Power Commission Act made provincial Hydro properties non-taxable and established the basis for payments on behalf of the Ontario Hydro-Electric Power Commission properties, with respect to both general and school rates. Thus it became the means of clarifying rather than expanding provincial responsibility with respect to Hydro properties. The method of valuing such properties, however, has held certain payments in lieu of taxes considerably below a realistic tax equivalent. With regard to other government properties, in respect of which payments were authorized by The Municipal Tax Assistance Act, the legislation represented a genuine advance. Yet the position here falls even shorter of a full tax equivalent. A number of major forms of provincial property are entirely excluded: provincial hospitals, educational institutions, penal reform institutions, experimental farms and fish hatcheries, to list the most important. Furthermore, the properties on which payments are made under this Act provide nothing in lieu of school taxes. Finally, those provincial operations that are akin to businesses were not made fully subject to payments in lieu of business assessment and taxation. Despite some widening of the Hydro coverage in 1959, the Province's plan of payments in lieu of taxes falls considerably short of subjecting provincial properties to an equivalent of the full weight of municipal taxation. Over the same time span, the federal government has twice altered its plan of payments. Today the adequacy of the federal payments greatly exceeds that of Ontario or of any other Canadian province. The chief shortcoming in the federal payments lies in the fact that federal Crown agencies do not necessarily match the standard set by the federal government on its own properties.

86. An early and notable feature of Ontario's system of grants to municipalities was its one-mill subsidy, supplemented for a time by a subsidy of a second mill, providing a form of unconditional aid presumably geared to need. Eventually the mill-rate subsidies were abandoned in favour of grants whose prime object was to stimulate improvement of police and fire services in order to bring them up to emergency measures standards. These latter grants served a temporary purpose but were under constant attack. The form of grant payments was, in consequence, one of the questions to which a Provincial-Municipal Relations Committee addressed itself in the early 1950's and on which it reported early in 1953. The Committee recommended a scheme of unconditional per-capita grants graded directly by population and hence favouring the larger urban municipalities. It was the Committee's belief that these enriched grants were justified because higher urban density created a need for more extensive or elaborate services. The Municipal Unconditional Grants Act was adopted the same year, effective from January 1, 1954.

87. In the spring of 1957, this Act underwent a most important amendment. Effective retroactively to January 1 of that year, the benefit of the Province's unconditional grant payments was to be given exclusively to residential and farm taxpayers. Municipalities were to calculate their required mill rates without reference to the grants and then apply them to cut back the residential and farm mill rates. Despite some criticism, the split mill rate has continued and the differential has been increased. Commencing in 1961, school tax assistance grants were introduced which were to be directed to the tax benefit of residential and farm properties. Their amounts were increased on a pre-staged basis in the second and third years. Then in 1964, provisions were written into the school foundation grant program for a 10 per cent reduction in the school mill rates payable by residential and farm properties, and the school tax assistance grants as such came to an end.

THE SUPPLEMENTARY BUSINESS ASSESSMENTS

88. It will be recalled that in 1910, six years after it had been instituted, the present business tax was given a satisfactory rating by a Select Committee of the Legislature. Nine years later, another Select Committee recommended nothing more than a few changes in the rate structure. The result was that the business tax was continued with only a few rate changes that were mostly designed to take account of the evolution of business itself. This general acceptance of the tax could not be taken as a certification of either its popularity or its essential equity. Any business enterprise will treat such a levy as a cost of doing business and will attempt to recover this cost in the sale price of its goods or services. If, broadly speaking, businesses of the same class across Ontario are dealt with similarly, the tax can be tolerated as it has been in recent years. In the early fifties, the Provincial-Municipal Relations Committee was asked to study the municipal business tax and it did so at some length. Its successor, the Municipal Advisory Committee, whose responsibility was to assist the Minister of Municipal Affairs on a confidential basis, also took a thorough look at the business tax in the mid-fifties. Both com-

mittees received representations from insurance companies, wholesalers and other classes of business that felt themselves aggrieved by the tax. On this subject, neither committee's recommendations have been made public.

89. In the spring of 1961, a Select Committee of the Legislature was appointed to study The Municipal Act and related Acts. It became known, because of its chairman, as the Beckett Committee. The Assessment Act was doubtless the second most important Act that the Beckett Committee examined. The Committee's views on business assessment and taxation are contained in its Second Report issued some two years later. The Committee recognized how difficult it would be to make sweeping changes, that would of necessity either add considerably to the tax burden of certain taxpayers or result in a substantial loss in total tax revenues. The approach, therefore, was to propose a simplification of the rate structure under which all businesses would be grouped into four categories, at percentage rates ranging from 25 to 75 per cent. The Committee also favoured an extension of the business assessment at the 25 per cent rate to apartment buildings containing more than six self-contained dwelling units. Despite the lapse of several years, none of the Committee's recommendations with respect to the business tax has been implemented.

A FAR-RANGING ASSIGNMENT

90. The assignment given to the Beckett Committee was of very broad scope. It included, in addition to The Municipal Act, the review of forty-two related Acts, most of which are administered by the Department of Municipal Affairs. Much of its work lay squarely within the field of interest of our own Committee. In its Second Report, the Beckett Committee noted that "representations . . . in regard to matters of assessment and taxation far outnumbered any other single subject."[27] The Committee, more sharply critical of the business tax than its recommendations might lead one to believe, described the tax as an "anachronism". But the Committee also dealt with many other matters, both small and large, in the field of assessment and taxation. Its reports were critical of the range of tax exemptions and the practice of assessing at a fraction of actual value. The split mill rate was branded as discriminatory. The Committee felt that places of worship must remain exempt from taxation but that property used for charitable and community purposes should be exempt only at the option of the local council. A number of recommendations were intended to strengthen the assessment function. The Committee's recommendation that a county assessment commissioner be appointed by by-law passed by a majority of county councillors representing 50 per cent of the county's equalized assessment instead of upon the unanimous assent of the councillors has since been implemented in spirit. Only a simple majority is now required, but the by-law must be approved by the Minister. The Committee recommended that municipal assessors be licensed, a development that had been energetically promoted by the assessors themselves, and that is now required by law. A large

[27]The Select Committee on The Municipal Act and Related Acts, *Second Interim Report*, March 1963, p. 5.

proportion of the Beckett Committee's recommendations in the field of assessment and taxation has yet to be acted upon. Among them is the proposed termination of the long-standing tax sale arrangements, in favour of tax registration and disposal procedures. This latter alternative was legislated during the depressed thirties to serve municipalities that, through financial difficulties, had come under direct provincial supervision. Since that time its application has been somewhat extended, although tax sale procedures remain much more common.

IMPROVING THE STANDARD OF ASSESSING

91. Probably the most significant and constructive assessment developments in recent times have been designed to bring about some improvement in the standard of municipal assessing. Pitifully poor assessment performances were all too common at the time of World War II and they have since then remained a serious concern.

92. The first notable innovation occurred in 1940. In that year, legislation was passed permitting the appointment of county assessors whose function was to supervise and advise local assessors throughout the county, with the object of introducing improved methods of assessment and fostering a greater degree of inter-municipal uniformity. Four years later, in 1944, the Act was changed to provide that where a county assessor had been appointed, his report was to serve as the basis for county equalization. The same legislation terminated the provision for county valuators, which had existed since 1866. By 1961, when the Province took the next step with legislation authorizing county assessment departments, all thirty-eight administrative counties had appointed county assessors.

93. According to the new legislation, establishment of a county assessment department under a county commissioner meant the elimination of the independent assessment operations of all the municipalities comprising the administrative county. The unanimous consent of the local municipalities was nevertheless required to effect the change. The difficulties that naturally resulted brought two further developments. In 1962, The Assessment Act was amended to permit county assessors also to serve as local assessors, where they were so appointed. In 1963, the Act authorized the county commissioner arrangement, if favoured by a majority of the county council and ratified by the Minister of Municipal Affairs. In the following year, legislation that had been passed in the fifties, to provide for district assessors with powers similar to county assessors, was amended to make the office of district assessor similar to that of the new county assessment commissioner. The legislation also enabled cities and separated towns to join with counties, or with other municipalities within a district, in larger assessment units. Thus a revolutionary change was made possible and is in fact now in progress. In speaking to his 1966 estimates, the Minister of Municipal Affairs was able to report that, as of January 1, 1967, twenty-four counties and five territorial districts had established larger units of assessment.

94. Such a rapid development of larger assessment units would not have been possible had it not been for the remarkable upgrading in the educational qualifications of assessors that has been accomplished since the close of World War II. It

can be described as an "operation bootstraps", because the initiative was taken by the municipal assessors themselves through their own Association of Assessing Officers. In December 1952, the Association established a committee to develop a program of correspondence training for assessors in this province, and its introduction represented an improvement over all programs then extant in the United States or Canada. By 1954, the program had developed sufficiently to warrant the formation of an Institute of Municipal Assessors and it became affiliated with Queen's University for training purposes. A three-year correspondence course was developed, with part of the subject matter being prepared by practising assessors and part by university professors and other educationists. In May of 1957, the University was able to report that the great majority of its first class had successfully completed the three-year correspondence program and the Provincial Secretary's Department announced that the Institute had been granted a provincial charter. More recently, the Province has undertaken to subsidize the training program with the aim of further strengthening its academic content. Before that transition occurred, between four and five hundred assessors had already completed the three-year course from Queen's University.

95. Progress in the field of assessment likewise required constructive developments at the provincial level. It was not until 1947 that the Department of Municipal Affairs established an Assessment Branch, and it took until 1950 for the Branch to produce the Province's first Manual of Assessment, a somewhat rudimentary attempt to assist municipal assessors in carrying out their duties. In 1952 the Province assumed responsibility for payments in lieu of municipal taxes on various Crown properties. For this purpose, the Assessment Branch had to make valuations of the properties, no doubt encouraging an expansion of field undertakings by the Branch. The opening of eight regional assessment offices in 1957 was an obvious consequence. These regional offices are the base points from which the assessment of Crown properties and the equalization of assessment for school grant purposes are undertaken. Also in 1957, the method of assessing what used to be called special-franchise properties, now known as special-assessment properties, was amended. Taking one tack, the statute prescribed rates of assessment per foot of length of transmission pipe lines of various diameters. These rates were based on actual cost data. On a precisely opposite tack, The Assessment Act abandoned the special test to be applied to properties of water, heat, light, power and transportation companies in fixing their values for assessment purposes, and brought these properties under the ordinary valuation section of the Act. The two concurrent happenings remind us that it may never be possible to fit all aspects of assessment and taxation into a mould of simple principles.

THE PRESENT POSITION

96. In March of 1963, in its Second Interim Report, the Beckett Committee observed that "The present method of municipal finance is outmoded, discriminatory and compounded by contradiction." Notwithstanding the substantial validity of that statement, the development of our system of assessment and taxation from

the earliest pioneer times to the present day includes much remarkable accomplishment, along with a number of anomalous arrangements that have continually weakened the tax system. In describing the present framework for property taxation and the place of the property tax at the local level of government, our objective will be to emphasize both the strong and the weak features of the current situation, both in large part the product of our tax heritage. While we are fully conscious of the accelerating rate of progress toward improvement of property assessment and taxation, our own particular assignment in this area lies in subjecting the whole system to critical scrutiny, with the object of devising and recommending realistic ways to extend and speed property tax reform still further.

DEFINITION OF THE BASE

97. While under the present provisions of the The Assessment Act the only property subject to municipal taxation in Ontario is stated to be real property, this is defined as including all machinery and fixtures other than machinery and equipment used for manufacturing and farming purposes. The line between real and personal property is neither precise nor well received. Can an improved definition be developed or must this remain a recognized deficiency of a realty tax base?

98. A wide variety of properties held by non-profit organizations of one kind or another has long been exempt from taxation. The list includes, in addition to government properties at all levels, Indian lands, places of worship, public educational institutions and other properties of religious, charitable and similar institutions. In part, such properties are subject to local improvement levies. To some degree profit-seeking owners of property may also enjoy exemption from property tax. Thus some forested lands on farms are exempt and companies formed to erect exhibition buildings may qualify in whole or in part for exemption of such buildings.

99. Over the years, exemptions from property assessment and taxation have been a continuing concern because of the substantial percentage of the potential tax base that yields no revenue. A precise figure cannot be struck, because assessors tend to put less careful valuations on property exempt from tax or subject to payments in lieu of taxes, and they allow such valuations to lag even more behind present values than do their other assessments. In 1965, the taxation of Ontario properties then exempt from taxation would have added 20.2 per cent to the assessment base. But because of the imperfections in the 1965 figures, a 25 per cent addition would doubtless be more accurate. Municipal properties represented approximately half the total. Payments in lieu of taxes, including those made by municipal utilities, would account for perhaps one-third the normal yield from all such properties.

100. Ontario municipalities recover a substantial proportion of the equivalent of full taxes on federal Crown properties, and a lesser porportion of full taxes on provincial Crown properties and those of their own municipal utilities. Neither taxes nor payments in lieu of taxes are derived from most remaining local government properties. Since 1952, the Province has held to a substantially unchanged position with respect to payments in lieu of taxes on provincial government

properties, despite repeated pleas by municipal associations and individual municipalities that the basis of payments be extended and increased.

101. With respect to other categories of tax-exempt properties, municipalities have taken less initiative. About ten years ago, the Province's Department of Municipal Affairs reviewed the whole question of tax exemptions, but no recommendations emerged. Nor did any immediate action result from the Beckett Committee's recommendations dealing with exemptions, notwithstanding a lively public interest in the whole subject.

102. The question of exemptions is an old and thorny one, on which opinion has always been divided. In 1893, for example, the Report of the Commission on Taxation contained much material on the subject of exemptions. It took up such controversial issues as the taxation of churches. Apparently, however, the study was not expected to, and did not in fact, yield any specific results.

103. Today, with the growth in the over-all revenue requirements of governments, the position of tax exemptions must obviously be reviewed. We want to know, for example, whether the practice of payments in lieu of taxes on Crown properties should be extended and, if so, to what limit. Should all municipal property be subject to payments in lieu of taxes or would such a course merely constitute a useless bookkeeping exercise? Can the Province extend payments in lieu of taxes to compensate municipalities for non-governmental properties that are exempt? Can it do likewise for universities, private schools, places of worship and public hospitals?

104. In addition to the definitions of taxable and exempt property, which state the extent to which real property is taxable, the base for property taxation is affected by the terms and conditions governing property valuation. Three issues are involved: first, the general approach taken to the valuation of property in theory and in practice by Ontario assessors; second, special legislative provisions requiring that specified forms of property be valued on distinctive bases; and third, the special treatment of yet other properties, which involves substituting an alternative method of calculating and obtaining tax revenues for the ordinary method of valuing and taxing real property.

105. We have already explained that the level of value that assessors have consistently applied for many years, and that have been acknowledged in the Assessment Manual and equalization reports of the Department of Municipal Affairs, are far below present actual values. The new equalization indexes, which are intended to reflect the relationship of assessed values to market values in the early sixties, suggest that the great bulk of municipal assessments represent one-third or less of the current market values of properties. The Assessment Branch of the Department of Municipal Affairs is encouraging reassessments at close to present market levels, as represented by the values contained in the latest assessors' handbook, but the success of this new crusade remains to be seen. At the same time, the prospects for success have obviously been considerably strengthened with the spread of the assessment commissioner and district assessor systems. Can

assessments be brought to present-day values? Would it be better to aim at a figure below full value, say 50 or 75 per cent? Once assessments have been raised to the desired level, can they be kept there? These are among the questions that must be answered in any realistic examination of assessment practice.

106. Another aspect of the problem of under-assessment relates to the Department's past and proposed use of manuals. The Assessment Act now provides that a provincial manual may, by regulation, be made a mandatory extension of the Act for whatever municipalities the Lieutenant Governor in Council may see fit. In preparing for such a step, the Province is favouring a course that has been a subject of continuing debate since manuals first became an important instrument in support of professional assessment work. Indeed, one may question whether the instruction contained in the valuation section of The Assessment Act, relating to the factors which the assessor should consider in arriving at actual value, ought to remain in the Act. Would it not perhaps be preferable to leave such instruction to the administrative process, as the Maclennan Commission thought? To make an assessment manual a further extension of the Act by regulation is an even more questionable procedure. Furthermore, the new section specifies that the manual may differ from one municipality to another and that its provisions for each municipality to which it is applied shall take precedence over the valuation section in the Act itself. If ignorance of the law is no defence and a series of manuals become part of the law, how is the position of a taxpayer to be protected?

107. The Assessment Act lays down special approaches to be followed when valuing farm lands and buildings, woodlands, railway properties and certain utility properties. With respect to farm properties, particular emphasis is to be placed upon the worth of the property if continued in its present use. The value of woodlands is not to be affected by the presence of the trees or by their subsequent removal. Special provisions, which were described earlier, continue in effect for railway lands. Their purpose is two-fold: to relate the value of railway lands to the value of other lands in the locality and to make each railway assessment valid for a period of five years. Finally, the structures, rails, ties, poles and other properties of both railways and public utilities located on public thoroughfares are to be appraised at their cash value for sale to a company with similar powers, rights and franchises. This last instruction is quite different from the mere requirement to assess at actual value. Reflecting upon all these special valuation provisions, we are faced with two distinct questions: To what extent is special instruction needed to meet the singular requirements of these properties? What effect have these provisions on the over-all equity of property taxation?

108. On two or three other types of properties, The Assessment Act has broken completely away from the concept of actual value. Telephone and telegraph companies are still assessed and taxed in urban municipalities on the basis of gross receipts and in townships according to miles of lines. Under certain circumstances, townships can utilize the gross receipts basis of taxation. Again, a provision instituted in the 1950's limits the taxation of gross receipts of telephone companies to 5 per cent of the total receipts derived from the taxing jurisdiction concerned.

The Assessment Act also contains special provisions for the valuation of transmission pipe lines. Cost factors to be used in arriving at values are prescribed in the legislation in actual dollar terms. While this arbitrary method of valuing transmission pipe lines is not applicable to distribution pipe lines, it is an easy matter for assessors to extend the statutory assessment technique to the latter, and a number of assessors, we are led to believe, have done so. Finally, municipalities in theory retain the right to tax one kind of income. A portion of the tax payable on the annual profits of a mine or mining work under The Mining Tax Act is payable to the municipality in which the property is situated, subject to the approval of the Department of Municipal Affairs. Apparently, however, such approvals are not being granted. The municipalities that might benefit in this manner are expected to obtain the status of designated mining municipalities and to apply for grants in place of the revenues from those portions of the mining properties that are tax exempt. The mining payments formula takes account of mining profits, each municipality's financial requirements and the numbers of resident and working miners within the municipality.

109. It is questionable whether the special treatment of communications, pipe line and mining properties is either necessary or just. Certainly municipal representatives have been unhappy about the existing provisions, but they have not been notably effective in formulating alternatives. The problem is especially difficult because the existing arrangements are decidedly complex and no comparison with normal tax treatment has been attempted for many years.

BUSINESS ASSESSMENT AND TAXATION

110. The ordinary municipal assessment and taxation of property owners based on the taxable value of their realty holdings continues to be supplemented by a further assessment and related tax on the occupants of business premises. The percentage rate classifications remain much as they were in 1904, with certain additions that were made to take account of newer forms of business development. Other minor amendments that have been introduced were designed chiefly to differentiate the weight of the business tax by the size of the urban municipality in which the property is located. Thus the business assessment legislation lightens the burden falling upon retail coal or fuel dealers when the population of the municipality in which the business operates reaches 100,000. Similarly the weight of tax upon retail merchants is reduced at 10,000 population and again at 50,000. The percentage for newspapers and broadcasting stations in cities is higher than for those in other municipalities. The legislation therefore appears to lack consistency.

111. Few would attempt an unconditional defence of the present municipal business tax. It has been countenanced on the dubious grounds that a long-established tax, even though theoretically a bad tax, may become a good one in time because taxpayers are able to make the necessary adjustments to it. For those who take this view, we note that the tax does not even retain the justification it could claim in 1904. The income tax, which was supposed to siphon off additional revenues from those who could afford to pay, including the whole body of professional people, is no longer available as an adjunct to the business levies. Hence if there is

one element of the property tax that particularly cries out for review, it is the 1904 legacy of the municipal business tax.

HOW THE REALTY TAX IS LEVIED

112. Real property taxes are imposed directly upon local taxpayers by municipalities, by school boards in unorganized territories, by local roads boards and by the provincial Department of Lands and Forests. The Department levies a provincial land tax based on assessments that are carried out by its own officials or by district assessors. The local roads boards rely upon arbitrary property valuations laid down by statute, an arrangement that seems open to serious question. The financial requirements of counties and of special-purpose bodies extending through all or parts of two or more municipalities are met by requisitioning funds from such local municipalities. Similarly, school boards and other special-purpose bodies which are confined to the limits of a single municipality, or to part of a municipality, requisition their tax funds from the municipal corporation. In procuring such funds, the requisitioning bodies also hope to obtain their share of the revenues resulting from payments in lieu of taxes on government properties. Provincial payments for other than the Hydro-Electric Power Commission properties, however, are not made with respect to school taxes, while the revenues in lieu of school taxes both from the Hydro and from federal authorities may be retained in the general treasury rather than reaching the school boards.

113. The property tax on which municipalities and other local authorities depend so heavily differs from taxes employed by senior governments, and indeed from the local pool tax, in that the rates of tax are determined afresh each year. Because this tax must be used to bring the current estimates into balance, its rate is almost bound to change with every year, thereby coming into the public spotlight annually. In striking the rate, the municipal corporation must provide the necessary sums not only for its own immediate purposes but also for school boards, public library boards, police commissions, parks boards and various other local boards that share with the municipal corporation itself responsibility for local government functions. A number of these special-purpose bodies, including school boards, have an assured access to some property tax revenues. Others that benefit from no such assurances are none the less dependent upon property taxation, including business taxes, for their support. Questions raised by the system of levying the property tax include the following: Are municipal financial operations being unduly restricted through the necessity of employing the property tax as the major and budget-balancing revenue source? Should municipalities be expected to levy taxes on behalf of school boards and other bodies, especially where such bodies are not themselves elected? Would it be practical to have more than one body levying property taxes within the same territory?

114. The frequent lack of co-terminous boundaries for municipalities and other local boards has required a growing proportion of Ontario municipalities to make differential levies between one part of their territories and another. This situation can result from the existence of special-purpose bodies such as conservation authorities or high school districts, which ordinarily are larger than a single municipality

but depart from municipal boundary lines. It can also arise because certain services — such as libraries, fire protection and parks — are made available throughout narrower limits than a whole municipality. Most public school boards used to be in this position. Since the mandatory formation of township-wide school areas a few years ago, that problem is almost at an end except for separate school boards. More recently, a new problem is developing as consultative committees effect inter-township school board mergers.

115. Again, although their numbers are declining, there are still some 160 police villages within which special rates must be struck. On the other side, *ad hoc* urban service areas within mixed urban-rural municipalities are becoming increasingly common, based upon considerable recent legislation passed in response to a growing need for such arrangements. In some urbanizing townships, a whole host of municipal services are made available within defined areas and are financed by area mill rates. The geographic boundaries for each service can differ and some of these boundaries are likely to overlap. Furthermore, there may be several service areas for the same function within a single municipality, each with its own area mill rate. As another variant, an urban-rural division of services may now be accomplished by defining one or more multi-function urban service areas within a municipality.

116. A related but none the less unique provision which requires a tax differential within a single municipality is the right of farm lands in blocks of five or more acres to obtain by-law authority for a tax reduction with respect to urban services from which their owners are thought not to benefit or, at least, not to the same extent as other taxpayers. This, it will be recalled, is a provision of very long standing, and the only change over the years has been the broadening of the list of urban services to which the tax reduction can apply. A more recent provision enables the taxation of golf courses to be temporarily reduced. A fixed assessment at a reduced level can, by agreement, govern their immediate taxation for other than local improvement purposes. The remaining obligation is accumulated with interest at 4 per cent until the property is sold, its use is changed or the owner elects to terminate the arrangement. Upon any one of these events the owner has the choice of paying the accumulated debt or requiring the municipality to purchase the property for an amount equal to its fixed assessment.

117. There are other conditions dictating multiplicity of tax rates within a single municipality. Public and separate school supporters may be subject to different school rates. Local improvement levies may apply to particular blocks or other groupings of property. Properties that are tax exempt may be subject to local improvement charges. Taxpayers may have other charges placed on the roll for services made available at their option. Finally, and most important of all, a split mill rate now applies both to the school and municipal portions of the levy.

118. In an earlier day, the chief problem produced by a multiplicity of differing mill rates was a mechanical one. But as municipal operations have become more automated, that particular difficulty is being solved and we become more

aware of other more fundamental questions that arise. What is the justification for the approximately 11 per cent heavier weight of taxation in Ontario on commercial and industrial properties than on residential and farm properties? Does a multiplicity of service areas inhibit public understanding of local government operations, and does it improve or reduce equity? To what extent should the tax load be tailored to the range and extent of services available in each sector of a municipality?

119. The tax-levying process is an annual procedure. It need not employ such techniques as instalment payments or deductions at source, both of which have greatly increased the effectiveness of the collection of the personal income tax. The council may require the subsidiary estimates of school boards and other bodies to be in its hands by March 1. Yet many municipalities, it seems, do not lay down such a rule or at least do not enforce it. The municipality itself must strike a tax rate in time for the collector's roll to be prepared before September 1 or by any earlier date that it has fixed by by-law. The collector need not complete his work and hand in his collector's roll until February 28 of the succeeding year, unless an earlier date has been prescribed by the local council. Under such rules, it is entirely possible for a municipal council to require no payment of taxes before December. In some predominantly farming communities, it used to be difficult for many property owners to pay their taxes before their crops had been harvested and marketed. This explains why a considerable number of municipalities still issue the first demand for payment of the tax in December. Under the existing system, it is possible for more than half the year to pass before the tax rate is struck, with the result that council is merely confirming a course of public spending to which the municipality has already become heavily committed. After the rate has been struck, tax revenues may not start to come in until the eleventh month of the tax year. In such circumstances, the municipality will be continuously in debt for currrent purposes. By statute, a municipal corporation may borrow up to 70 per cent of its estimated current requirements for the year, including debt charges falling due in the year, and more with the permission of the Ontario Municipal Board.

120. Municipalities have the statutory authority to require taxes to be paid by instalments falling due throughout the year. While it has long been possible to levy in instalments after the rate has been struck, the authority for pre-budget levies dates only from 1961 for the real property tax and from 1966 for the business tax. Under the legislation permitting pre-budget levies, a municipality may require payment in advance of up to 50 per cent of the amount that would be produced by applying the previous year's total mill rate for residential public school supporters to real property and business assessments. The pre-budget levy, like the post-budget levy, may be imposed in instalments.

TAX COLLECTIONS

121. If instalments of taxes are not paid as they fall due, the remaining balance may be made payable. For late taxes within the current tax year, penalties of up to ½ per cent per month may be exacted with respect to the pre-budget levy and

of up to 1 per cent per month on the post-tax-rate billings. Taking a different approach, the municipality may offer inducements for early payment of taxes. Prior to 1961, this technique was the only way of achieving a pre-levy receipt of taxes. Prepaid taxes may by by-law qualify for interest of up to 6 per cent per annum. Alternatively the amount due may be discounted at the rate of 6 per cent per annum from the time of its receipt until the due date. On tax arrears that extend beyond the year-end, penalties must be imposed at a rate of at least 6 per cent per annum. This rate may be increased by municipal by-law to as much as 8 per cent per annum, a recent change encouraged by higher market rates of interest. If tax delinquency runs long enough, the municipality may take proceedings to collect the money by distress or to have the property sold for taxes. The latter recourse is open to the municipality when taxes are three years in arrears. Subject to payment of a 10 per cent penalty and of interest and other charges, the owner can forestall the tax sale or reclaim the property within a year after it has been sold.

122. For municipalities that because of financial difficulties have come under supervision of the Department of Municipal Affairs, there is an alternative to tax sale proceedings. Instead of putting properties of delinquent taxpayers up for sale, the municipality may take over title merely by registering such properties with the prior consent, specific or general, of the Department of Municipal Affairs. The owner has the same opportunity to recover title to his property as under the tax sale procedure.

123. At December 31, 1965, tax arrears in Ontario amounted to $87 million or 9.88 per cent of the entire 1965 levy. Of that total, nearly $57 million represented taxes overdue from the year 1965 and $30.4 million represented taxes in arrears from prior years. Tax collections have not generally been regarded as satisfactory. The record points to the need for measures to permit the earlier levying of taxes, mandatory steps to achieve payment of taxes by instalments, heavier interest penalties or increased discount inducements, and amendment or perhaps replacement of the present tax sale procedures.

DEPENDENCE ON PROPERTY TAXES

124. Throughout the whole history of local government in Ontario, property taxes have remained the major tax source available to municipalities to produce their required annual revenues and to balance their current budgets. Over the years, the base of this tax has widened or narrowed in turn, as a consequence of adding or removing elements of personal property including income, of redefining the dividing line between real and personal property, of granting numerous exemptions from assessment and taxation, and of according special assessment or tax treatment to still other kinds of property. Given all these changes, property taxes produced in excess of $875 million for local government purposes in the 1965 calendar year. This total includes business tax revenues, which are included in combined totals, and more than $20 million of local improvement revenues, where for the most part the base was property frontage. In addition, certain miscellaneous charges added to the roll brought in a further $5 million.

125. The Province of Ontario has consistently refrained from introducing any new tax for municipalities as an alternative to the property tax but rather has continued to rely upon this tax to produce vast quantities of revenue. In adopting that course, Ontario has differed in degree, if not in kind, from most other Canadian provinces. Even at this date, ordinary property tax and the business tax based on real property generate 60 per cent or more of local revenues, excluding direct charges for services rendered. The Ontario poll tax was of little significance before the turn of the century, never came close to $1 million in yield even at its peak, and has declined greatly in recent years.[28] By 1965 it probably yielded less than $50,000. In certain other provinces, the poll tax was important earlier and its revenues expanded during the years when they were declining in Ontario. During the thirties, other provinces established their municipalities in such fields as retail sales tax, amusement tax, utility taxes and even, for a time, liquor revenues. Ontario municipalities were not permitted to enter any of these fields, although they do qualify for payments under The Liquor Licence Act toward the extra policing costs generated by liquor outlets. Demands upon the property tax were thus kept strong in relation to total service requirements. It is true that the Province of Ontario did authorize a dog tax at the end of World War I and, for the larger urban municipalities, a mortgage tax at a modest level. The dog tax, which is properly classified under licence and permit revenues, in 1965 yielded only a small part of the $9.5 million total collected under that heading. The mortgage tax was repealed in 1953. When Ontario forsook personal property as a base for local taxation, it established supplementary realty-based levies on business premises and retained and redefined municipal income taxes. It presumably expected that this compulsory levy would grow more quickly than real property taxes, in reflecting the expanding proportion of income from non-property sources. But as a consequence of war and depression and of the misuse of the income tax in local hands, a tax source of considerable potential was taken from municipal government and the opportunity was lost to demonstrate whether or not income tax could be equitably and advantageously applied at the local level in Ontario. It was lost likewise by other Canadian municipalities. On the other hand, it has remained a significant tax source for municipalities in a number of American states.

126. Real property taxes and the additional business taxes, together with two other main revenue sources, bear the lion's share of responsibility for providing the revenues needed for all local government purposes. The first major non-tax source encompasses the rates, fares, rents and other direct charges for utilities and other revenue-earning enterprises, which produce an amount that, while not precisely known, is probably in excess of half a billion dollars annually. The second major source comprises the subsidies and similar payments from the Province, which will perhaps reach $725 million in the fiscal year ended March 31, 1967, not including payments in lieu of taxes on provincial Crown properties and aid to public hospitals.

[28]The poll tax in Ontario is discussed in Chapter 16.

127. Ontario's degree of dependence upon a combination of property tax revenues and provincial grants and payments raises a number of fundamental questions that we shall consider in subsequent chapters. Is the property tax really employed to excess, as many believe? Can the property-based business tax be justified in any form? Can the property tax, when used so extensively, avoid grossly inequitable treatment of taxpayers? Can satisfactory alternatives other than grants be found, to lighten the property tax burden? Are alternative sources capable of producing large yields without themselves becoming highly inequitable or otherwise unsatisfactory forms of taxation? Are grants and payments suitable means of supplementing property taxes on the major scale required by the present-day magnitude of municipal expenditures?

128. In the chapters to follow, the major problems relating to the assessment of property and the levying and collecting of property taxes will be considered in turn.

Chapter 11

Taxes on Property: Basic Issues and Policy Proposals

INTRODUCTION

1. Earlier in this Report we forecast that local governments would have large and increasing requirements for revenues. We explain that, if local authority and fiscal responsibility are to be maintained, the property tax must remain the major tax source. While some relief can and should be provided through increased provincial grants, the property tax must continue to carry a heavy load. It is of vital importance, therefore, that the property tax be made as efficient and equitable as possible.

2. In this and succeeding chapters we examine the base for property taxation, consider the relative weight of tax that should apply to residential, business and farm properties, propose changes that would reduce the range of tax exemption, and advance proposals for radical reform of the present assessment and collection procedures.

THE BASE OF THE PROPERTY TAX

EXCLUSION OF PERSONAL PROPERTY

3. In Ontario the base for municipal taxation is, broadly speaking, real property. In four other Canadian provinces, the base has been broader, including

personal property in all or some of its forms. In two other provinces, Quebec and Newfoundland, selected items of personal property may be subject to tax, notably merchants' stock-in-trade. It should quickly be added, however, that recent tax inquiries in three of the four provinces concerned have resulted in recommendations for abolition of personal property taxes. In one of the four, New Brunswick, legislative action has been taken to remove personal property from the tax base. Further, the Quebec report on taxation has recommended elimination of stock-in-trade and plant machinery from the tax base. In the United States, on the other hand, personal property, broadly or narrowly conceived, remains part of the tax base in all but a handful of the states. We must, therefore, at least briefly discuss the taxation of personal property.

4. Over the years, the difficulty of discovering and valuing all forms of personal property has encouraged many taxing jurisdictions to narrow their coverage of personal property, in fact if not in law. The eventual consequence of such a trend has been to confine the definition of personal property in some jurisdictions to one or two major items that may be identified and made subject to tax relatively easily. The stock-in-trade of businesses and motor vehicles are notable examples, although these too present problems.

5. Another step in the retreat from full utilization of the personal property tax has been the definition of an arbitrary percentage of the realty assessment as the deemed value of personal property. The purpose served by this device is to differentiate between the weight of taxation on residential and on business taxpayers. The practice has been to set a higher percentage of realty value as the deemed amount of personal property held by business. It would be just as easy to establish a realty tax differential that would serve the same purpose without the pretence that personal property is being taxed.

6. In those jurisdictions where an attempt is made to apply a broadly defined personal property tax, reliance must be placed upon the person taxed to assist the assessor by furnishing a declaration of his personal property holdings. For the most part, however, the assessor is not able to check the completeness or accuracy of the taxpayer's declaration. Consequently, the taxpayer whose compliance is greatest is the most severely penalized. It becomes, in effect, a contribution rather than a tax.

7. Fundamental objections can be raised to the taxation of personal property. Because of the difficulties of assessing personal property, the broadening of the local tax base by the inclusion of all such property would be impractical. Coverage of those forms of personal property that can readily be assessed would not, in our opinion, bring the base closer to ability to pay and, indeed, would be discriminatory. Costs of collection would become higher in relation to the yield. Compliance would be less satisfactory and recourse against delinquent taxpayers less certain. For all these reasons we must conclude that reintroduction of a personal property tax on any basis cannot be justified.

SITE VALUE TAXATION

8. Now we consider a change in the opposite direction to the inclusion of personal property in the property tax base—adoption of site value as the sole base. It is possible to confine the property tax base to the part of real estate value represented by the land alone, excluding the worth of any buildings or structures forming part of the real estate. Such an arrangement is known as site value taxation. It is the modern equivalent of the plan advocated more than eighty years ago by Henry George. Those who favour site value taxation today do not of course propose it as the sole means of revenue raising. People no longer advocate a single tax.

9. Some of those who made submissions to us expressed interest in the potential of site value taxation. We gathered that two of the objectives sought were the more effective use of land and some reduction in land speculation. We doubt that site value taxation would serve either objective and we are fearful of other consequences that could flow from its adoption.

10. It is suggested that site value taxation would stimulate land development. We recognize that it might tend to concentrate land development but we question that it would increase total development. Site value taxation would encourage urban construction on smaller sites, in order to hold down taxation in relation to the total worth of the development. But, one may ask, would that constitute an improvement? Even with the present tax it is necessary to set minimum lot frontages and maximum lot coverage. In our large cities, land is so valuable that great skyscrapers are constructed. Thus market prices already do much to ensure the best utilization of land.

11. The suggestion is sometimes made that site value taxation would curb speculation in land because the land-holder could not afford to own land that was not in productive use. Site value taxation would certainly tend to depress the value of land that had not been built upon as a consequence of the higher taxation such land would attract. But land must be held by someone, either in use or in idleness. Would site value taxation require the municipalities to take over more land for taxes? Would such land be put to use by the municipality or remain as a drag on the local community? Again, would site value taxation mean increased taxes on farm properties, especially in mixed urban-rural municipalities? If so, is that a change to be desired?

12. Clearly, site value taxation would narrow the base for taxation. It would remove part of the weight of taxation from industrial and commercial taxpayers. It would add to the weight of taxation upon farming, an industry that already requires price supports and marketing aids to keep it functioning. The taxation of land upon which residences have been built would probably be higher in total than it is now, but it would be apportioned differently. Some small home-owners would be among those more heavily taxed.

13. It seems certain that site value taxation would distort the weight of taxation within each principal taxpayer classification. Under the present system the tax upon owner-occupants of residential property bears a direct and definable

relationship to the value of property occupied. Such a relationship would cease to exist. Under the present system the tax tends to be regressive, but the weight on any particular taxpayer is governed by his expenditure on shelter. Such a predictable pattern would no longer occur, with the result that regressiveness and inequality could be much greater.

14. Owner-occupants of business properties would undergo a similar change from their present circumstances to new ones that would depend upon the nature of site utilization and the effect of tax changes upon land values. The less intensively their land is built upon, the higher the burden of the tax would be relative to the value of the whole property. Land-use patterns that have developed under the existing system of real property taxation could not be changed overnight to reflect a new tax philosophy. Consequently, the transitional effect of site value taxation would differ widely from one property holder to another.

15. Summarizing, we think it obvious that for residential properties site value taxation would, by narrowing the tax base, depart from the existing and accepted relationship of taxation to the value of the accommodation provided. It would increase the weight of taxes on farming operations, compress urban construction on to more crowded sites, and would not eliminate the land speculator. Site value taxation is designed to appropriate to the state increments in value of land. If it succeeds in this purpose, it is a discriminatory levy so long as other forms of capital gain are not taxed. For all of these reasons, the concept finds no support among our recommendations.

THE DEFINITION OF ASSESSABLE PROPERTY

16. According to The Assessment Act, all real property in Ontario is liable to assessment, whether it is taxable or not. If one reads no further the position would seem to be crystal clear. In fact, a number of complexities and inconsistencies are found in the Act that warrant our attention.

17. To begin, the word "land" is used in a most confusing way. In Section 20 of the Act, for example, it is given two quite different meanings. As used in the expression "both land and buildings" it appears to mean building sites or land that is not built upon. On the other hand, where the section speaks of the "total actual value of the land" or again "the total amount of taxable land", it seems to mean the total realty including buildings and sites together.

18. The opening section of the Act purports to define "land", "real property" and "real estate". The definition is confusing. If we assume that the three expressions are interchangeable, we find that one of the three, namely land, itself includes what is called land *and* other natural or man-made things associated with land. If we assume that the terms are not synonymous, we are left with uncertainty as to what each includes. The difficulty apparently arises because in its broadest legal definition "everything terrestrial will pass" as land.[1] Yet the word "land" is in common parlance taken to mean much less: specifically, it is usually regarded as excluding structures.

[1]W. S. McKay, *The Assessor's Guide*, 21st Edition, St. Thomas: The Municipal World Limited, p. 2.

19. The Assessment Act contains instructions for the valuation of land without buildings and for the valuation of land with buildings. It thereupon requires that the assessed value of the realty be recorded on the roll in two parts to show the worth of buildings in terms of the amount of value they add to land without buildings. In providing for this division of real property value, however, the Act again beclouds the issue by defining real property as including other structures, fixtures and machinery, in addition to buildings. When the assessor records the value on the roll in two parts, is he supposed to include structures, fixtures and machinery that cannot be considered buildings as part of the site value or as part of the building value? We suppose most assessors choose the latter course. But the wording of the Act does not help them to arrive at this decision.

20. The inclusion of fixtures and machinery in the definition of real property raises another question. Ordinarily fixtures are chattels that have become associated with the real property only by virtue of being attached to it. It is questionable, therefore, whether such fixtures ought to form part of the base for taxation, if the aim is to restrict the base to what are generally considered to be land, buildings and other structures rather than to their wider legal meaning. The position of machinery is even more anomalous. Sometimes machinery may be real property and other times movable personal property. Nor is the distinction drawn according to whether it is fixed to real estate. A machine can be classed as real property when it is set "in a particular position with some idea of permanency".[2]

21. The treatment of machinery under The Assessment Act is one of the least satisfactory features of the legislation. First, by definition, all machinery is made assessable. Then an exemption is given for machinery and equipment used for manufacturing or farming purposes, subject to a number of exceptions. While the assessor is ordinarily required to value lands and buildings that are exempt from taxation and to record such value on the roll, the Act specifically provides that exempt machinery and equipment is not entered on the roll, and so there is no need for the assessor to make a valuation.

22. Until eleven years ago, exemption from taxation was confined to *fixed* machinery used for manufacturing or farming purposes. From January 1, 1956, the exemption was extended to embrace equipment as well as such machinery. What was gained by adding the word "equipment" is not clear. The Act also states that the exemption does not extend to machinery and equipment used for lighting, heating or other building purposes or for the production or transmission of water, light, heat, power or other utility services. Machinery of a transportation system is likewise excluded from the exemption. Both these exceptions to the exemption have created further difficulties. As to the machinery and equipment to serve a building, the number of specified purposes is incomplete and leaves doubt as to the position, for example, of air-conditioning equipment, fire-protection sprinkler systems and similar items. A further anomaly in regard to the machinery of utilities was created when publicly owned utilities were required to be assessed and to pay the equivalent of full taxation on the amount of the assessment. For some reason,

[2] *Northern Broadcasting Co.* vs. *Improvement District of Mountjoy* (1950) S. C. R. 502.

the machinery of the publicly owned utilities was exempted from assessment and taxation while that of privately owned utilities remained subject to tax. The discrimination between the two is plain, but the reason is obscure.

23. We have given careful consideration to the way in which real property has been defined as the base for municipal taxation. We have come to the conclusion that the definitions and uses of terms in the present Assessment Act require thorough review and revision. Without attempting to rewrite the legislation, we indicate the nature of the changes that we believe desirable.

24. For assessment purposes, a number of words in common usage will require statutory definition. We think it preferable, therefore, to limit the language of the statute to a minimum number of carefully chosen and precisely defined words. Of such expressions as "land", "realty", "real estate" and "real property", we suggest that the term "real property" be selected to describe the base for taxation. We favour a definition of the base that will come as close as possible to the accepted meaning of real property, excluding therefrom machinery and other fixtures not related to the functioning of the building or structure in which they are located.

25. In order to retain the present system of recording assessment values in two parts, we favour a definition of "land" to exclude man-made structures other than those works required to convert raw land into serviced land. Thus our definition of land would include the value created by improving the land by grading, sodding, planting, paving, constructing curbs, sidewalks and sewerage mains, and installing wires or piping for utilities. The remaining value of the real property should, we suggest, be embraced under a suitable definition of the word "structures". We think, first of all, that the definition in The Assessment Act ought to make clear that the law of fixtures is not to apply to structures. Structures should be confined to forms of property that, according to their intended use, are not expected to be moved, even though they may not be attached to the land or to another structure that in turn is attached to the land. An unattached structure would be one set in a particular position with the idea of its remaining there so long as it is used for the particular purpose for which it was placed there. The definition of "structure" should exclude machinery, by specific reference or otherwise, except for machinery forming part of a building or similar structure and used only or primarily for the purposes of the building or structure or to make it more habitable. Finally, we see no reason why privately owned utilities should be placed at a disadvantage by comparison with persons engaged in agriculture or manufacturing, and we favour rewording the statute accordingly. *We recommend that:*

> ***The Assessment Act be amended to define real property liable to assessment as being land and any building or other structure on, over or under the land, and that for this purpose a building or structure include only such machinery and equipment as is a part thereof and is used or required primarily for the purposes of the building or structure or to make it more habitable.*** **11:1**

EXEMPTIONS

26. Under The Assessment Act, virtually all real property is liable to assessment, but some is exempt from taxation and some is taxable on a limited or preferred basis. Taken together, the effect of total or partial exemptions has been to remove more than one-fifth, and probably more than one-quarter, of the potential base for taxation. The loss is partially offset by payments in lieu of taxes on provincial and federal Crown properties. In 1965, these added approximately 3.3 per cent to the municipal tax revenues. Tax-exempt properties detract from both the equity and the productivity of the property tax. They create a sufficiently large and complex problem to justify separate treatment in the next chapter.

ASSESSMENT OF REAL PROPERTY

27. Our research has strengthened our conviction that under-assessment must be brought to an end if the property tax is to be accepted as a fair method of revenue raising. While it continues, under-assessment conceals the precise nature and extent of the inequalities in valuations for tax purposes and thereby represses a powerful ally of tax reform, the force of public opinion.

28. We acknowledge that the Province is already promoting fundamental changes in assessment practice for these very reasons, although insufficient time has elapsed for any substantial improvement to have taken effect. We regard as our prime function, therefore, supporting a movement for reform that is already in progress. Thus we must appraise the action taken by the Province and endorse those measures that appear most promising. We must first advocate changes from or additions to the Province's present course where we believe these are necessary.

29. The achievement of equitable assessments requires concerted action along a number of fronts.

(1) There is need for improvement in the law, including the specified appeal procedures.

(2) The exacting requirements of the assessment function must be recognized and the standards of the assessing profession raised accordingly.

(3) The public must be convinced that the maintenance of up-to-date assessments will safeguard, not threaten, the taxpayer's position.

We now address ourselves to some aspects of the first of these requirements, reserving consideration of the remainder for Chapter 13, which is devoted entirely to assessment.

DEFINING VALUE FOR PROPERTY TAX PURPOSES

30. One problem is the lack of an explicit and commonly held understanding of what the assessed value of a property is intended to represent. Various adjectives have been placed in the statutes to give "assessed value" a more precise meaning. Sometimes, however, the result is not greater clarity, but protracted debate and growing confusion. At the risk of contributing little to an old discussion we wish to discuss several basic questions relating to the definition of what in The Assessment Act is termed "actual value", as a basis of assessment.

Statutory Direction for Determining Actual Value

31. The extent of direction given the assessor by statute with the object of requiring him to assess at present value differs greatly from one jurisdiction to another. In Ontario, the requirement that property shall be assessed at its actual value has been followed since 1946 by supporting provisions requiring the assessor to look at various evidences of value in order to arrive at actual value. Going further, a provision was placed in the statute in 1965 permitting the Lieutenant Governor in Council to make regulations under which one or more reference manuals prepared by the Department of Municipal Affairs for the guidance of assessors may be adopted by reference and made applicable to any municipality, municipalities or class of municipalities in Ontario. Thus a manual's provisions would become a part of the assessment law in any municipality where it had been adopted by reference.

32. If Ontario's present *Appraisal Notes* and *Assessor's Handbook*, which together constitute a manual of assessment, were made applicable, by reference, to all Ontario municipalities, this Province would then occupy an extreme position on the side of detailed legislative provisions. The opposite position was that established by The Assessment Act of 1904 and maintained until the close of World War II. The old statute merely called for assessment at actual value and left further interpretation to the courts and further instruction to the less formal channels of provincial-municipal communication. A third alternative position is that taken by British Columbia. The law requires assessment at actual value and directs the assessor's attention to various approaches that he may take toward determining value without requiring him to use any of them.

33. As we see it, the instructions to assessors contained in the Act as to the points to be considered in arriving at value have not materially assisted the courts in interpreting the meaning of actual value. On the other hand, the appeal tribunals have not shunned testimony based upon the use of assessment manuals in the valuation process even though the manuals were no part of the law. Again, the courts have amplified assessment legislation by the stress they have placed upon such points as value in exchange over value in use, the prime but not exclusive importance to be attached to present use compared with potential future use, and the emphasis properly accorded to market transactions as evidence of actual value. With appeal tribunals sufficiently informed in assessment law and practice, and assessment departments staffed with enough competent professional personnel, there would be a greater prospect for equitable assessment at current values through minimum provisions in legislation and maximum constructive use of assessment advice and instruction outside the statutes. *We therefore recommend that:*

> ***All legislative instruction as to the circumstances affecting value required to be taken into account in determining actual value for assessment purposes be removed from the legislation, including the right to adopt assessment manuals by reference.*** **11:2**

Value by Comparison with Assessed Values of Similar Properties

34. Under circumstances where property is commonly under-valued for assessment purposes, the relative assessed value of various properties takes on added significance when an assessment is being contested before the courts. Despite the apparent stress upon present worth as a prime consideration in assessment value, the Ontario Assessment Act has introduced sufficient references to the relationship between the assessment placed upon one property and another to weaken the emphasis upon present value. We refer in particular to two subsections of the Act. Both subsection 16 of Section 72 and subsection 2 of Section 86 encourage the appeal tribunals to give consideration to the value at which similar land in the vicinity is assessed. These provisions have resulted in important decisions in which the fact that properties were greatly under-assessed was acknowledged and yet accepted. Unfortunately, however, the law as amplified by court decisions has not established once and for all whether actual value or equity between similar properties is to take precedence under the law. Nor does it encourage one to believe that the right of appeal will provide certain relief for taxpayers who are erroneously assessed. The problem faced by Ontario taxpayers through inadequate appeal procedures and the recommended form of remedial action is detailed in Chapter 18. Respecting the conflict between actual value and equity considerations, *we recommend that:*

The Assessment Act be amended to provide that real property is to be assessed at actual value without reference to the value at which similar real property in the vicinity is assessed. **11:3**

Capital vs. Rental Value

35. In a number of municipalities in six other provinces, the base for the business tax is the amount for which a property will rent; that is, its annual rental value, rather than its capital value. If a business tax is to be retained, should the base for that tax be rental value? If rental value is adopted for business tax purposes, should it also be the base for the ordinary real property tax, as in England?

36. The choice between capital worth and rental value is important, because it involves several fundamental assessment issues. Rental value tends to emphasize the present use of a property as a going concern. If the property is temporarily idle it might be thought to have little if any rental value even though a new use is being planned for the property that will be more valuable than the present use has been. Capital value tends to take account of prospective alternative uses and to encourage recognition of the highest and best use to which the property might readily be put. Yet the extent of this distinction can easily be exaggerated. A valuation for assessment purposes is expected—in theory at least—to be relied upon for only a single year. Each year a new calculation is supposed to be made if for any reason a change in value has occurred. Thus, if we recognize the highest and best use to which a property might be put as an element of value, it should be taken into account in calculating the assessment only to the extent that it is an immediate and reasonably certain prospect. The assessor is not expected to put himself in the position of a land speculator who plunges with the hope, but by no means the certainty, of gain.

37. Rental value represents a single measure of the worth of a property that can be calculated directly from evidence of only one kind, the going rental level. Capital value is expected to recognize a variety of evidences of value including, as well as rental value, the actual or estimated sale value of the property, the cost of constructing buildings or other structures, and the extent to which the man-made portion of the real estate has depreciated or become obsolete. Again, in striking a capital value for rural land, one element to be considered is its suitability for crop production based upon climate, topography, type of soil and drainage; other important factors are the price commanded by the produce and access to a market.

38. For certain types of properties, rental information is more readily obtainable than data on property sales. For others, the converse is true. Obviously, information about rentals is much more readily available than sale prices for apartment buildings. It is usually easier, also, to determine the rental paid for a store than the amount for which the store might be purchased. For single-family dwellings, on the other hand, sales information is more common, since few houses of this type are rented. For factory and warehouse space, the position is less clear. Considerable space is customarily rented, but the larger and the more distinctive properties are quite likely to be owner-occupied and are sold very infrequently. For these, neither sales nor rental information that is pertinent may be obtainable, and other evidences of value must be found.

39. If rental value is to be taken into account in determining capital value, the estimated income from the property, based on rentals, must be capitalized and placed alongside other evidences of capital value. On the other hand, when rental value is the base for taxation, sale value and cost of replacement information can be used to supplement rental value only if such capital value is translated into annual rental value terms. It is of course unwise to reject any legitimate evidence of value to fill out the desired information for use in determining assessed value on either basis. Where rental value is the legal base, however, there is a tendency to lean on this type of evidence to the exclusion of other forms of data.

40. Our conclusion is that capital value is the best measure of value for assessment purposes. We think it may be expected to reflect a more comprehensive and balanced view of the worth of the property in the community. It offers the maximum encouragement to the assessor to reinforce his opinion with adequate evidence as to value in any available form.

Present vs. Highest and Best Use

41. The valuation section of The Assessment Act directs the assessor to give attention to the present use of land with or without buildings. On the other hand, the section contains no specific reference to alternative uses to which land might be put as a contributing factor to the worth of the land. There is, however, a recent provision within the valuation section of The Assessment Act requiring the assessor to base his valuation of certain farm lands solely upon their existing farm use. The implication is clear. Without such instruction the assessor would be expected to take account of alternative uses and, more particularly, of the highest and best use to which the farm property might be put. The assessor's authority for taking

highest and best use into account lies in the fact that he is required to take account of both rental value and sale value and, in addition, to any other circumstance affecting the value. Furthermore, in directing him to recognize present use, the Act does not deny him the right to consider highest and best use as well.

42. Depending upon the length and terms of the lease, the rent set for a property may or may not be influenced by the availability of alternative uses for the property by the lessee. Present use is likely, however, to be the dominant if not the sole consideration in arriving at the rent level. By contrast, the sale price for a property ordinarily reflects the highest and best use to which a property might legally, and economically, be put. Indeed, a person may even pay more for a property because he expects or hopes that the legal choices for use of the property will be changed in the future to permit a more productive use.

43. Presumably, the purpose of the reference to present use in The Assessment Act is to ensure that the assessor will give adequate emphasis to this particular evidence of value. As we have indicated, present use is of prime importance under a system of yearly valuation for tax purposes. On the other hand, if market value is to stand as the prime determinant of actual value, a position we support, then the assessor's valuation is bound to make some allowance for both the present use and the highest and best use attainable for a property within a reasonable time span. As a tax inquiry committee, we think that the intention of the present law is perfectly sound. The only weakness is lack of understanding of the position taken in The Assessment Act and the justification for it. That weakness will be progressively reduced as assessors become better trained and better able to explain to taxpayers the basis on which their assessments have been calculated.

Value in Exchange

44. Court interpretations of the present assessment law have also served to establish that value in exchange is the kind of value intended under the Act rather than value in use. How much a property will sell for is the prime determinant of value and, indeed, is the kind of value that should be set by municipal assessors. How much a property will rent for, or how much it cost to build, does not of itself constitute value for purposes of assessment. Each nevertheless makes a legitimate contribution in the overall determination of value in exchange. In this regard, court decisions have stressed that the price at which property is sold in a transaction between a willing buyer and a willing seller reflects accurately value in exchange. This points to the distinction between the work of municipal assessors and of other property appraisers. The latter are often called upon to determine the value of a property on a basis other than the sale value that would arise from a transaction between a willing buyer and a willing seller. Examples are valuation for certain insurance purposes, for compensation of damage, or for expropriation purposes. When land is expropriated, additional compensation over fair market value is warranted because the property is being taken forcibly. Further, as the courts have recognized, "expropriation . . . means the permanent divesting of the owner and should legitimately, therefore, take into account the present value and all the prospective possibilities of the property, while the municipal valuation is,

generally speaking, only made for one year[3]." While both municipal assessors and other appraisers must look at highest and best use, this particular concept of value bulks much larger in some of the latter's valuations than in the former's. For this reason among others, we regard the adoption of the term "appraisal" throughout the new provincial manual for assessors[4] as unfortunate and likely to mislead the assessor as to his function.

45. In arriving at value in exchange, considerable care must be taken in reviewing the prices at which other properties have been sold. Often actual sales prices diverge from the real market prices. This may be owing to an uninformed buyer, an uninformed seller, or such related matters as the terms of payment. Probably the greatest divergences occur where there is an uninformed buyer or seller or when one of the parties for some reason had to buy or sell in haste. We do not concur with the concept contained in some legislation that sale value should be cash value. In our view, sale value should mean the value under terms of sales that are typical for the type of property involved. However, the price paid for a property will also tend to vary depending upon whether there is a straight cash sale or one involving a first and second mortgage.

46. The most difficult problem in accepting the concept of value in exchange is encountered when placing a valuation upon some particular property of a peculiar character that has not changed hands for many years. The fact that there has been no recent sale and that there is no direct evidence of an existing market does not in our opinion prevent one from arriving at value in exchange. Lack of an evident market requires that the problem be approached theoretically. One must search for as much alternative evidence as possible, including apparent value in use, in order to derive an opinion of value in exchange through a process of deductive reasoning. In approaching the problem in this way, the existing owner's continued use of the property or the absence of any effort on his part to dispose of it would be an indication that the property carries some value in exchange, especially if it has always been subject to property taxation.

VALUING LAND AND STRUCTURES SEPARATELY

47. Another basic question about property valuation is whether the land itself and the buildings or structures should be valued separately, with the latter being regarded, as at present, as worth the amount that such structures add to the value of the land. The separation of property value into two components is to a degree artificial. The size, shape and condition of the land on which a building or other structure is situated influences the usefulness of the structure. Conversely, the nature of the structures found upon a parcel of land affect the worth of the land by comparison with other parcels of similar size and location. Yet we see no harm in trying to assign values to the component elements of a property as well as to the property in total. We recognize, moreover, some positive advantages from such an approach. It is, for example, reasonable to expect that land values will evidence a high degree of similarity throughout particular areas or neighbourhoods.

[3]Rinfret, C. J., in *Sun Life Assurance Co.* v. *City of Montreal* (1950 S.C.R. 220, at 224).
[4]Department of Municipal Affairs, *Appraisal Notes for the Assessor*, 1964.

In seeking to arrive at reasonable assessed valuations of properties, the development of land-value maps contributes to the systematic accumulation of valuation data for assessment purposes. The final valuations should, of course, reflect needed adjustments for individual properties, but a land-value map, if used sensibly, can aid that analysis. Indeed, we believe that plotting of land values is an essential element in an efficient assessment operation.

48. A point of concern is that the legislative enactment requiring land and building values to be recorded separately does not make specific provision for the eventuality that the presence of a structure can have the effect of reducing the overall value of a parcel of real estate. This extreme position can result when a structure is in poor physical condition, is obsolete or is ill suited to its location and when the cost of its removal exceeds its salvage value. In this event the assessor should be instructed to show the structure on the roll as of no value and the land at the value of the real property as a whole—i.e., the site value less the estimated net cost of removing the structure. *We therefore recommend that:*

The assessed value of each parcel of real property be divided into land and structures, and for this purpose **11:4**

(a) the amount attributable to structures that have value be the amount by which the assessed value of the real property exceeds the value of the land, and

(b) where the assessed value of the real property is decreased because of the presence of the structures, the structures be determined to have no value, and the value of the land be the assessed value of the real property.

DATE AND FREQUENCY OF VALUATION

49. The value of land often fluctuates not only from year to year but from month to month and from day to day, as do the values of other commodities and services. The Assessment Act requires the assessor to prepare and return to the clerk each year an assessment roll containing, among other things, the amounts assessable against each person on the roll. Ordinarily, the assessment must be made between January 1 and September 30. If adopted by council by-law, a rotary system of assessment can be instituted under which the properties within a municipality are divided into two or three parts and the taking of the assessment is spread over two or three years.

50. According to one court decision, "The assessment takes place for the first time when the completed roll is delivered by the assessor to the clerk"—that is, when the roll is returned.[5] On that basis, the assessor's estimate of actual value (which is the wording used in The Assessment Act) might be regarded as his "valuation . . . based on conditions as he finds them at the date of the assessment"[6] —normally September 30. Presumably this rule would apply whether the assessment was accomplished over as short a period as six months or spread over as long a period as three years.

[5]Per Masten, J. A., in *Re Bayack*, 64 O.L.R. 14, at 22.
[6]See *supra*, *Sun Life Assurance Co.* v. *City of Montreal* at p. 224.

51. While the practice of relating assessed values to a particular date is in our opinion entirely sound, the day on which the assessment roll is to be returned is poorly chosen. It is impossible for the assessor to value every property on the roll at its value on the very day the roll is returned. The failure to define a date or period to which assessed values can conform has obviously contributed to loosely interpreting, or ignoring the definition of assessed value as actual value. We suggest therefore that an earlier date be chosen and, in relation to our recommendations for budgeting and tax collection procedures, favour March 31. *We therefore recommend that:*

> ***The Assessment Act require that properties be assessed as at March 31 of the year in which the assessment roll is returned.*** **11:5**

52. We do not believe that we are being over-ambitious or unrealistic in favouring literal compliance with the time-worn injunction of Ontario's Assessment Act to make a fresh assessment every year. We are convinced that regular reassessing on a yearly basis is completely practical, and that anything less can lead to unjustifiable departures from equity and to a return to the bad assessment practices we are seeking to eradicate. Assessors should maintain assessments that are so accurate and up-to-date that what we now think of as reassessment would no longer be required. Obviously such a transformation of the assessment function cannot be easily or speedily accomplished. The change will take perhaps three to five years. During that interval, a much larger and better-trained establishment of municipal assessors must be created. The development will have to be supported in turn by a marked improvement in the accommodation and equipment available for the assessment operation. On this subject, we have more to say in Chapter 13.

ASSESSMENT APPEALS

53. The channels for appeal of individual property assessments ought to be simple and accessible. Since 1950, however, when doubts were cast upon the jurisdiction of assessment appeal tribunals by a judgment of the Court of Appeal, the position has been both confusing and frustrating. As already noted, this complicated problem is considered in Chapter 18, which deals with appeals from property assessment and other local levies. Here it is sufficient to state that the inadequacies of available appeal procedures have become a major obstacle to assessment reform including the needed elimination of gross under-assessment.

54. The position we wish to create requires the genuine participation of contending parties at each stage of the assessment process. If the municipal assessor fails to place an accurate valuation on a property, his valuation should be open to challenge by the property holder and by the Department of Municipal Affairs. Where the Department has itself performed the valuation function for special properties such as Crown agencies, railways, or utilities, both the property holder and the municipality should be free to appeal.

55. When each municipality's assessment has been completed and the roll returned, the level at which values have been set must be measured by the Depart-

ment and the appropriate provincial equalization factor determined. If the Province's equalization appears faulty to a particular municipality, it should be able to seek redress through the courts. Conversely, if the Department in the course of its assessment sampling becomes aware of valuations that appear to be seriously out of line, it should have the right to appeal to the courts in a direct attempt to rectify the situation. Where the Department finds gross inequities and confirms them through the courts, the court should be able to require the assessment to be done over again, in whole or in part. Finally, if a municipality persists in gross underassessment, the Province should be empowered to take over the assessment function temporarily and to charge the cost to the municipality in order to provide the local property owners with up-to-date valuations.

56. We now discuss the rights of appeal that we regard as desirable, describe the extent to which such rights now exist, and recommend the changes required to round out the system. We believe that The Assessment Act should contain six basic provisions for appeal. First, any person assessed should continue to have the right to appeal his own or any other person's assessment within his municipality, a provision already contained in The Assessment Act.

57. The second appeal provision we support concerns the equalization of municipal assessments. Any municipality or local board should be permitted to appeal any provincial equalization figure or figures that will be used directly or indirectly to determine any part of its expenditures or its revenues. Effective May 8, 1964, a new subsection was added to The Assessment Act under which any municipality or locality in a district may appeal to the Ontario Municipal Board against an equalization carried out by the Department of Municipal Affairs for any purpose. Earlier, municipalities had been allowed to appeal valuations of certain provincial Hydro properties where provincial equalization factors were a necessary element in the calculations. The earlier right of appeal was to the Ontario Municipal Board, whose decision was to be final. With respect to the newer and broader provision, the statute is silent on the question of a further appeal from the decision of the Board.

58. The equalization appeal provision within districts is of more than academic interest. At the time of writing, an appeal had been heard by the Municipal Board and adjourned *sine die* because the Department acknowledged an error in its equalization procedure and submitted new equalization figures by which the share of responsibility for support of a district home for the aged would be altered substantially for three of the fifteen contributing municipalities. The most extreme change would reduce the responsibility of the Improvement District of Red Rock from 31.2 per cent to 18.6 per cent of the total requisition.[7]

59. The extent of the Department's error, which this appeal has already revealed, points up dramatically the danger of the present situation in which no appeal is allowed from the equalization factors struck for southern Ontario municipalities for school grant and other purposes. A further concern is that in so far as appeals are permitted, the present procedure places responsibility upon the Muni-

[7]Association of Assessing Officers of Ontario, *Decisions of the Board,* November 1966, p. 50.

cipal Board, on the one hand, to rule upon the departmental equalization and, on the other, to rely upon the Department as a prime source of information on assessment matters. Recommendations we make for new appeal procedures in Chapter 18 would, however, eliminate that difficulty. *We therefore recommend that:*

Legislation be enacted to enable any municipality or local board to appeal any provincial assessment equalization to be used directly or indirectly in determining any part of its expenditures or revenues. **11:6**

60. The third right of appeal that we think necessary relates to valuations and assessments made for municipal purposes by provincial authorities. A municipality should be able to appeal any valuation by the Department of Municipal Affairs placed upon property situated within the municipality. The two statutes under which the Department now values properties for payments in lieu of taxes—The Municipal Tax Assistance Act and The Power Commission Act—both provide for a direct appeal by the subject municipality to the Ontario Municipal Board, whose decision is final. However, if our recommendations for extending the direct assessing functions of the Assessment Branch of the Department and for altering the channels for assessment appeals are adopted, the desired objective will be met in full without further legislative changes.

61. The fourth provision that we suggest would give the Province a right to intervene if it is dissatisfied with particular assessments made by a municipality. The Department should be empowered to appeal any assessment singly or any number of assessments collectively within any Ontario municipality where doubt has been cast upon the validity of such assessment or assessments through the equalization or other valuation work of the Department. The Department should, however, be expected to observe the same timetable for the filing of its appeals as others who have the right to appeal. If, for example, equalization studies carried out in one year cast doubts upon the local assessment placed upon a property in the prior year, the Department might first bring the matter to the attention of the municipal assessor. If he should fail to make a satisfactory adjustment in returning his next roll, the Department could then exercise its right of appeal. That part of The Department of Municipal Affairs Act that gives the Department special jurisdiction over defaulting municipalities provides broad powers of appeal.[8] It would seem desirable to give the Department the same broad powers in relation to all municipalities, regardless of their financial circumstances. *We therefore recommend that:*

The Department of Municipal Affairs be granted the right to appeal any municipal assessment singly or any number of assessments collectively within any local assessment jurisdiction. **11:7**

62. The fifth provision that is required is a procedure for setting aside the total assessment of a municipality where as a result of appeals sufficient doubts have been cast upon the equity of the assessment to warrant such action. When the Department of Municipal Affairs appeals assessments of a defaulting municipality,

[8]The Department of Municipal Affairs Act, R.S.O. 1960, c. 98, s. 55.

the appeal body can direct and set the terms for the making of a new assessment roll. Furthermore, when it appears to the Department that changes resulting from its appeals have produced an inequitable situation, the Department may set the roll aside and direct a new assessment to be made by such person as it may designate.

63. Whether or not a municipal corporation is in financial trouble is irrelevant if in the opinion of the court or the Department a municipality's assessment contains sufficient inequities to warrant the taking of a new assessment. The situation might be revealed through court proceedings launched by either local property owners or the Department of Municipal Affairs. If the ordering of a reassessment is warranted, we prefer to see the responsibility lodged with the government rather than the courts. Moreover, we think that the Cabinet should make the decision. *We therefore recommend that:*

> ***Where, as the consequence of one or more appeals, a reassessment is deemed desirable in the interests of equity, the Lieutenant Governor in Council be authorized to order the reassessment on recommendation of the Minister of Municipal Affairs.*** **11:8**

64. The sixth and final provision we think necessary would give the Department authority to eliminate gross under-assessment persisting within a local assessment jurisdiction without the necessity of proving that the municipality's assessment is also greatly inequitable.

65. At present, the Department has no power to stamp out flagrant under-assessing beyond its rights of appeal in defaulting municipalities and the power of the Lieutenant Governor in Council to require the Department assessment manual to be used in any one or more municipalities. Under the latter legislation, the specific procedures to be followed in valuing property as set out in the manual would take precedence over the general valuation section of The Assessment Act. We regard an implied threat of this kind as much less desirable, however, than a procedure defined in legislation whereby a municipality that continues to assess at less than a stated percentage of actual value for more than a specified number of years may expect the Department to take over the assessment function, make the needed reassessment and charge the cost to the delinquent municipality. The extent of under-assessment would be indicated by the equalization index published by the Department of Municipal Affairs as varied by appeal. A municipality whose equalization index remained below, say, 80 per cent of current value for four successive years might thereby become subject to a provincial reassessment at local expense.

66. Precedent for such a course is found in a provision in The Highway Improvement Act. Section 98 permits the Minister of Highways, when informed by a departmental engineer that a municipal road is out of repair, to direct the Department, after adequate notice to the municipality in writing, to carry out the work and charge the cost to the Municipality. *We therefore recommend that:*

The Department of Municipal Affairs be authorized, after due notice, to reassess a municipality at the municipality's expense where the local assessment as equalized by the provincial index has for a specified number of years remained below a specified percentage of actual value. 11:9

ASSESSED VALUE AND TAXABLE ASSESSMENT

67. In theory, though certainly not in practice, the Ontario statutes require property to be assessed at 100 per cent of actual value. In some jurisdictions the law calls for assessment at a specified percentage of value. This practice is followed in more than a dozen states of the United States and has been generally applicable in our own western provinces with respect to the assessment of buildings, but not land. Fractional assessments, if accurately applied, bear a precise relationship to current values. Presumably, however, they do not draw the assessor's estimate of actual value to the taxpayer's attention. While some persons might regard this an advantage since it might hold down the number of assessment appeals, in our view it is clearly a disadvantage. Our objective is to obtain public acceptance of property assessment based upon taxpayers' understanding of its meaning rather than ignorance. Thus we strongly favour assessment at 100 per cent of value. That policy requires no change in the law, but a very great difference in its application.

68. The total weight of taxation is of course heavier upon business properties than upon residential properties. The differential is achieved through the application of a supplementary percentage of the assessed value as a base for taxation on the business occupant as well as by a differential in the mill rate applicable to both ordinary realty taxes payable by the owner and business taxes payable by the occupant. Where the differences in the weight of taxation are provided for by provincial statute and are intended as a permanent arrangement, it is more convenient to express them by assessing at differing proportions of actual value than in differing tax rates. For business properties, we think it quite reasonable to set both the "assessed value" and the "taxable assessment" at 100 per cent of actual value and to set taxable assessments at lesser proportions of assessed value for classes of properties or taxpayers that are not to be made subject to as heavy a weight of taxation. The position should be continually made plain, however, to all taxpayers by including in the assessment notice the full amount of the assessment —the assessed value—as well as the proportion constituting the base for taxation —the taxable assessment. Later in this chapter, we put forward our particular proposals for differing weights of taxable assessment.

TAXATION OF RESIDENTIAL PROPERTIES

69. The studies we have made of the incidence of municipal fiscal operations make it reasonably clear that the property tax is regressive in its impact upon families, even if allowance is made for the services received in return.[9] In addition, the weight of the property tax, as measured in current dollars, has increased greatly in the years since World War II. Even when due adjustment is made for population expansion and the shrinking value of money, the growth in property taxes remains substantial. In 1945, municipal tax levies in Ontario took an

estimated 3 per cent of personal income. The percentage has increased fairly steadily throughout the intervening years until, in 1963, it stood at 5.8 per cent of personal income. More recent figures would be higher. In this respect Ontario's position has not been far different from other large Canadian provinces. The weight of the property tax in 1963 was none the less considerably below the distress levels reached in the worst year of the depression. In 1933, for example, actual tax collections in Ontario amounted to 10.4 per cent of personal income. Incomes, of course, were much too low but taxes were also too high. We make this comparison not to deny our concern with the weight of property taxes today but rather to put it in perspective.

70. The substantial and increasing weight of property taxes in recent years has led to requests for assistance to particular categories of property taxpayers, notably widows, pensioners and others on fixed incomes.[10] It has also stimulated petitions for relief of the property taxpayer more generally. We have thoroughly examined this whole question and the alternative courses of action that could be recommended.

STATUTORY TAX LIMIT

71. Concern over the considerable and increasing weight of property taxation has revived interest in the imposition of a statutory upper limit on taxation. That approach has little appeal for us. If the need to raise taxes exists, a tax ceiling merely complicates municipal finance even further. It is, we suggest, quite impossible to fix one statutory limit, or even several, that will exercise control at just the right point for each municipality. Some municipalities will be pinched by a tax ceiling much more than others. A statutory limit on taxation may force such false economies as deferring needed maintenance of roads and sidewalks or forgoing the purchase of land for parks while it is available. If local government is to remain autonomous, it must be left to decide how much should be spent on services that it has the responsibility to provide. A statutory limit, once reached, would prevent this.

TAX REDUCTIONS FOR SELECTED CATEGORIES OF TAXPAYERS

72. Under legislation enacted in 1967, Ontario local municipalities, and school boards in territory without municipal organization, may allow a credit or refund equivalent to one-half of the taxes imposed on property owned and occupied by persons sixty-five years of age or over, subject to a maximum of $150. The amount so allowed is then reimbursed by the Province to the municipality or school board, and it becomes a lien upon the property in favour of the Treasurer of Ontario, which becomes due and payable at the time the property is sold other than to an immediate relative who is also qualified to receive such a credit or refund.

[9]Chapter 5.

[10]For example, in 1963 the Ontario Municipal Association sought a provincial government study on possible assistance to home-owners on fixed incomes who are the victims of inflation. (Resolution 10, Adopted for Submission to the Provincial Government at the 65th Annual Convention.)

73. By special legislation, the City of Hamilton is authorized to effect outright reductions of $100 in respect of the taxes payable by old age pensioners, and, for 1967 only, the towns of Amherstburg and Burlington are authorized to make similar reductions.

74. When introducing the legislation for the deferment of taxes for people sixty-five years of age or over, the Minister of Municipal Affairs stated that the bill should be treated as a temporary expedient, and that further consideration would be given to the matter before introducing any new legislation arising out of the recommendations contained in our Report.

75. We find it difficult to support tax relief to specific groups in the community, whether by tax deferral or outright tax reductions. Assisting the aged raises the question of what other groups among property taxpayers are just as deserving of help. What about young families with school-age children and persons with income deficiencies who are in receipt of mothers' allowances or other forms of aid? Extending similar treatment to such classes of people would involve problems in identifying them and setting out the qualifications they must meet to be eligible for special help. When broad descriptions such as "persons sixty-five years of age or over" are adopted, people who do not require help become eligible. On the other hand, employment of a means test becomes burdensome on the administration and annoying to the taxpayer.

76. If such help is given, it should not be at the expense of other property taxpayers, but should be financed, as provided in the deferral legislation, by the Province through its general tax revenues.

77. We believe that the reforms in the local government tax structure that we are recommending will provide a substantial reduction in the weight of local taxes on all taxpayers and relatively more so for those who occupy modest dwellings. While this reduction may be less than the amount of relief given some individuals by the tax deferral legislation, it would be an outright reduction and not a postponement. In summary, preferential treatment of special classes of taxpayers is but a poor alternative to the basic reforms that we suggest.

SPLIT MILL RATE

78. Ten years ago Ontario started to ease the lot of residential taxpayers by directing specified amounts of provincial assistance to their exclusive benefit, resulting in a lower mill rate for them than that imposed on business properties. In the 1967 Budget, one of the sources of the funds needed to compensate for this "split mill rate", the unconditional per-capita grant, was substantially increased. This widened still further the spread in the general mill rate. Present provincial grants make all residential and farm school taxes 10 per cent lower than the rate for commercial and industrial taxes. The reduction in the general rate for residential and farm properties varies, as the reduction is equal to each municipality's graded unconditional per-capita grant, which, of course, has no relation to residential and farm assessment. Greater departures from the average are found among smaller municipalities. The over-all reduction now exceeds 10 per cent in most municipalities.

79. Under the split mill rate arrangement, the reduction in residential tax rate is now calculated in two quite different ways. The effect of the unconditional per-capita grant is to reduce the residential general tax rate by the amount of grant earnings while leaving the commercial rate unchanged. In any particular municipality, the provincial grant available to reduce the residential general tax rate is based on rates graded according to a combination of the municipality's status and its population. Each residential taxpayer benefits from the grant by a reduction in his mill rate equal to the number of mills that when applied to the residential assessment would produce an amount equal to the grant. The benefit to the residential taxpayer from the unconditional per-capita grant is clearly evident. If the gradation of unconditional per-capita grants is equitable, the position of the residential taxpayers across the province is likewise equitable. The latest addition to the grant, however, took the form of a uniform increase of $1.50 in the rate of per-capita grant payable for each category of municipality. This effected a substantial reduction in the gradation of the grant rates.

80. At first the reduction in the school mill rate was based upon the amounts of school tax assistance grants, and the reduction in the school rate for residential and farm properties was computed in a manner similar to the reduction in the residential general rate resulting from the unconditional per-capita grant. Now, however, the statute instructs each municipality or territory without municipal organization to levy school taxes at a rate upon residential properties that is 10 per cent lower than the rate struck for commercial properties. While the school tax assistance grant remained as an identifiable contribution toward the support of the split mill rate arrangement, there was no clear evidence that the grant was generally sufficient to compensate for the full 10 per cent reduction. The grant has now been submerged into the broader school grants program, and the position is even less clear. This much we do know: the requirement to maintain a 10 per cent differential in local taxes affords proportionately greater help to residential taxpayers in those municipalities that have a relatively higher proportion of non-residential assessment on which to draw.

81. We are not satisfied, however, that the split mill rate represents the best form of relief for residential taxpayers. Unless the provincial aid is clearly additional to the amounts that would normally be forthcoming, the relief for the residential taxpayer is obtained through heavier taxes on owners and occupants of business properties. Further, some residential taxpayers are in need of more assistance than others; yet under the split mill rate plan residential tax relief is spread proportionally among all residential taxpayers. Finally, the inter-municipal equity of the school tax portion of the split mill rate has never been fully demonstrated.

82. Still another disadvantage of the split mill rate arrangement is its potential instability. The tax differential has been widened twice already and could easily be widened again. We are not of course suggesting that municipal taxing arrangements in Ontario would get completely out of hand. We do, however, wish to stress how tempting it becomes, once a split mill rate has been introduced, to make undisciplined use of the device to ease the lot of the residential taxpayers. Elimination of the split mill rate would require an increase in grants from the Province or

in the weight of local taxation upon residential and farm taxpayers. These taxpayers are already sufficiently burdened to make the former alternative our clear preference. The precise form of municipal and school grants to accomplish this purpose are properly considered in succeeding chapters. Meanwhile, *we recommend that:*

> ***The necessary changes be made in municipal and school legislation to require mill rates for commercial and industrial taxpayers to be uniform with those for residential and farm taxpayers.*** **11:10**

HOME-OWNER GRANTS

83. In the four western provinces, the weight of residential property taxes is partly offset by direct grants to home-owners of flat amounts of $120 in British Columbia and $50 in Alberta, Saskatchewan and Manitoba. The full sum is payable provided the recipient is responsible for a like amount in taxes. The grants take the form of either a deduction from property taxes otherwise payable or a direct cash payment to the home-owner. In Manitoba, the payments are provided as school tax rate rebates and are not confined to owner-occupied dwellings.

84. We have doubts about the home-owner grant as a suitable form of property tax relief. One may question whether a system of cash payments from a provincial government to a large proportion of its electorate represents a sound choice. They could be construed as an attempt to enlist support at the polls for the party in power. Again, in a period when the value of money is decreasing and the cost of government is growing, fixed payments become steadily less adequate over time. Thus, each adjustment in the amount of payments would be subject to the same political influences.

85. An argument in favour of home-owner grants is that the money is put directly into the hands of hard-pressed taxpayers rather than into the treasury of the municipality that might thereby be encouraged to boost spending. Yet surely such reasoning is false. A local government that has inadequate resources certainly could not be criticized for using such funds to pay for needed services. But any local government that the electorate holds responsible for its actions would hesitate to use such moneys to increase its spending when its financial circumstances and need for services were not compelling.

86. Except for Manitoba, the home-owner grants are payable to owner-occupants of property but not to tenants. Home-owning, which is already favoured under personal income tax legislation in this country, inasmuch as there is no tax on imputed rents, thus obtains a second assist. But home-owning is not appropriate for all; and many who for valid reasons occupy rented accommodation may be more in need of a grant to offset high and increasing shelter costs than owners who would benefit from such grants.

PROPERTY TAXES DEDUCTIBLE FROM TAXABLE INCOME

87. Repeatedly, it is suggested that property taxes should be made deductible from income for purposes of income tax. While full implementation would require

the co-operation of the federal government, we are not disposed to advocate such an arrangement either in whole or in part. True, some of the burden of financing municipal expenditures would thus be indirectly shifted to the national level—a desirable shift for Ontario. We think, however, that tax deductibility would produce neither fair nor full relief to the taxpayers. The assistance would be available only to those with taxable income who own property. It would give greatest benefit, moreover, to those in the higher tax brackets because of the graduated structure of personal income tax rates. Thus the extent of the relief from property taxation would be scaled inversely to need. It can also be argued that it would be inequitable to allow property taxes as a deduction from taxable income unless the taxpayer is required to include in his income an imputed income for the occupancy of the property. In addition, to the extent that the tax represents a payment for services provided by government that would not be deductible had they been provided by private enterprise, or even by a municipality for a fee, it would be manifestly unfair to allow any deduction.

PROGRESSIVE RATES

88. It has sometimes been suggested that the property tax should be levied at progressive rates, in the manner of the personal income tax. Such an arrangement, to our knowledge, has not been tried. Today, the property tax is in effect proportional. A decision to adopt a progressive rate structure would imply that property occupancy constitutes a measure of taxable capacity that increases more than proportionally with the amount of property occupied. We doubt that this relationship exists. We must question, therefore, the wisdom of creating a property tax built around such an assumption. To design the precise rate structure that could be defended as equitable would remain an impossible task. Another thorny question would be whether the levies upon business properties should be proportional or progressive. But there is also a serious practical weakness to this proposal. If a graded rate structure were to be employed, should the Province specify the extent of the progression in the rates? That would be the fairest arrangement and in some ways the simplest. Even so, would this not complicate municipal tax levy and collection procedures beyond all reason? There are already a variety of rate differentials within certain municipalities. In these, the number of separate rates to be applied could grow to quite unmanageable proportions. Furthermore, it would be necessary to relate the graduated rate levels to equalized assessment and to adjust them periodically so as to maintain equity between one municipality and another. Altogether, we must regard a progressive rate structure as unworkable as well as probably unfair.

HOME-IMPROVEMENT EXEMPTION

89. One of the commonly voiced criticisms of the property tax is that it discourages owners from maintaining or making desirable improvements to their residential properties. Even minor improvements, it is said, will result in increases in assessment and add to the weight of taxation. Some means should be found, therefore, of allowing home improvements to take place without bringing on heavier taxation. The response advocated in some jurisdictions and adopted in others has

been to exempt home improvements from assessment for a temporary period of one or more years. Such exemptions, it is ordinarily conceded, should not extend to construction that adds to the amount of living space.

90. An appropriate policy for exempting home improvements is not easily devised. Among eligible improvements, should the legislation include elaborate renovations to existing rooms? Should it cover construction of new living space in a basement or attic requiring no structural enlargement of the dwelling? Should it permit the addition of a garage or carport? Should a building addition be authorized if it merely enlarges existing room areas? Should the amount of exempt improvements be limited to a fixed portion of an existing assessment? Should the benefit be transferable to the new owner when a property is sold?

91. The suggestion that adequate maintenance of a residence will result in an increased property assessment is not entirely supportable. The assessor values properties according to basic types and components. Assessed values are intended to reflect market values in broad terms according to the class of property and its particular location. Where, on the one hand, maintenance is seriously neglected or, on the other, is coupled with structural or other evident improvements, the assessed value will of course change. But assessments may be expected to remain unaffected by minor maintenance expenditures.

92. A home-improvement exemption would convey an uneven benefit. Owners would be able to take advantage of it to quite varying degrees depending upon such factors as the lot coverage of the building, the zoning, the ability of an owner to meet his needs through improvement of his existing residence, and the extent of the owner's financial resources. Clearly those with above-average financial capacity would be most likely to benefit.

93. Municipalities exercise a number of controls over residential properties to protect the health and safety of the citizens. It is not desirable for a municipality to require maintenance of residential properties under health, fire-protection or building maintenance by-laws and then give tax benefits to the same property owners for their compliance.

94. A home-improvement exemption, like any other, merely increases the burden on all other local taxpayers. We conclude that a home-improvement exemption has no place in a sound assessment and taxation system.

PARTIAL EXEMPTION

95. The most serious effort to counteract the regressive impact of the property tax was enacted at the end of World War I. Through a four-step plan of partial graded exemptions, dwelling houses assessed at not more than $4,000 became eligible for a percentage reduction from property taxes (other than for school purposes) in municipalities that elected to adopt the plan by by-law. The City of Toronto did so in 1921, the Town of New Toronto two years later. When the right to make an election was withdrawn in 1955, no other municipality had followed suit. The legislation was the product of post-war reconstruction enthusiasm as well as a continuing strong interest in site value taxation, which all four western

provinces had recognized earlier in their legislation. In urban municipalities, the partial exemption was applied to the assessed value of a dwelling but not to the value of the site or other type of building or structure on the land. In rural municipalities, the partial exemption could be extended to both farm houses and other farm buildings. Presumably the two were to qualify separately in relation to the established ceilings. Thus the limit of $4,000 per dwelling or farm building was substantial in relation to the level of values of that day even though the exemption did not apply to school taxes.

96. The partial graded exemption, as we have noted earlier, is not now available to any except the two urban municipalities that adopted it years ago.

97. We see a number of obvious shortcomings in the partial exemption plan. Because the legislation was not widely taken up, the Province did not find it necessary to alter the statutory dollar amounts governing the exemption throughout more than one-third of a century. In the two municipalities where it has existed, municipal councils have sometimes opposed and certainly never championed the removal of the privilege. On the other hand, with one notable exception, they were content to let its significance decline as a consequence of inflation. Between 1949 and 1955, the City of Toronto obtained authority from the Province to raise its ceiling on its partial graded exemption from $4,000 to $4,400 and to alter the scale of the remaining exemption levels accordingly. As noted, the exemptions were not applicable to school taxation. Yet school taxes have risen sharply over the years and have been most strongly attacked as a charge against property. Another, though again not a necessary, weakness, is that the benefit of the partial graded exemption was confined under the by-laws of both municipalities to single-family dwellings. It has not assisted the person in a self-contained dwelling unit within an apartment or similar multiple accommodation. Most rooming houses or boarding houses are too big to qualify. Thus persons living in all these kinds of accommodation in Toronto and New Toronto have been subsidizing persons in single-family dwellings whose circumstances were often better than their own. Confining the value to the dwelling unit has also enabled a person to qualify with a small house on a large lot or on a lot containing a double garage or some other structure that increases the total assessed value substantially.

98. The plan of partial graded exemptions suffered from still another weakness. The four-step method of lowering the taxable assessment resulted in inequities at the points where the levels change. For example, a dwelling assessed at $2,000 would be taxed under the general rate on an assessment of 50 per cent of $2,000 or $1,000. Add a nominal amount to the assessed value, say five dollars, and the taxable assessment would jump to 60 per cent of $2,005 or $1,203. Knowing the effect, assessors no doubt hesitate to apply a precise valuation that would bring the valuation of a dwelling just above an exemption bracket.

99. Thus, the particular form of partial graded exemption in Ontario contains a number of shortcomings, most of which are capable of being remedied. Unfortunately, any plan of partial exemptions would seem to retain one serious weakness—the need to draw an arbitrary line or lines between properties qualifying

for one or more degrees of tax reduction and others not so qualifying. Consequently, we have rejected as unsuitable the partial graded exemption as a means of tempering the weight of property taxation.

BASIC SHELTER EXEMPTION

100. There have been many unsuccessful efforts to make the property tax less regressive. We recognize that the tax does not measure ability to pay but merely the occupant's amount of shelter consumption. Should we then abandon any thought of reducing the weight of the tax on those whose taxable capacity may be presumed to be comparatively small? We have been most concerned to look at this question carefully and to answer it constructively. We have concluded, after much thought, that a method can be recommended that would assist residential taxpayers and at the same time reduce the undesirable regressivity of the property tax. We propose a flat exemption that would reduce the taxable assessment of every self-contained dwelling unit, whether a detached single-family dwelling or a unit within an apartment house or other multiple-family structure. In recommending such a plan, we believe that it must be assumed that the forces of competition will in due course lead landlords to pass on tax savings to tenants.

101. The problem of persons living in rooming houses, boarding houses or other accommodation that is not self-contained has caused us some concern. We believe there is some logic to giving a greater basic exemption for a large rooming house than for a smaller self-contained single-family dwelling. On the other hand, the administrative complexities involved in working out and maintaining equitable arrangements would appear to present almost insurmountable difficulties. Among other things, if a basic shelter exemption were made available to residential tenants whose accommodation was not self-contained, such establishments would undoubtedly mushroom to take advantage of the new legislation. Furthermore, a number of arguments can be advanced against the broader form of exemption. For one thing, efforts have been made from time to time to increase the weight of taxation upon properties providing shared rather than self-contained accommodation. Multiple occupancy probably does result on the average in a heavier burden on the school system, and the health, welfare and other services of local government. While we do not favour extra taxation on shared accommodation, we would not want to give this class of property a more generous tax concession than other classes of residential property. We note also that rooming houses and boarding houses are specifically exempted from business tax whereas hotels are taxable. In all the circumstances, we have concluded that a boarding house, rooming house or other shared-occupancy dwelling should be granted the same exemption as if it were only a single-family dwelling.

102. Later in this chapter, we propose that residential properties be taxable on a taxable assessment of 70 per cent of assessment at actual value. We have made some tests of the impact a basic shelter exemption would have on the level of property taxation and we have concluded that, in relation to the taxable assessment proposed for residential properties, a basic exemption of $2,000 for each self-contained dwelling unit would not be unreasonable. As current values increase, the amount should be reviewed and adjusted. Such an exemption would bring a

reduction of perhaps one-fifth in the residential component of the average municipality's total taxable assessment. Whether or not the precise differential in weight of taxation between residential and business properties resulting from the proposed basic exemption would be fair and equitable is a matter that does not greatly concern us at this point, because it is possible to adjust the difference in the weight of taxation between residential and business properties in another way if it becomes desirable to do so. On this subject we have more to say in later sections of this chapter.

103. We anticipate that many residences with very low market values will benefit greatly from the exemption that we propose. We are aware, however, that a residence of any value does create demands for local services. Although we want to prevent undue taxation on modest properties, we would not like to give anyone complete tax relief. For this reason we suggest that the reduction in assessment arising from the exemption should be limited to 50 per cent of the taxable assessment of any single dwelling unit.

104. To demonstrate the broad effect a basic shelter exemption would have upon residential taxpayers, we have prepared Table 11:1, which is designed to demonstrate generally the way in which the basic shelter exemption would reduce the regressiveness of property taxation. This Table shows the amounts of property tax that would be levied on representative taxable assessments of dwelling units, assuming a rate of 25 mills, first with no exemption, and then with a basic shelter exemption of $2,000. The reduced amount of the levy with the exemption is also shown in terms of the effective mill rate. It will be seen that the effective rate rises from 12.5 mills on a taxable assessment of $3,000 to 23.8 mills on one of $40,000; these compare with the uniform rate of 25 mills that would apply without an exemption. Given that people with lower incomes generally live in lower-value dwellings, the Table clearly indicates the contribution that a basic shelter exemption would make toward the reduction of the regressiveness of the residential property tax.

TABLE 11:1

EFFECT OF PROPOSED BASIC SHELTER EXEMPTION ON RESIDENTIAL TAX BURDEN ASSUMING RATE OF 25 MILLS AND TAXABLE ASSESSMENT OF 70 PER CENT OF ACTUAL VALUE

Assessed value of dwelling unit	*Taxable assessment of dwelling unit*	*Tax levy if no exemption (at 25 mills)*	*Tax levy with $2,000 exemption*	
			Amount	*Effective rate in mills*
$ 4,286	$ 3,000	$ 75.00	$ 37.50*	12.5
7,143	5,000	125.00	75.00	15.0
11,429	8,000	200.00	150.00	18.8
14,286	10,000	250.00	200.00	20.0
17,143	12,000	300.00	250.00	20.8
21,429	15,000	375.00	325.00	21.7
25,714	18,000	450.00	400.00	22.2
31,429	22,000	550.00	500.00	22.7
40,000	28,000	700.00	650.00	23.2
50,000	35,000	875.00	825.00	23.6
57,143	40,000	1,000.00	950.00	23.8

*Exemption only $1,500, assuming limitation of 50 per cent of taxable assessment.

105. In the examples given in the Table, the property tax on each dwelling unit would be reduced by $50, except for the one with a taxable assessment of $3,000, on which the reduction would be only $37.50. This is because the basic shelter exemption would not be allowed to exceed one-half of the taxable assessment. Even though the amount of the exemption remains constant from year to year, the benefit from it would rise with each increase in the local tax rate. For example, an increase in the rate to 27 mills would bring an increase in the exemption benefit to $54. However, assuming assessment at actual value, the benefit would be relatively reduced as the current market values of residential property rise, unless the basic shelter exemption were also increased.

106. Our simplified illustration shows how a basic shelter exemption reduces the regressiveness of the property tax by giving the same dollar amount of help to all who are subject to the same rate of tax within the one municipality. The similarity to the home-owner grant is obvious. The differences are equally striking. Whereas the home-owner grant is a flat amount, regardless of the weight of local taxation, the basic shelter exemption would recognize the real differences in the tax burden from one taxing jurisdiction to another, and these would be reflected immediately and directly in the size of the tax reductions. Changes in tax levels from one year to the next would result in similar immediate adjustments. Furthermore, the basic shelter exemption would apply to all residential properties whether owner- or tenant-occupied. In this respect, the exemption plan would be similar to the Manitoba home-owner grants and the present Ontario split mill rate arrangement, but would contrast with the home-owner grants in the three westernmost provinces.

107. A basic shelter exemption accomplishes in part the desired adjustment to the changing expenditure requirements of local governments. As we have already said, the exemption does not allow for changes in the value of the dollar. But the benefit, being computed by applying the mill rate to the exemption, is related to the actual municipal and school expenditures of the current year. It represents, in other words, a constantly up-to-date measure of the relative need for relieving the tax load borne by the residential taxpayer. A review of the basic shelter exemption at intervals of several years should be quite sufficient, in our opinion, to keep this method of residential tax relief completely current.

108. Having set forth the principle of a basic shelter exemption, we now describe in a little more detail the mechanics of its application throughout Ontario. In our examples in Table 11:1 we have assumed that residential property is subject to tax on a taxable assessment of 70 per cent of actual current value. It is from this taxable assessment of 70 per cent of actual current value that the $2,000 would be allowed. As most municipalities assess at only a comparatively small fraction of current value, until reassessment has been accomplished in a municipality its basic shelter exemption must be scaled down to approximately the same proportion of the full $2,000 as the present assessed values bear to current values. The provincial equalization indexes would be employed for this purpose. A practical adjustment might involve rounding the exemption to the nearest $100.

109. To give effect to the plan, the municipal assessor would indicate on the assessment notice and identify on the assessment roll each dwelling unit qualifying for the basic shelter exemption. Between the return of the assessment roll and the preparation of the tax roll, the Province should have completed its assessment equalization report based upon the assessment carried out locally one year earlier. It is suggested that this report should also set out the amount of the basic shelter exemption to which each municipality and each school board in unorganized territory is entitled after applying the appropriate equalization factor. The basic shelter exemption for a municipality would then be entered on the local collector's roll and deducted from the taxable assessment for each dwelling entered thereon for the purpose of computing the tax. The exemptions would then be totalled and the amounts needed to replace the loss in local taxes calculated. Upon receipt and audit of the latter information, the Province would make compensating grants as we suggest later.

110. Special provision should be made for a municipality that alters its level of values in order that its residential taxpayers will not be denied part of the benefit of the basic shelter exemption in the first year following reassessment. Upon notifying the Assessment Branch of its intention to carry out a reassessment, a municipality would be authorized to apply to the Branch for a revised basic shelter exemption figure applicable to the year for which the new assessment is first returned. We think the Branch could meet such requests and, indeed, should know the effect of all major reassessments in the year in which the new values first become applicable for tax purposes.

111. The size of the basic shelter exemption on dwellings within a municipality would be a clear indication to residential taxpayers of the degree of under-assessment within the municipality as determined by the Department of Municipal Affairs —the smaller the exemption, the greater the under-assessment. In addition, the use of provincial equalization figures to establish the amount of the basic shelter exemption underlines the importance of the changes we propose to strengthen the place of equalization data in the assessment and tax system.

112. The position of multiple accommodation under a system of basic exemptions perhaps warrants a further word. Some people may fear that the plan will merely increase the profits of landlords, including the owners of substandard properties; others may be concerned because the benefit would extend to prestige apartments where neither the owners nor the occupants seem in need of assistance with their taxes or rents. However, there is already precedent in Ontario for giving landlords the same benefit as home-owners. The advantage of the lower rate for residential taxpayers under the present split mill rate arrangement extends to all residential property, whether a home or an apartment house and whether owner- or tenant-occupied. The benefit of the basic shelter exemption should not be withheld from the owners of rented dwelling units, or else there will be discrimination against the tenants who in the final analysis must bear the taxes imposed on the landlords.

113. We have considered the possibility that landlords holding long-term leases be required to make cash rebates to tenants equal to the applicable reductions in taxation. We are inclined to think, however, that such a requirement would be difficult to frame and enforce and, in any event, is hardly necessary. For low-cost accommodation, where the benefit would be greatest, long leases are not common. It is generally the practice, at least in newer apartment buildings, to grant a lease for no more than two years unless the tenant agrees to pay, in addition to the fixed rent, increases in local taxes over a base year. The effect of the basic shelter exemption—and indeed of our other proposals that would also reduce the property tax—should therefore be taken into account in the negotiation of new leases as well as the renewal of existing leases. An advance announcement of the introduction of the plan would give tenants an earlier opportunity of obtaining the desired result.

114. The cost of establishing a basic shelter exemption for residential properties could be met in several different ways. First, it might be paid for merely by increasing the local mill rates. In that event, part of the cost would be transferred to business properties and the rest would revert to the residential and farm properties in proportion to their remaining taxable assessments. Dwellings of modest value would obtain some net benefit while those in the upper value range would be more heavily burdened.

115. Second, the needed taxes could be levied solely upon business properties, producing a new differential between mill rates: residential and farm taxpayers would realize the full benefit of the basic exemption.

116. Third, the entire cost could be recovered from the residential and farm taxpayers themselves. This would require a reversal of the split mill rate differential that now exists. The effect would be to redistribute the residential and farm tax burden. The existing regressiveness would be counteracted, but the total obligation on the residential and farm sector would remain unchanged. (The basic shelter exemption would produce a considerably smaller benefit for those on the lower end of the tax scale than the exempt proportion of their assessments.) The net benefit to low-value dwellings would be least under this option.

117. Fourth, the cost could be met by the Province from its own revenue sources, a choice that in our opinion offers material advantages over the other alternatives. It would give residential and farm taxpayers the full benefit of the basic exemption; local mill rates would remain undisturbed. Through this form of transfer, the Province would furnish an equitable supplement to local tax resources. In effect, the funds would be drawn from tax sources to which local government is denied direct access. The extent of the residential exemption in each local jurisdiction would in general vary in inverse proportion to the strength of its residential tax base. Taking the local exemption as a starting point, the size of the payment to each local authority would result from a local tax-levying decision. The provincial payment would reinforce the local choice on the level of spending and would not be subject to any condition on the part of the Province. If the local authority levied more in one year than it needed to meet its expenditures, the

surplus, taking account of the Province's basic shelter exemption grant, would become a revenue item in the succeeding year's budget. Thus the transfer of funds would not intrude upon local autonomy and could in fact be regarded as reinforcing it.

118. Although we reserve to future chapters the remaining consideration of municipal and school grant requirements, in this chapter we declare ourselves in favour of the Province's underwriting the full cost of the basic shelter exemption. We do so here because the means of paying for the shelter exemption constitutes an indispensable element of our proposal.

119. For all of the reasons set out above, *we recommend that:*

From the taxable assessment of residential property, there be allowed a basic shelter exemption in respect of each self-contained dwelling unit of **11:11**

(a) $2,000 multiplied by the provincial equalization factor for the municipality, or

(b) 50 per cent of the residential taxable assessment applicable to the self-contained dwelling unit,

whichever is the lesser.

LIMITS OF RESIDENTIAL PROPERTY TAXATION

120. The weight of residential taxation that is acceptable in this (or any other) province represents a social judgment. It is therefore related, among other things, to the historical experience with the tax. For almost 175 years real property has been a base for taxation in Ontario. For nearly as long, property taxes have been relied upon almost completely as the local form of revenue raising other than for public utilities and other municipal revenue-earning enterprises. In making an historical comparison concerning the use of the tax, one must employ a suitable basis of measurement. We have found property taxes as a percentage of personal income and as a percentage of personal disposable income two useful guides. On either basis, property taxes today would seem to be at a tolerable, although undoubtedly heavy, level. In considering the weight of residential property taxes, however, we do not suggest that they can be maintained at a constant percentage of personal income or of personal disposable income under all circumstances. We think that as incomes rise it is reasonable to expect a somewhat smaller percentage of income to be taken up by residential property taxes. Yet when measured in constant dollars, the residential property tax should be capable at least of maintaining its present yield.

121. What constitutes a tolerable weight of residential taxation is affected also by the purposes for which the revenue is being spent. We believe that, as a policy, the Province should furnish a substantial share of funds required for education and social services. Similarly, it should be a partner in meeting the costs of road construction and maintenance. Other requirements of more strictly local concern can and should continue to be paid in large part from property tax.

122. In the long run the realty taxes levied upon residential accommodation represent a consumption tax upon shelter. But once the regressiveness of the property tax has been relieved and the provincial grants have made their proper contribution to education and social service costs, the decision on the proper weight of taxation becomes more a matter for local determination on the basis of the quality and extent of the local services that are provided. On the other hand, it remains the responsibility of the Province to assure that, having regard to the extent of other available revenue sources and local service requirements, the municipalities and school boards can keep the property tax burden within tolerable limits. The recommendations we make in this Report are designed to achieve this result.

RECREATIONAL PROPERTIES

123. Recreational properties for personal enjoyment, including summer cottages, hunting camps and ski chalets, have, under our system of assessment and taxation, been grouped with residential properties. Like residential properties, recreational properties pay taxes for the support of local schools. They have been the beneficiaries also of the lower residential mill rate.

124. For the most part, recreational properties are held for owner occupancy. In any event, as is true of residential properties, the occupant is the person who in the final analysis provides the money to pay the taxes. Consequently, the weight of taxation on recreational properties ought to be kept within bounds that are reasonable having regard to the use to be made of the property.

125. The number of properties held for leisure-time enjoyment in Ontario is doubtless increasing faster than the growth in population. In addition to much larger interest in winter resort properties, increasing numbers of urban dwellers are purchasing tracts of farm land for country retreats. The land may or may not continue to be worked agriculturally.

126. The growth in the cost of education in rural municipalities has been a prime factor in tax increases of major proportions on summer cottages and other recreational properties. We have been conscious of the power struggles that have gone on in some resort municipalities between the year-round inhabitants and the cottagers. We have considered whether the weight of taxation falling upon cottage properties is excessive, and whether some differential in taxable assessment would be justified to lighten the load. On the other hand, we have also given thought to whether cottages and other recreational properties should be entitled to the basic shelter exemption. We must, then, examine two quite distinct questions relating to the position of recreational properties in the tax structure. Each merits careful consideration.

127. Those who occupy recreational properties do not ordinarily claim school attendance privileges or make calls upon public welfare or nursing services. Indeed, they tend to place less than normal demands upon all or most other government services. The cottager who must pay full taxes, including school rates, may be regarded therefore as carrying more than his fair share of the tax burden. On the other side of the question is the fact that recreational properties are being used for

steadily longer periods each year. The improved condition of the roads, including frequent winter ploughing, makes this change feasible. The greater interest in winter sports consequent upon the growth in incomes and in leisure time encourages the trend. As a result, more use is being made of municipal roads and of certain other municipal services by the occupants of recreational holdings. Furthermore, recreational properties represent a local industry to the municipality in which they are situated. Some municipalities can ill afford the loss in taxes that preferred tax treatment would bring.

128. The second question concerns the basic shelter exemption. This tax benefit is designed to reduce the regressiveness of the residential property tax as a tax on shelter. Recreational properties, however, do not provide basic shelter and therefore the basic shelter exemption cannot be fully justified on such grounds. Furthermore, occupancy of a cottage affords *prima facie* evidence of financial capacity well beyond a minimum income level. On the other hand, in the absence of the basic shelter exemption the weight of taxation upon recreational properties could be viewed on balance as being heavy in relation to their anticipated calls upon local government services.

129. Administrative difficulties would result from any attempt to treat recreational properties differently from other residential properties. The distinction is often quite apparent. For example, many summer cottages are not winterized and are obviously not capable of year-round occupation. Or again, the location and architectural design of some ski chalets afford an immediate clue to their type of use. But there are numerous properties that cannot be distinguished from farm houses or other permanent residences except by knowing the nature and extent of their current occupancy. Furthermore, if those who own a cottage on a lake are to be denied a basic shelter exemption on the property because it is not their prime residence, what should be done about the man who lives in a remote town but maintains an apartment for occasional visits to the city? Or what about the non-resident of Ontario who has a cottage here? It might be possible for the local assessor to look into all such questions and to obtain a declaration, if necessary, that the occupant of any dwelling unit on which a basic shelter exemption had been granted was not at the same time claiming a second exemption on another property. But taxes are levied on the owner, and if the right of exemption were dependent on the status of the occupant, difficulties would be encountered every time a property changed hands.

130. In our view, a balanced treatment of recreational properties would be provided by imposing full local residential taxation and, at the same time, allowing them the benefit of the basic shelter exemption. We think, moreover, that the exemption, if granted to recreational properties, should apply to each that can qualify as a self-contained dwelling, whether it is suitable for year-round occupancy or not. As many recreational properties have low values, the proposed limitation of the exemption to 50 per cent of the taxable assessment would have a desirable moderating effect on the benefit from the exemption.

TAXATION OF BUSINESS PROPERTIES

131. In examining the position of business properties generally, we reserve for consideration later in the chapter three classifications of business properties to which special conditions attach. These are mining properties, transportation and communications properties, and farms. Each is subject to some form of special tax treatment at present.

132. The taxation levied on business properties in Ontario includes ordinary realty taxation levied on the owners of such properties and supplementary business taxes levied on those who occupy or use them. The business tax on occupants is calculated from a supplementary business assessment at a statutorily determined percentage of the ordinary realty assessment of the occupied premises. Differing percentages of the assessment have been set by class of business, modified in some cases according to the size of the municipality in which the business is located. The business tax is then applied to the business assessment so determined at the same mill rate as for the ordinary property tax applicable to business realty. All properties serving a business purpose are subject to the higher part of the split mill rate, namely the commercial mill rate. While a property or a part of a property that is intended for business use remains idle, however, it is not liable for business tax and it is subject to the residential rate of property tax. Despite the distinctive elements of the taxes levied upon business, one levied on the owner of the property and one levied on the occupants, the two are reported jointly in the statistics as property tax revenues. It is unfortunate that a complete breakdown of the taxes upon business between the ordinary realty tax and the supplementary business tax is not available.

THE ORDINARY REALTY TAX UPON BUSINESS

133. In our analysis of the taxation of business properties, some purpose would be served by considering the two forms of taxation together as a total levy upon business based on both ownership and occupancy of real estate. It is also useful, however, to consider the two taxes separately.

134. Precise information on the cost-revenue relation between the local government services furnished to business properties and the taxes yielded by such properties has never been developed on any broad basis for Ontario municipalities. We can arrive at only a rough approximation, therefore, of the average position of business real estate. Our review of the figures for the years 1961 to 1965 inclusive indicates that, upon the elimination of the split mill rate, realty taxes on business properties of between 55 and 60 per cent of the weight of the taxes levied upon residential properties would be sufficient on average to carry what might be considered to be a reasonable share of the costs met from taxation.

135. Admittedly our analysis is not very precise. We think it a safe conclusion, however, that a level of ordinary realty taxation upon business properties equal to two-thirds of the level of taxation upon residential properties would furnish sufficient revenues on average to match the service costs. The tax revenues that

were lost by the change would of course have to be made up in some other way. This could be done by altering the relative proportions of ordinary realty tax and the supplementary business tax on business properties.

136. If business properties should be accorded a lower weight of realty taxation than residential properties, the simplest approach would be to free them from contributing to school costs. There are a number of objections, however, to such a course. For the owners of business properties to pay their way in full—as the owners of residential properties on average do not—they would have to pay somewhat more than the standard mill rate for general municipal purposes. Would they accept a higher general mill rate? Furthermore, if one began to alter the weight of taxation borne by business, service by service, the case for some reduction in the weight of taxes in respect of health and welfare services could not easily be ignored. Again, it would be difficult to establish the extent to which business properties might reasonably be held responsible for a larger share of the costs of other services, such as road construction and maintenance. The notion that business should pay nothing toward the support of education or the social services is an oversimplification that cannot be supported.

137. Our conclusion is that any differential in the weight of taxation between residential and business properties should be created by adjusting the proportion of the total assessment that is designated as taxable. If, for example, residential properties were to be taxed on assessments at full current value, ordinary realty taxes on business properties might be calculated on a fixed proportion of full current value.

DEFINITION OF BUSINESS

138. The Ontario Assessment Act has managed for more than sixty years to impose a business tax without providing any definition of business. The courts have wrestled with this problem, but have failed to produce a definition that clarifies the position once and for all. If business properties are to be treated differently from residential and farm properties for tax purposes, business properties must be defined. In the absence of a suitable definition, questions arise as to the appropriate treatment of revenue-earning operations that are peripheral to the business community. The present interpretation of business makes proprietary clubs subject to business tax but exempts other clubs—a position that we think too narrow. Again, it raises a question respecting properties that are not involved directly in a profit-making enterprise as, for example, a trade or professional association office. Because we propose differential tax treatment of business and residential properties, this is a convenient point to deal with the matter of definition.

139. In real property tax legislation, the concern of the taxing authority is not with business but rather with real estate that is used for business. Consequently the simplest approach to the problem might be to place a definition in The Assessment Act somewhat as follows:

"Occupancy for business purposes" means

(a) occupancy by a person or persons primarily for the purpose of producing income or supporting income-producing operations; or

(b) occupancy by government, a Crown corporation or agency, or any non-profit organization, primarily for the purpose of providing goods or services at a charge sufficient to recover all or a substantial proportion of their cost.

140. When business premises are not occupied for business purposes, their classification as business property is not always indisputable. Yet the assessor is expected to classify as business premises those that are idle as well as those that are occupied. Currently no real problem arises because the vacant premises are subject to the same mill rate as residential properties. A person will readily agree on which idle premises are non-residential since no tax penalty results from the admission. If, however, business properties are to be given preferred treatment over residential properties for ordinary realty taxes, a new problem could develop. To avoid unwarranted claims that idle properties are intended for business use, we suggest that no property should be classified as a business property until it has once been occupied for business purposes and then only so long as it remains available and suitable for business use. For the reasons set out above, *we recommend that:*

The Assessment Act define business properties and occupancy for business purposes. **11:12**

THE ALTERNATIVES TO A BUSINESS TAX

141. A large proportion of property tax revenues is raised from business by the ordinary realty and the supplementary business taxes. With the existing split mill rate, the total yield from business properties in urban municipalities is, on average, close to 50 per cent of total property tax revenues. While the over-all position would be somewhat altered if the split mill rate were abolished and residential taxpayers were given a basic shelter exemption with compensating grants from the Province, it is none the less evident that the reduction of the weight on business by approximately one-third of the realty tax and all of the supplementary business tax would involve a substantial shrinkage of revenue, perhaps in the order of $150 million. This brings us to the question of how this revenue reduction could be replaced by an alternative tax.

142. We have already said, in Chapter 9, that it is virtually impossible to find any feasible substitute for the property tax. There and in Chapter 19 we discuss and reject the use by local government of a hotel and motel room tax, a retail sales tax, a motor vehicle levy and, at least for the time being, an income tax. We also say that if larger units of local government are formed which would be able to administer an income tax, the matter might well be reviewed, although we have considerable doubts concerning its practicability.

143. While throughout the United States a far greater variety of non-property taxes have been employed, some of which produce significant amounts of local income, the conclusions reached in the following quotation from a recent report of the Advisory Commission on Intergovernmental Relations are similar to our own:

> Recent years have witnessed a mushrooming of all kinds of local non-property taxes, those on sales, personal and business incomes, on amusements,

> cigarettes and alcoholic beverages, on motor fuels and vehicles, on public utility services, etc. With the exception of some in large cities, these local taxes are not noted for their effectiveness, particularly where individual local units have to "go it alone". Single local jurisdictions are typically too small to permit effective tax enforcement especially at the low rates at which these taxes have to be imposed.[11]

American experience in non-property taxes therefore does not encourage a move in this direction.

144. There are two other alternatives that might be used to replace a reduction in the weight of tax on business which we should consider before concluding this discussion. The first is a service charge for certain municipal services. Such charges are already being made universally by way of electricity and water rates, and in some municipalities for sewer services. In our view, there is no realistic prospect of raising any significant amount of revenue by expanding the list of services for which such charges are made. While wider use of sewer service charges might be made, this one possibility represents a debatable source of quite limited proportions.

145. The other alternative would be a different kind of tax upon business: a turnover tax. For over twenty years the City of Saint John, New Brunswick, used a turnover tax as its principal form of business tax—a form of levy that continues to attract interest as a means of municipal revenue raising.

146. The Saint John turnover tax was confined to wholesalers and retailers. Other forms of business were subject to a property-based business tax very similar to the one now in effect in Ontario. The Saint John turnover tax, like the realty business tax in our own province, involved the application of different percentages to different classes of business. The percentage rates ranged between 10 and 25 per cent. They were intended to balance differences in average mark-ups between classes of business such as the jewellery, grocery and furniture businesses. The necessity of prescribing differing percentages constitutes a serious difficulty to be overcome if the turnover tax is to be equitably applied. The problem helps explain the fact that Saint John, on introducing the tax, did not immediately extend it to all forms of business and professional enterprise. Later, when that move might have been made, the city council was barred by the 1947 Dominion-Provincial Tax Agreement from extending the coverage of the tax since it was viewed as a form of income tax. To maintain the turnover tax as an equitable levy and to obtain full compliance from those subject to tax would require a much more extensive administrative effort than to retain the Ontario business tax, coupled as it is with the ordinary realty tax. The problem of collections from short-lived businesses, which the present Ontario business tax encounters, would be felt no less under a turnover tax. Finally, as this type of tax is largely indirect, we have doubt as to whether it would be within the constitutional powers of the Province. The sweeping reform of local government finance in New Brunswick, effective January 1 1967, abolished the Saint John turnover tax along with taxes on personal property and the poll tax.

[11] 1966 State Legislative Program of the Advisory Commission on Intergovernmental Relations, Washington, September 1965, p. 45.

IMPROVEMENT OF THE PRESENT BUSINESS TAX

147. The existing business tax embodies a number of favourable features as a form of local government levy. First among these is the uniform place of the levy in the tax and revenue structure of all Ontario municipalities. Not only is the business tax mandatory, but the base is laid down by statute. Also the weight of the tax in relation to the ordinary realty tax is fully prescribed in the same statute, including a detailed rate structure by class of business. While municipalities in all other provinces make some use of business taxes calculated from some kind of property base, in only one other province, Saskatchewan, does the business tax take the form of a mandatory levy of uniform application.

148. The Ontario business tax, by operating in effect as a surcharge on the ordinary realty tax, utilizes the realty base for the two purposes. In this respect it is simpler and much to be preferred to business taxes in most other jurisdictions that require the calculation of a separate tax base. With all the problems to be overcome in strengthening the functioning of real property assessment, it would be unfortunate if Ontario should move to a different form of property base for its business tax and thereby spread its assessment efforts that much thinner.

149. The cardinal weakness of the Ontario business tax is the indefensible structure of its rates of assessment. The effort to maintain the existing flow of tax revenues from various businesses, expressed in the legislation of 1904, meant the continuation and reinforcement of a tax structure that was obviously pitted with inequities. Each year that passes without its reform makes the errors of the past more difficult to eradicate. Continuity is in danger of settling into perpetuity. However, we accept as a prime responsibility the development of recommendations for the elimination of deep-seated weaknesses in the tax system, their long continuance serving merely to strengthen the challenge.

150. In our desire to deal effectively with the rate structure for business tax assessments, we have sought the opinions of those subject to the tax both by inviting written and oral submissions and through the circulation of an extensive questionnaire. Nothing has emerged that lends support to a graded rate structure.

151. A prime determinant of the weight of municipal tax that businesses based in Ontario can shoulder is the relative tax position of like businesses in adjacent Canadian provinces. The competitive relationship does not apply to businesses in total but to each class of business separately. An important fact in the situation, therefore, is that a flat-rate business tax is to be found in most other jurisdictions. The four provinces where variable rate structures by class of business have been significant are Manitoba, New Brunswick, Newfoundland and Prince Edward Island. In both Manitoba and New Brunswick the reports of the recent tax commissions have included recommendations for flat-rate business taxes. The graded rate structure by class of business is found also in Edmonton where, according to a communication from the then Mayor, their "officials disagree with the variable rates applied to the different types of business and contend that one rate should be applicable to all." In addition to the information obtained from Edmonton,

replies to similar inquiries were received from four other leading cities in each of which the notion of a flat-rate tax was supported. The point was made more than once that the valuation placed upon property provides a sufficient differentiation between one business and another to obviate the need for a graded tax rate.

152. The replacement of the present graded rate structure by a flat-rate business tax would, if a shrinkage in revenue is to be avoided, involve a redistribution of the total taxes now being collected over all business taxpayers. Such a redistribution would involve increases in the business tax for those who are now favoured with low rates. However, implementation of our other recommendations, particularly for the elimination of the split mill rate and increased provincial grants for education, would result in realty and business tax reductions that would more than offset any tax increases occasioned by a change to a flat-rate business tax. Thus the over-all effect would be that some business taxpayers would receive little or no financial benefit from our recommended changes, but equity would be achieved between the various classes of business, without any over-all increase in the burden on any class.

153. The consequences of establishing a uniform percentage supplement as a tax on all forms of business were considered by the Provincial-Municipal Relations Committee and later by the Select Committee on The Municipal Act (the Beckett Committee). As a result of a sample survey of Ontario municipalities, the Provincial-Municipal Relations Committee concluded that a rate of 43.3 per cent would yield approximately the same revenues over all as the graded rate structure. Their survey was based on the year 1953. They further estimated that more than 60 per cent of businesses subject to tax in Ontario would be subject to a rate increase. The Beckett Committee survey was based on the year 1961. It involved inquiries directed by questionnaire to all Ontario municipalities and the analysis of fully usable replies from 349 municipalities. From that large but entirely random sample, the Beckett Committee determined that those businesses subject to a 35 per cent business assessment or lower could anticipate some increase in their rate of business tax. They went on to estimate that 64.2 per cent of businesses would be adversely affected.

154. The data gathered for the Beckett Committee were reviewed and subjected to further analysis for us. Table 11: 2 shows the average business tax rates by class of municipality and in total derived from the questionnaires completed for the Beckett Committee. Both arithmetic averages and medians are shown, as well as the range of the average for individual municipalities in each class and in total. Table 11: 3 shows the percentage of business assessments below and above the median level in each class of municipality and in total. Taken together, the figures reveal the large proportion of businesses that would be subject to a rate increase in order to maintain the over-all productivity of the present tax through a flat-rate levy. The figures also emphasize the differing repercussions of such a change municipality by municipality.

155. If Ontario converted its municipal business tax to a flat-rate supplement of, say, 45 per cent, those businesses subject to an increased rate of tax would have to make adjustments in the weight of their business tax on one of a number of bases. The position as we have calculated it is set forth in Table 11: 4. If we look only at the business supplement, the percentage increases in taxation are substantial. The position of supervised car parks now assessed at the 10 per cent rate is a special one affecting only a relatively small number of businesses. In the remaining categories of taxpayers who would experience increases, a large number would experience a 44 per cent increase in business tax, and those in other categories would undergo increases of 33 per cent and 22 per cent respectively. But, in such an analysis, the figure we regard as significant is the change in the total weight of municipal taxation to be borne by a business, both directly and indirectly. Owner-occupants, of course, bear the whole weight of the taxes upon business property directly, whereas tenant-occupants pay the business tax directly and at least support the realty tax through their rents. Once again, let us leave for separate consideration the impact of a shift to uniform rate levels upon supervised car parks. For the remaining taxpayers, the increases in total taxes required to effect a uniform rate structure for business tax would range between 7 to 14 per cent. Local taxes, moreover, constitute a relatively small part of total business costs for most businesses. Even without the other benefits that our recommendations would bring, there should be no great difficulty, therefore, in accomplishing the proposed percentage increases. Those businesses affected adversely would no doubt do their best to adjust the prices of their goods and services so as to pass on the increases to their customers. On the other hand, there would be offsetting tax reductions for another large group of businesses that would help to hold down, if not bring down, the prices of their goods and services.

TABLE 11:2

ONTARIO MUNICIPALITIES—BUSINESS TAX ASSESSMENTS
AVERAGE ASSESSMENT AS PERCENTAGE OF REAL PROPERTY ASSESSMENT OF OCCUPIED PREMISES, 1961

Based on actual assessment	*Metropolitan Toronto*	*Other cities*	*Separated towns*	*Other towns*	*Villages*	*Townships*	*Improvement districts*	*Total*
Arithmetic Mean	46.6%	45.1%	46.8%	46.0%	38.0%	46.9%	51.7%	46.1%
Median Rate	47.6	44.5	45.6	42.7	33.9	33.0	34.7	35.8
Highest Rate	59.4	51.5	51.8	95.3	56.7	81.6	58.8	95.3
Lowest Rate	37.6	33.1	37.9	20.9	5.5	6.0	23.9	5.5

Source: Calculated from a report prepared for the Select Committee on The Municipal Act and Related Acts, April 1962 (Sample of 349 municipalities).

TABLE 11:3

ONTARIO MUNICIPALITIES—BUSINESS TAX ASSESSMENTS
PROPORTION OF THE ASSESSMENTS BELOW AND ABOVE THE MEDIAN OF THE AVERAGE PERCENTAGE USED TO COMPUTE THE BUSINESS ASSESSMENT, 1961

Classification	*Median*	*Percentage of assessments*	
		Below	*Above*
Metropolitan Toronto	47.6%	61.2%	38.8%
Cities	44.5	66.5	33.5
Separated towns	45.6	78.9	21.1
Towns	42.7	73.6	26.4
Villages	33.9	56.2	43.8
Townships	33.0	55.7	44.3
Improvement districts	34.7	47.3	52.7
Total All Municipalities	35.8	67.7	32.3

Source: Table 11:2

TABLE 11:4

ONTARIO MUNICIPALITIES—BUSINESS TAX ASSESSMENTS
EFFECT OF SUBSTITUTING 45 PER CENT UNIFORM RATE FOR ALL PRESENT GRADED RATES LOWER THAN 45 PER CENT

A. *Business tax assessment as percentage of real property assessment*

Present rate	*New rate*	*Percentage increase*
35%	45%	22%
30	45	33
25	45	44
10	45	78

B. *Total realty and business tax assessment as percentage of real property assessment*

Present rate	*New rate*	*Percentage increase*
135%	145%	7%
130	145	10
125	145	14
110	145	24

156. We have given particular thought to the position of the supervised car parks and we have received presentations from the parking lot operators. This business would not have any over-all increase in its level of taxation, because our recommendations for general reductions in municipal taxation should more than offset the increase in its business tax. Equity demands that to the greatest extent possible all businesses be treated alike, and we do not think an exception should be made for car parks and parking lots.

157. Earlier, we argued that the weight of ordinary realty tax upon business properties should reflect their responsibility to support the cost of services provided by local government to such properties in relation to the tax and service positions of residential properties. On that basis, we indicated that the taxable assessments of business realty might be set at perhaps two-thirds of the level of taxable assessments upon residential properties. Any remaining tax imposed upon business

should in our opinion be in the form of a business occupancy tax from which unoccupied business properties would be exempt. Having examined the graded rate structure of the present business tax, we have formed the firm opinion that a flat-rate supplement to the realty tax is much preferable to the present graded rates. The precise dividing line between the ordinary realty tax and the supplementary or business occupancy tax is of limited significance. It can, however, establish the proper distinction between business properties that are in active use and others that are idle.

PROPOSALS FOR TAXATION OF BUSINESS

158. At the present time a realty-based business tax adds 45 per cent to the yield from realty taxes levied on business in addition to the split mill rate differential. On the side of maintaining taxation on business properties at this existing high level is the strong advantage of providing local governments with the power to raise substantial revenue at their discretion. For that purpose we cannot propose any better supplement to the ordinary realty tax than a flat-rate realty-based business tax that includes appropriate treatment of transportation and communication, farming and mining properties. On the side of some lightening of the existing tax load upon business is our concern to keep business fully competitive with businesses located in other provinces. A further concern is that taxes on business that are high now might gradually be pushed higher if no form of control were built into the system. We believe, however, that this latter consideration would be satisfied by stabilizing the taxation of business in comparison to the taxation of non-business properties.

159. To keep the level of business taxation under control would seem to require that the comparative weight of taxation on various broad classes of properties be prescribed by statute. In defining the position, we propose that the class of property that is taxed most heavily be taxed on 100 per cent of its assessed value and no more. Some fraction of the assessed value would then serve as the tax base for other designated classes of property. Stated in this fashion, the weight of the combined realty and business taxation upon a business property as the most heavily taxed class of property would be set at 100 per cent of current value of the property. From that starting point, we have calculated that approximately 69 per cent of the residential assessment should be taxable if the present relative positions are to be preserved. In fact, therefore, we proposed that the relationship be established by statute at 100 to 70. As to the taxation on business, we suggest that the statute might describe the tax upon the owner as a business realty tax and the tax upon the occupant as a business occupancy tax, with 50 per cent of the combined taxable assessment to be borne by each. Percenages for the property of special industries are considered later.

160. Implementation of this proposal would have the effect of reducing the weight of municipal and school realty taxes on the owners of properties used for business by more than 25 per cent, and correspondingly increasing the taxes levied in respect of business assessments on the occupants. We realize that such a change

should not be made where under present arrangements there would be no assurance of a compensating reduction in rent to lessees.

161. Most long leases include a clause requiring the lessee to pay, as an addition to the fixed rent, the amount by which the lessor's property taxes on the leased premises for each year exceed those for the initial year of the lease. Where such leases have already been running for some years, rents will likely have already increased to some degree because of increases in the owners' taxes. Thus, a reduction on taxes of an owner, through the proposed division of assessment between him and his tenants, may merely reduce his taxes, and hence the rents, closer to their levels at the commencement of the lease. This would not be the effect, however, under leases, whether of long or short term, without an escalation clause, nor would it under leases with such a clause that were entered into in recent years. Of course, under some long-term leases of a complete building, the lessee covenants to pay the owner's property taxes as well as rent.

162. One solution to the problem would be to provide by statute that rentals for all existing tenancies be reduced by an amount equal to the lessor's property tax reduction attributable to the change in the level of real property assessment on business properties. We hesitate to recommend an arbitrary measure of this kind that interferes with existing contractual arrangements and that might present considerable difficulty in its application in particular instances.

163. A somewhat less tidy, but perhaps more acceptable, arrangement would be to defer, for a period of say five years, mandatory application of the change in level of assessment of business properties under existing leases, unless the parties to the leases indicate their willingness to be assessed on the new basis, or the leases terminate. The procedure for waiving the deferment would be for the owner to make application to go on the new basis, supported by all tenants and lessees who at the date of application were liable to pay rent for the leased property for any period of time that included or began after the first day of the year for which taxes would be first levied on the new assessment basis. The deferment would not apply to any property, or part thereof, leased after the enactment of the legislation for the new system. Thus, the owner and the business tenants would be assessed on the new basis for the parts of the building occupied by new tenants and those old tenants who supported an application by the landlord, and the old basis would apply to the remainder of the building.

164. It might be thought that problems of tax delinquency and required tax write-offs would be increased as a consequence of enlarging the proportion of the tax to be borne by occupants and reducing the owner's portion. With the establishment of a flat-rate business tax on occupants, however, it becomes possible to make the business tax, like the realty tax, a lien upon the land. This can be done by making the owner jointly liable with the occupant for the payment of taxes. Since an owner who is not also the occupant will benefit from the shift in the proportions of the tax load to be borne by occupants, we think it reasonable to place a new responsibility on the owner to collect the taxes of his tenants for the municipality. We describe in detail the necessary procedures in Chapter 14.

TRANSPORTATION AND COMMUNICATIONS PROPERTIES

165. Special treatment of one kind or another is accorded to a broad range of transportation and communications properties under the terms of The Assessment Act. This group of properties includes railroads and other transportation systems, the properties of suppliers of water, heat, light or power, the pipe lines for transmission of oil, gas or other substances, and telephone and telegraph companies. In addition to private enterprises, special provisions relate to public utilities and to the Hydro-Electric Power Commission of Ontario, the latter under the provisions of The Power Commission Act.

166. A detailed description of the present taxing arrangements governing transportation and communications properties is reserved for Chapter 13, in which the assessment of real property is considered in detail. Since this chapter is concerned with basic policy, it is sufficient to say that in assessing and taxing transportation and communications properties it is necessary to take into consideration where relevant (a) special valuation provisions modifying or replacing those applicable to other properties, (b) the substitution of gross receipts or mileage of line for value of property as the basis of property tax, (c) exemption from assessment and taxation of structures placed on, over or under public rights-of-way, and (d) exemption of railroads from business assessment and taxation.

167. There are three ways in which transportation and communications properties differ from most other properties in a municipality. First, the nature of their holdings, as well as that of their operations, makes valuation of these properties very difficult. Second, many such properties are inter-municipal and any assignment of total value municipality by municipality is bound to be arbitrary and debatable. Third, transportation and communications properties provide services to the community but do not make the normal demands upon the community for services to themselves. In particular, the roadways and rights-of-way of railways, and telephone or telegraph lines do not involve utilization of local amenities; they merely constitute routes which must be kept much as they are regardless of the uses made of surrounding land.

168. In our view the valuation of transportation and communications properties for tax purposes should, in so far as possible, follow the normal course. The assessed value ought to be determined as precisely as possible so that the value of any tax concessions or subsidies that may be granted will be known at all times and may readily be made subject to review.

169. There are a number of reasons for preferential treatment for transportation and communications properties and for selecting one particular kind of tax reduction. Most transportation and communications enterprises involve extensive real property holdings. A rough indication of the extent of such holdings can be gleaned from figures reported in recent federal taxation statistics publications.[11] Land, buildings and equipment, represent for the transportation and communication companies more than three times the proportion of total net assets and close to ten

[11]Department of National Revenue, *1966 Taxation Statistics*, Part 2, Queen's Printer, Ottawa.

times the proportion of total sales of all other Canadian companies reported. While much of the equipment would not be classified as real property, the figures do indicate in general the extent of their real property holdings. The weight of tax upon such properties under a flat-rate arrangement would thus be heavier than in most industries. Transportation services and energy in various forms are sometimes selected for exemption from sales tax because they are elements in the cost of the production and distribution of goods that are themselves subject to sales tax. In Chapter 29, dealing with the Ontario retail sales tax, we recommend the exemption of transportation services, electricity and most fuels.

170. According to our analysis, the impact of taxes on business properties is similar to a value-added form of sales tax with the relative weight of the tax between one product or service and another being determined by the proportion of the business costs represented by the occupancy of real estate. For transportation and communications properties, most of which are publicly owned or subject to regulation, the parallel to the value-added form of sales tax is clear, as property taxes, or grants in lieu of them, are allowable items of expense in the rate-making process.

171. It might be considered desirable to grant an exemption on the land required for transportation and communications lines. The case is strongest for the railroads, for which such lands represent a sizeable investment. At present, the railways are exempt from business tax on all properties, and other transportation and communications companies are likewise exempt on all structures, rails, ties, poles, wires, pipe lines, etc., and on the land on which these are situated except where the land is owned by the companies. We see merit in exempting the lands needed for lines of all transportation and communications properties. In considering such an exemption we are thinking merely of the land necessary for such lines and not the investment in structures representing the lines themselves. For telegraph and telecommunication lines, the routes are often on a railway roadway or right-of-way. It would be inconsistent to exempt such land for railway purposes but not for telegraph or telecommunication purposes.

172. For transportation and communications properties, the lack of services to the line structures constitutes a sufficiently contrasting position from the normal property in a community to warrant recognition in the taxing arrangement. Transmission pipe lines for oil and gas, for example, must traverse long distances. Over much of the route, the tax revenues that accrue to local municipalities are nothing more than windfall revenues for which no services are provided. The location of the pipe line route will probably prove of some advantage to the local municipality through which it passes. Again, the very nature of the operations requiring extensive real property holdings as contrasted to, say, truck transport and wireless communication, further strengthens the case for special recognition in taxing. Unfortunately, information on the assessable real property of such systems is not readily available. Furthermore, the present form of assessment and taxation of such special properties does not maintain a constant relationship to that of ordinary real property. Consequently, we have been unable to judge the appropriateness of their present level of taxation.

173. If lands comprising the route for a transportation or communications enterprise are to be tax exempt, they should none the less be assessed. The resulting values must, however, be expected to differ considerably from the assessed values of the various adjacent properties. As long as a transportation or communications enterprise remains a going concern, the value of land along each of its routes will be determined largely, if not entirely, according to present use. To attach sharply higher values would imply the obviously false assumption that a more lucrative alternative use was readily possible, whereas such a change could be accomplished only by altering or abandoning routes.

174. In the assessment chapter, detailed consideration is given to the means by which transportation and communications properties might be assessed on the same basis as other properties. The results of the changes outlined there, measured in terms of the changes in tax yield, cannot be fully predicted. Only when the new form of valuation has been accomplished will it be possible to make an accurate comparison; and that will take some years to achieve. We therefore propose that the lands used exclusively for rail, wire and pipe lines, but not the structures on, under or over such lands, be exempt from taxation. However, we think that the need for any relief from full realty and business occupancy taxes on remaining transportation and communications properties should be determined when the assessment of the properties on the proposed basis has been completed. If the decision then taken results in a significant increase in the weight of their taxation, the increase should be introduced in appropriate stages.

MINING PROPERTIES

175. Under The Assessment Act mines are exempt from municipal and school property and business taxes on their buildings, plant and machinery in, on or under mineral land and used mainly for obtaining minerals from the ground or for storing them, on their concentrators and sampling plants, and on the minerals in, on or under mineral land. The Province makes payments to designated mining municipalities, which take the place of local taxation, and the mines pay a provincial tax on their mining profits, part of which is considered to be in lieu of paying local taxes.

176. We have considered the possibility of mining properties becoming assessable and taxable in the ordinary way, save for the value of the mineral deposits, which would remain exempt. Added to an obvious desire to treat properties, as far as possible, in a uniform manner, we were encouraged to look in this direction by submissions that we received favouring such a change. Reluctantly we concluded that this approach is not immediately practicable. We are convinced that at least until Ontario's municipal structure is reconciled with local finance as recommended in Chapter 23, no change should be made in the principle of exempting mine structures and plant and the mineral content of mining lands, and making provincial payments in lieu of local taxes. We are critical, however, of the system now used for making the provincial payments, and make recommendations for its improvement in Chapter 12. We also make recommendations for a new system of taxing profits of mines for the financing of payments to the municipalities in Chapter 32.

177. Mine structures that are taxable and mining lands exclusive of mineral content should be assessed at 100 per cent of actual value, and, like other business properties, should be subject to property and business taxes, each on a taxable assessment of 50 per cent of the assessed value.

FARM PROPERTIES

ASSESSMENT AND TAXATION ISSUES

178. Traditionally, an Ontario farm combines in one property a rural residence and a source of livelihood for a farm family and perhaps a hired man. Although this concept of a farm remains largely true today, the position is changing. Two or three farms are often grouped and operated by one farmer. In consequence, an increasing number of farm houses have come to be occupied by families who earn their living in urban employment. This development is reinforced because urban dwellers are buying farms as an investment, a hobby or a source of recreation. Some urban owners improve the farm operation and make the property more productive; others rent out the fields or merely try to keep down the weeds. These happenings are a reminder that the position occupied by farming in our economy is itself undergoing change, and that changes may also be needed to bring about an equitable system of taxing farm properties.

179. The Ontario farm has traditionally been treated as an entity for realty tax purposes. The residence, the farm buildings and the fields have been valued as one although, as with urban properties, separate valuations have been made for land and buildings and then the two components totalled. But the Ontario approach to assessment and taxation of farm properties has by no means been duplicated in all other jurisdictions. Throughout the four western provinces, for example, farm buildings, including dwellings, have, generally speaking, been entirely tax exempt. The land has been the base for taxation and the business property has been the source of school support and residential amenities. In England the arrangement has been different again. The farm lands and barns or other farm buildings have been tax exempt for many years. The farm houses and the cottages of farm workers have been subject to full assessment and taxation.

180. By comparison with other properties used to produce income, Ontario farms have always had preferential treatment. This raises the question: Should not Ontario farm properties, other than dwellings, be classed as businesses and assessed and taxed accordingly? To do so would of course require a separation of farm properties into two parts, the farm residence and the productive farm lands and structures. While there is considerable logic to support such tax treatment, a number of special circumstances exist that merit careful consideration before proposing any form of change. Farm taxpayers have been contending that the level of their property taxes is already excessive. To add a supplementary business tax of perhaps 45 per cent would be regarded as unreasonable by the farm community and would meet with stiff resistance.

181. It would appear to us that part of the tax problem faced by farmers may be the result of a tendency toward faulty interpretation of farm sales information. In areas adjacent to urban centres a number of farm properties are being

sold to urban people, sometimes at abnormally high prices. The farmers who sell may thereby be prepared in turn to purchase other more remote farms at more than normal market prices. Such inflated sale prices are apt to colour the assessor's impression of market value, especially if he has accumulated and analysed an insufficient number of farm sales. The sale value for farm properties is, after all, influenced by the breadth of the market as well as the general level of values. In contrast to the relatively few farms that are sold at high prices, many farms may not be saleable at any worth-while figure. These too are part of the market story, if perhaps a neglected part. It is our thought that the development of improved assessment practices, including greater emphasis on market value, may decrease many farm assessments as well as increase others.

182. In 1960 a provision was inserted in the valuation section of The Assessment Act requiring that under certain specified conditions farm lands and buildings be assessed in relation to their present use without reference to their possible future use for a purpose other than farming. The controversial subsection was amended in each of the three succeeding years.[12] In our opinion, the legislation is still unsatisfactory. We believe that the wrong method was chosen for dealing with an obvious and serious problem—the continual encroachment of urban communities upon farm lands.

183. As a consequence of such expansion, the worth of land that continues to be farmed can increase to the point where the weight of taxation makes it no longer economical to work the land. There are a number of legitimate ways in which this problem can be attacked. A special direction as to value for assessment purposes is not, in our opinion, one of them.

184. The Assessment Act contains another special provision of long standing intended to benefit land that is farmed.[13] It requires a municipality by by-law to exempt farm lands in blocks of not less than five acres from taxation for specified service purposes to the extent that these services are not available or are not of advantage to the farm properties. If the municipality fails to pass the required by-law, any affected person may appeal to the county judge for an order adjusting his tax obligation on the collector's roll.[14] A somewhat similar provision, to be found in The Police Act,[15] enables, but does not require, a township council to exempt farm lands from the rate levied for policing. Again, we take exception to those legislative provisions. To the extent that an exemption is warranted through the lack of availability of services, the privilege ought to extend to all lands so situated, not just to farm lands. Alternatively, the fact that a particular service that is provided does not prove advantageous to farm taxpayers is not a sufficient argument for tax exemption. Taxation ought not to be based upon guarantees that all who are taxed will benefit from every dollar that is spent.

[12]The Assessment Act, s. 35 (3).

[13]The Assessment Act, s. 37.

[14]*Municipal World*, November 1966, p. 380, for a report of a recent O.M.B. decision.

[15]The Police Act, s. 21 (2).

185. One means of alleviating heavy taxation of those farms that are in costly locations would be to postpone until the farm property is sold the extra taxation caused by proximity to urban properties. It might then become payable only if the subsequent sale price warranted recovery of the differential taxation. This idea is already expressed in legislation with respect to golf courses. It is questionable whether municipalities would be equally interested in signing such agreements to hold land in farm use. Furthermore, at the time of our public hearings it was apparent that the farmers who appeared before us were themselves not attracted to this potential method of remedial action. Recognizing also the difficulties that would be created for municipal assessment and treasury departments by a large-scale extension of the golf course principle, we do not recommend the step.

186. In our opinion three devices might be employed to safeguard the position of farm lands under a system of realty taxation. Together they should prove capable of producing an equitable result. First, a stable and comprehensive pattern of land-use controls would help to ensure that the value of farm land relates fairly closely to the existing use because urban development is precluded under the law. A municipality that does not employ and rigorously enforce land-use controls invites instability and tax hardship. At the same time, we recognize that the existence of planning and zoning provisions alone will not altogether prevent land prices from rising when early urban expansion into an area still designated for rural use appears inevitable. A second means by which farm taxes could be held down would be to tax properties for which some services are not available at differential rates, whether they are farm properties or not. Such tax differentials commonly exist between urban and semi-urban or rural areas within the same municipality, a subject that we consider later in this chapter. Third, it is possible to create differential weights of taxation among several broad classes of taxpayers. Today's split mill rate constitutes one such differential from which farm properties already benefit. The long-standing omission of farms from the municipal business tax constitutes another such differential. This third device is one on which we think the Province should particularly rely in dealing with the farm tax problem. Indeed, this problem we believe to be much broader than the urban expansion into farming areas. The precise form of differential tax rates between broad classes of taxpayers we consider suitable will be developed later in this chapter.

187. To what we say above, we add that under a system of annual reassessment at current value, farm properties may expect to receive more equitable treatment at the hands of the assessor than at present. Today, in most municipalities, the assessor develops valuations that are ordinarily expected to stand unchanged for several years. In such circumstances, the assessor in his calculation of land values is likely to over-emphasize speculative land sales reflecting potential use.

188. The questions we have examined so far lead us to *recommend that*:

(a) The provisions of The Assessment Act requiring the actual value of farm lands and buildings to be determined on a special basis be repealed; and **11:13**

(b) The provisions of The Assessment Act and The Police Act providing for exemption of farm lands from taxation for certain expenditures be repealed.

189. There are, of course, two sides to urban expansion as it affects adjacent farm properties. It may lead to excessive tax levels for those who continue to farm. It can also result in a handsome gain for the farm owner who is both prepared and able to sell. Our attention has been directed to the extent of these profits that now, as capital gains, escape taxation. A tax could be imposed when land is sold as a proportion either of the sale price of the land or the gain on the transaction. Since there is already a small provincial land transfer tax in effect, the first possibility has been explored in Chapter 31 dealing with sundry provincial taxes. The second alternative is taken up in Chapter 26 where a capital gains tax is examined. We, therefore, say nothing more in this chapter beyond noting that it would be inappropriate to establish a capital gains tax confined to gains from land transactions only, and that it is hard to justify a sales tax on land itself.

LOCAL SERVICES TO FARM PROPERTIES

190. Until recently, farm properties obtained relatively little in the way of local government services. We need go back less than a generation to a time when the farmer's position contrasted sharply with that of the urban dweller. It was common for farm areas to have no municipal policing and almost none from the Province; no fire protection except the bucket brigade that the farmer organized with his neighbours; poor roads that were open only part of the year; no street lighting or sidewalks; no sanitation or waste removal; no significant health services, certainly no public nursing; no recreation services; inferior public library services or none at all; a minimum of welfare assistance; and education through a one-roomed schoolhouse at the elementary level and a bleak prospect of continuing through high school. With such a state of rural municipal services, only a very low level of farm taxes could be justified. But today, the farm family is a full participant in a considerable range of municipal services. True, they still manage without street lighting or sidewalks and the road may not be paved. But many new local government services have become available at a standard that falls little short of the equivalent urban service and at a total public cost that may be appreciably higher. In mixed urban-rural municipalities, allowance can readily be made for differing levels of service by the use of area charges. Where a municipality is very largely rural, the cost relates to the level of service provided without any need for a system of differential tax rates. If the farmer demands a much improved level of services, he should expect to pay more.

INCIDENCE OF FARM TAXATION

191. In urban municipalities a very large part of the tax burden is borne by businesses that ultimately pass on the tax burden to consumers. Thus farm families are paying indirectly some part of the taxes first levied upon urban businesses. But are they, in their turn, able to recover their own tax costs in the prices they get for farm products? That farmers generally are able to do so is far from obvious. Higher property taxes on farms will reduce the rate of return to

investors in this industry. Fewer people will be attracted to farming, marginal farms will be closed and the forces of supply and demand will bring improved prices for those who remain (assuming prices are affected by local supplier). But farming is an industry that reacts slowly to such changes. It takes a long time for farm lands to be shifted to alternative uses. It is not easy for farm workers to adapt themselves to other forms of employment. The ARDA program has been developed in recognition of just such problems.

192. There is other evidence of the troubled state of farming. Between 1951 and 1961, the area of farm land in Ontario fell by 9 per cent, from 20.9 to 19.0 million acres. In part, this reduction has been due to the competition of non-farm uses of land and the expansion of urban areas. Within limits, it has also been due to increased productivity. But we are told that most of the land withdrawn from production has been woodland or low-grade farm land and the decline has been concentrated in northern Ontario. We note also that, over the same decade, the acreage of improved farm land in Canada increased by 6¾ per cent from 96.9 million acres to 103.4 million acres.[16] Professor Stephen Rodd of the University of Guelph holds that the magnitude and regional distribution of the shifts in farm land use indicate that the factors responsible must lie within agriculture itself.[17]

193. If some farmers have difficulty in passing property taxes on in the sale prices of their goods, the problem is intensified by the high ratio of property taxes to net income expected in the farming business. While it has not been possible to develop precise statistical evidence in support of the point, our research has indicated that this contention does have validity.

194. The taxation of farm properties raises another basic question. A portion of the present realty tax burden might be thought to represent the immediate responsibility of farm properties for local government services. A further tax, the business tax, would be imposed as part of a convenient local government levy. How would the taxation of farming operations affect the equity of such a tax, presuming the farmer were able to include the tax in the sale prices of his products? We suggest that it would do so adversely. For primary production marketed within Ontario, the levy would fall upon local food consumers. As a consequence, it would contribute to the regressiveness of the business tax. If such primary products are shipped out of the province, a transferable business levy would increase export prices and adversely effect the competitive position of Ontario farm products in external markets.

THE CHANGING CHARACTER OF FARMING OPERATIONS

195. The business of farming has changed very greatly in Ontario since the main lines of our present system of taxation were established more than sixty years ago. Major changes have resulted from the widespread introduction of motive power into farming operations. For most farms rural electrification was followed

[16]Dominion Bureau of Statistics Census data.
[17]The information is based on a communication from Professor Rodd dated March 12, 1965.

by the purchase of power-driven machinery, notably during and immediately after World War II. Other important technological advances were made in the same period, including a greatly increased production and use of farm fertilizers and new insecticides, pesticides and other control chemicals.

196. In combination, these changes have brought some remarkable consequences. The population of horses on farms has declined sharply, leaving room for other live stock. The total of other farm stock providing products for human consumption has greatly expanded. Farm land has been assembled into large acreages capable of increased total production, and has been worked by a much smaller labour force. According to Dr. H. L. Patterson, feeder enterprises not dependent on farm acreage have gained renewed importance.[18] The farmer's improved ability to control diseases has reduced the vulnerability of specialization and cut back the necessity for rotation of farm crops, with beneficial results for farm production. "There are few farms left in Ontario with more than three enterprises; many farms now have only one."[19] Finally, farming is much more a cash business than formerly. The farmer not only sells more for cash; he must buy much more from others. His capital investment in buildings and machinery is often much greater. His credit requirements are more extensive and different in character.

197. Our purpose in drawing attention to the changing nature of farming operations is to underline the fact that the ability of farmers to pay taxes differs widely from one to another and is changing rapidly in time and place. Some farm operations have been modernized by taking on greatly expanded acreages; others by purchases of machinery, equipment and feed for stock or poultry. But many farm operations are apparently incapable of any such transition. Climatic and soil conditions may not be favourable. The breadth of the available market may be insufficient. Farms with such handicaps are likely to be in trouble on property taxes even at the present or reduced levels. It would be impossible to overcome their severe economic dislocation by tax changes.

198. In carrying out our assignment, we feel obligated to take the long view of taxing arrangements affecting farm operations or any other sector of our economy. Our tax recommendations cannot be evolved on grounds of sympathy, they must first satisfy long-term requirements. We emphasize the point because we intend to propose a continuing and somewhat enlarged tax differential in favour of the farmer. We do so for what we regard as perfectly valid theoretical reasons.

PROPOSED TAXATION OF FARM PROPERTIES

199. In our view, land that is in productive farm use should qualify as a business for ordinary realty tax purposes, enjoying a preferential position over residential properties. But, unlike other businesses, it should be exempt, we are convinced, from the business occupancy tax whose effect is to make total weight of taxation

[18]In commenting on the changing character of farm production, we are much indebted to an article entitled "Significant Economic Changes in Agriculture" by Dr. Patterson that appeared in *The Canadian Banker*, Winter 1965.

[19]*Ibid.*, p. 41.

upon business heavier than upon residential properties. The result of the farm exemption will be, in effect, to exempt food at the primary stage of production from the business occupancy levy, for this tax has, in some ways, the same ultimate effects as a sales tax.

200. In separating the residence from the farm, a question will arise as to the amount of land that should be included with the residence. Should it be only sufficient land to serve as a site for the house? What is a sufficient site? We answer the question by adopting a somewhat different approach to this problem.

201. As we see it, only that part of the farm land and structures that contribute directly and significantly to the business of farming should be classified as farm business property; the remainder should be treated as residential. As with other property assessment questions, the assessor would have the responsibility of determining the status of the property on the basis of the evidence he is able to obtain with respect to it. Consequently, he may require information from the owner as to the gross revenues of the farm as evidence that it is truly a commercial operation. Where a farm is only partly worked, the assessor may decide to grant a farm classification applicable to only a fraction of the value of the fields and farm buildings. The remainder would be included in the residential assessment along with the farm house. The provisions of The Assessment Act would have to be carefully worded to establish and maintain such an arrangement. *We therefore recommend that:*

The assessment of the land and structures of a farm property be separated into working farm assessment, and residential assessment, and **11:14**

(a) the farm dwelling and the other parts of the farm holding not qualifying as working farm be classified as residential property;

(b) where part of a farm property does not qualify as working farm because it is not fully utilized, only that portion of the farm lands and structures that is reasonable in the circumstances be classified as working farm; and

(c) the onus be upon the farm owner to establish the extent to which a farm property should be classified as working farm.

DEFINITION OF A FARM

202. Despite the special treatment that has been accorded to farm properties for more than a century, The Assessment Act has never contained a definition of "farm" of general applicability. The lack of a definition of "farm" or of "farmer" has been a concern of Ontario assessors for a considerable number of years. The need for such a definition was also brought to our attention at our public hearings. There is a definition in Section 24 of the Act that is employed only for

the purpose of specifying the voting qualifications of the members of farm families. It is not suitable for most other purposes.

203. The lack of a definition of "farm" or "farmer" has resulted in litigation without resolving the matter once and for all. Questions continue to arise, such as the proper place to draw the line between a market garden or nursery and a wholesale florist's operation, the validity of treating honey production as farming but not the production of queen bees, and the classification of a cheese factory as farming but not other food-processing operations.

204. The expansion of feeder operations and other intensive production techniques and the shifting of emphasis generally from land to productive equipment adds to the desirability of attempting some definition that will clarify and stabilize the meaning of farming. If we are to do so, the prelude to a good definition is a clear understanding of the principles that would govern any distinctive treatment of farming for tax purposes. For example, at one time the special valuation provisions relating to farm lands and buildings were not applicable unless the principal occupation of the owner was farming. More recently the benefit of the special valuation has been extended to farms under other ownership as long as the lands are used solely for farm purposes.

205. It may be thought impossible to develop a helpful definition of "farm" or "farmer". But if the task is difficult, it is hard to believe that problems created by no definition are less than the difficulties of interpretation that might follow upon the Province's best efforts to define these terms. Furthermore, in England where a similar distinction needs to be drawn, apparently satisfactory definitions of "agricultural land" and of "agricultural buildings" are found in the Rating and Valuation Act. In addition to defining a "farm" it might be advisable to define "market garden" and "nursery". These terms are now employed in The Assessment Act along with "farm" in granting exemption from business tax. We think, however, it should be quite sufficient to construct a definition of "farm" that includes properties ordinarily described as market gardens or nurseries, without introducing the terminology into the amended statute.

206. It is not our intention to attempt the precise wording of a definition of "farm". We do suggest, however, that a farm should be defined as land and structures used solely for or in support of the growing of natural or primary products and their further preparation for marketing on the property where they are grown.

207. With some such a definition of "farm", the word "farmer" should not be difficult to define. We are not inclined to be much concerned with that definition, however, since we think the benefits of farm tax treatment ought not to be confined to farm owners who themselves qualify as farmers. We are more concerned with a statutory definition of properties that qualify as "working farms". We suggest that the working farm might be described as one where the productive land and structures constituting the farm property are being used commercially at half or more of their capacity. Finally, it might then be made clear that in the

event that farm property is not being used sufficiently to qualify as a working farm, a part of the property might be so classified by the assessor and the remaining farm property classified with the residential portion of the farm, as we have previously recommended. *We therefore recommend that:*

Suitable definitions of "farm" and "working farm" be enacted in The Assessment Act. **11:15**

RELATIVE WEIGHTS OF TAXATION ON VARIOUS PROPERTY CLASSIFICATIONS

208. We have now given attention to all the main classifications of property for which it seemed reasonable to consider some differential tax treatment. It remains to recommend the precise proportions of the total assessed value that we think might be made taxable for each. To a degree, the decision must be arbitrary. Yet while the precise percentages that we bring forward may be debatable, the relative weight of taxation to be borne by each class of property ought in a general sense to flow from sound theoretical principles. That has been our aim in analysing the tax system as we found it and is our purpose now in suggesting how it might be ordered. *We recommend that:*

(a) All real property, whether taxable or not, be assessed each year at 100 per cent of actual current value; **11:16**

(b) Residential properties, recreational properties and wasteland be subject to property tax on a taxable assessment of 70 per cent of assessed value;

(c) Business properties other than transportation and communications properties, but including working farms and taxable mining properties, be subject to property tax on a taxable assessment of 50 per cent of the assessed value;

(d) Occupants of business properties other than working farms and transportation and communications properties, but including taxable mining properties, be subject to business occupancy tax on a taxable assessment of 50 per cent of the assessed value of the occupied property at the same mill rate as the property tax; and

(e) Roadways and rights-of-way over land used by transportation and communications businesses be exempt from property and business occupancy taxes, and other properties of such businesses be subject to property tax and the occupants thereof be subject to business occupancy tax on a basis to be determined when the assessment of the properties has been completed.

The above recommendation also applies to taxes now levied under The Provincial Land Tax Act.

TAX DIFFERENTIALS WITHIN MUNICIPALITIES

209. Weighting the property tax components in the manner recommended above will create what we consider to be equitable tax differentials among the major classes of property. There remains for discussion another kind of property tax differential: that which arises from the provision of different service levels within a municipality. Provision within a single municipality for differences in service levels coupled with corresponding differences in tax rates go back to the passage of The Municipal Act in 1849; such was the main purpose in providing for the establishment of police villages. One hundred and sixteen years later, at the 1965 spring session of the Legislature, the authority to form or to enlarge police villages was withdrawn and provision was made, upon application to the Ontario Municipal Board, for the automatic dissolution of police villages upon a suitable division or redivision into wards of any township in which a police village was located. The same legislation gave the electors of a former police village the right to seek a continuance of certain area services financed through area tax rates.

210. In addition to service differentials for which a police village takes responsibility, a number of individual municipal services can be made available and their cost recovered from areas defined within the municipality. We are not here referring to the recovery of the cost of capital installations through local improvement levies and similar charges. That subject is dealt with in Chapter 15. While the following recapitulation may not be exhaustive, it should suffice to reveal the current situation. All local municipalities are able to create water areas, sewerage service areas and garbage collection and disposal areas. Townships may provide for fire-protection areas, policing areas and street-light areas. With respect to all these services, the cost can be recovered in whole or in part through real property taxes. In addition, it is possible for any public utility in any municipality to make its services available within narrower limits than the municipal boundaries and to meet its costs through rates or fares. These services would include water, sewerage, electricity, street lighting, gas, steam heating and public transportation.

211. Within the past decade, another development has taken place that adds a new dimension to the service area concept. It resulted from the enlargement of urban municipalities to embrace vast acreages of suburban and rural territory.

212. For example, in September 1957, as part of its order enlarging the Town of Burlington to take in the former Township of Nelson and part of the Township of East Flamborough, the Ontario Municipal Board designated a "special area", which it later called an "improvement-area", within which certain urban services would be confined. In 1961, the Town of Burlington by private Act created a fire area of like extent.

213. To meet similar requirements related to the enlargement of the Town of Oakville, effective January 1, 1962, and of the City of Niagara Falls, effective one year later, the provincial government passed two private Acts, presumably after consultation with the affected municipalities and the Ontario Municipal Board.

Each of these Acts delineated urban service areas and specified the services that might be provided and paid for within the areas rather than throughout the whole municipality. The services that were specified in both Acts included sewage collection and disposal, storm drainage, water supply and water hydrants for fire protection. Also, garbage collection and disposal and street lighting were specified in the Oakville Act, and public transit and sidewalks in the Niagara Falls Act.

214. In October 1963, the Ontario Municipal Board ordered the amalgamation of the City of Sault Ste. Marie and the Townships of Korah and Tarentorus. Before the effective date, January 1, 1965, new provisions were added to The Municipal Act to "clarify the powers of the Ontario Municipal Board to create urban service areas".[20] The new subsections spelled out the power of the Ontario Municipal Board to establish or alter urban service areas in conjunction with or following upon annexation or amalgamation orders of the Board and to define the manner of levying within them to recover the cost of urban services.

215. The sources of legislation relating to single- or multi-purpose urban service areas include several widely dispersed sections of The Municipal Act and other provisions in The Police Act, The Power Commission Act, The Public Utilities Act and many private Acts. In addition there is special legislation under which the Municipalities of Shuniah and Neebing at the Lakehead are authorized to maintain service and tax differentials for each of their wards.

216. In dealing with single services, the authority to create and to alter urban service areas is always given to the municipal council concerned. In fact, with respect to street lighting, The Power Commission Act states specifically that the council can act without a petition from or the assent of the electors. On the other hand, the multi-purpose urban service areas, recently established following large-scale annexations and amalgamations, can be amended only by the Ontario Municipal Board or with its assent. The private Acts of Oakville and Niagara Falls also require the support of three-quarters of all members of the council for each proposed change.

217. It is our opinion that, with the evident intention of the present government to phase police villages out of existence and to make greater use of service differentials for defined territories within municipalities, the governing legislation can be consolidated to advantage within a single statute or part statute. We suggest that this be done in a separate part of The Municipal Act. Furthermore, in recognition of the changing growth pattern of recent years and the development of larger and more diverse municipalities, the right to introduce area services and to pay for them by area charges should no longer depend upon status. To qualify for a tax differential, an area should, we believe, meet some minimum conditions, such as perhaps a specified minimum of separately assessed properties and a specified minimum acreage. The purpose of a system of area charges is not, after all, to encourage the creation of totally unwarranted pockets of privilege. But subject to meeting that minimum standard, any municipality ought to be able to

[20]Department of Municipal Affairs, *1964 Summary of Legislation Affecting Municipalities*, p. 6.

establish differential service areas, provided that it complies with stipulated procedures such as we suggest below. The concept could perhaps be useful also in second-tier municipalities—counties or the newer metropolitan municipalities. Any municipality, we suggest, ought to be able to create or alter single- or multi-purpose urban service areas without such action being consequent on an annexation or an amalgamation. Indeed, certain rural townships should probably take this step in recognition of their increasing urbanization as an alternative to separate incorporation of one or more urban areas within the township. Again, the recent change in legislation permitting townships to apply for and obtain town status[21] could greatly increase the call for urban service areas in the interests of equitable taxation. In addition, there may be a number of urban municipalities containing partially serviced areas that might be permitted to benefit from some reduction in taxes. The urban service area would be an appropriate means of bringing this about.

218. The establishment of urban service areas should, we believe, require a local by-law. Before the by-law is passed, however, the council should be required to publicize its intention in order that the local citizens can have a clear opportunity to appear in delegations before the council. Finally, any such by-law ought, we believe, to require the approval of the Ontario Municipal Board before it becomes effective: the similarity to amalgamation and annexation proceedings is obvious. A particular purpose of the Board's review should be to examine and pass upon the equity of the proposed differential rate structure, and in performing this function it should be assisted by submissions from the Department of Municipal Affairs. We believe also that, upon petition, the Municipal Board ought to be required to hold a public hearing before approving any such by-law. As with the requirement that now relates to money by-laws, the Board should determine whether sufficient objection to a proposal had been filed with the Board to warrant a hearing. *We therefore recommend that:*

(a) The legislative provisions for single- or multi-purpose urban service areas be consolidated and made applicable on a uniform basis to all local municipalities; **11:17**

(b) A municipality be required

(i) to give its taxpayers three weeks' notice of its intention to establish or alter the boundaries or the services provided by an urban service area, and

(ii) to provide an opportunity for delegations to be heard by council before introducing or amending its local by-laws; and

(c) Each urban service by-law or amendment require the approval of the Ontario Municipal Board to be granted, and if in the opinion of the Board a sufficient objection to the by-law has been filed with the Board, only after a public hearing.

[21]The Municipal Act, s. 11 (4), (as amended in 1966).

Chapter 12

Taxes on Property: Exemptions

INTRODUCTION

1. Properties enjoying tax-exempt status sharply reduce potential municipal and school revenues from property taxation. Partial compensation for the loss in revenues is obtained through payments in lieu of taxes from the federal and provincial governments and certain of their Crown corporations and agencies. In addition, certain municipal utilities have been treated as taxable, although on a reduced basis, in the annual returns made by municipal treasurers to the Department of Municipal Affairs. The effect is to reduce the total exempt assessment and to increase the revenue yields, but by an amount that is less than would be realized by full taxation on a regular basis. In 1965, total taxable assessment, unequalized, was somewhat less than $12.4 billion, compared with total exemptions of about $2.4 billion[1] (somewhat less than 20 per cent of total taxable assessment). Included in the former figure was a municipal utility assessment in the neighbourhood of $100 million. Total 1965 taxation revenues exceeded $878 million, including perhaps $7 to $8 million municipal utility revenue, while payments in lieu of taxes on exempt properties fell a little short of $30 million. A tax on the exempt proper-

[1]Municipal utility assessment excluded.

ties at an equivalent scale to the taxable properties would have yielded six times as much revenue as the payments-in-lieu, or very nearly $178 million. Approximately half of the exempt properties belong to the local authorities themselves—municipal corporations, school boards and other local bodies. Taxation of these real estate holdings for the most part would merely have taken money out of one pocket and put it in another. The remaining indisputable loss in revenues would have exceeded $58 million.

2. All the above calculations must be regarded as approximate because the published information on taxable and exempt assessments is acknowledged to be incomplete and may be presumed, in addition, to contain significant inaccuracies. As the Province's statistical publication notes, "Prior to recent years, many municipalities either did not assess exempt properties or assessed them at unrealistic amounts." We regard it as a safe presumption that under-assessment of exempt properties remains common and that the total of tax-exempt assessment understates the loss of potential tax revenues.

3. Besides government properties, whose exempt status is partially offset by payments in lieu of taxes, there are also non-governmental properties that account for a large proportion of total tax exemptions. For the most part, the exempt status is enjoyed by non-profit organizations including places of worship, universities and private schools, and other religious, educational and charitable organizations. In 1965, the reported total exemptions for such properties constituted 21 per cent of all exemptions or 43 per cent of the exempt properties excluding those belonging to the local authorities themselves. On none of these non-governmental properties is tax-exempt status offset by payments in lieu of taxes. Places of worship, universities and private schools are subject, however, with certain exceptions, to local improvement levies.

4. This chapter does not concern itself with the exemptions that were discussed in the previous chapter. In clarifying the position of real estate as the base for property taxation, we describe and make recommendations respecting the tax exemption of certain machinery. Similarly, the partial graded exemptions on residential properties within the City of Toronto and what is now part of the Borough of Etobicoke are considered in the section on tempering the impact of residential taxation. The possibility of introducing a new short-term exemption on home improvements is discussed in the same context. Therefore, we shall say nothing further about either of these residential exemptions in the present chapter. We shall, on the other hand, deal with one further form of exemption that the government has removed from the public statutes only to permit its reappearance through private Acts. We refer to fixed assessments upon industrial properties.

ARGUMENTS FOR AND AGAINST EXEMPTION

5. What is the reason for exempting certain properties from local taxation? Is the practice one that must be continued? If so, is the extent of present exemptions justified?

6. Historically, the Crown has always reserved to itself the prerogative of tax exemption. In Canada, this right is embodied in the British North America Act, which states that no lands or property belonging to Canada or any province shall be liable for taxation. At the local level, the taxation of much public property yields nothing more than bookkeeping entries. It is natural, therefore, that a tradition of tax exemption should have developed for local government real estate. Taxation of municipal utilities, however, has been a subject of frequent debate as people concern themselves, on the one hand, with the requirement that such utilities perform public service functions and, on the other, that they maintain business-like and self-sustaining financial operations. Justification for exemption of places of worship, hospitals, universities, private schools and other non-profit organizations rests on the argument that these institutions perform fully-recognized services that merit general public support. To a considerable extent, they satisfy community requirements that governments might otherwise feel obliged to fulfil.

7. It is well to recognize that exemption from normal assessment and taxation constitutes a privilege that can be made available in only one way: at the expense of the remaining taxpayers. Of course, the remaining taxpayers may wish to favour certain property holders. For them to do so is entirely legitimate and clearly defensible in particular cases. A local community, for example, may be of one mind in wishing to encourage a strong place in the community for the local churches, charitable organizations and sponsors of other good causes. Yet tax exemption as a method of furnishing assistance is less desirable than the alternative: direct grant assistance. Tax exemption, however, can have certain advantages. It sets and maintains a specified extent of public support without the necessity of further action to maintain the assistance at what may be regarded as an appropriate level. Tax exemption avoids the controversy that may be occasioned by an annual grant. It produces a stabilized allocation of community benefits to good causes.

8. The arguments against tax exemptions are even plainer:

(1) Exemptions narrow the tax base, thereby increasing the tax load on owners of taxable property.

(2) A tax exemption is an indirect subsidy, the cost of which is not generally apparent, and is subject to less control than a grant, which ordinarily is renewable annually.

(3) Tax exemption may not distribute a government subsidy in the most equitable or desirable manner.

(4) The proportion of all properties in the community that are exempt varies from one municipality to another, thereby creating disproportionate burdens among local communities.

(5) Exemptions are for the most part legislated by the Province but their burden falls on municipalities and local school boards.

(6) Exemptions, once established, are not readily terminated. Thus they tend to perpetuate community wishes of an earlier day. In addition, the range and extent of exemptions can grow well beyond justifiable limits.

9. Tax exemption is embedded in the Canadian constitution and cannot readily be removed from it. Where this applies, payments in lieu of taxes would seem to furnish a fully acceptable tax alternative provided that the valuations on which payments-in-lieu are calculated can be made to correspond with ordinary assessments for realty tax purposes and that the payments-in-lieu are equal to the normal tax yield. What requires justification is any reduction of payments-in-lieu below the normal tax level.

10. Again, there are, in our opinion, a limited number of circumstances in which tax exemption is fully justifiable as part of the on-going structure of realty taxation. In this category, for example, we would include our recommendation for a basic shelter exemption for residential property holders, the exemption of farm properties from the business occupancy tax, the exemption of transportation and communications enterprises from taxation upon their rights-of-way and similar lands. Each of these exemptions is described and supported in Chapter 11 as an appropriate element of a stabilized realty tax system.

11. In this chapter, we favour several exemptions that we regard as justifiable on a continuing basis. But for the remainder, we believe that property tax exemptions are being used to convey a privilege that might better be provided through some alternative means if in fact the community is prepared to continue such positions of privilege when made conscious of their cost and reminded of it at regular intervals. We shall review the main forms of exemption that now exist, including their basis in legislation, and put forward detailed proposals for dealing with each.

LEGISLATION GRANTING EXEMPTIONS

12. In Ontario, The Assessment Act and The Provincial Land Tax Act, 1961-62, enumerate the main types of property to be exempted from taxation. Certain other statutes also provide for specific exemptions while a number of private Acts exempt property under particular ownerships in individual municipalities. The federal Municipal Grants Act and two Ontario statutes, The Municipal Tax Assistance Act and The Power Commission Act, provide for payments in lieu of taxes on certain tax-exempt properties of the Crown and Crown corporations or agencies and of the Hydro-Electric Power Commission of Ontario. The Local Improvement Act specifies the extent to which exempt properties are subject to local improvement levies.

13. Both The Assessment Act and The Provincial Land Tax Act provide for the exemption of Crown lands, Indian lands, places of worship, churchyards, cemeteries, public educational institutions, philanthropic, religious and educational seminaries, property of Boy Scouts and Girl Guides Associations, charitable institutions and agricultural societies. In addition, The Assessment Act exempts public hospitals, highways, municipal property, industrial farms, Children's Aid Societies, scientific or literary institutions, battle sites, exhibition buildings of companies, and, at the option of the municipality, lands of religious institutions used for recreational purposes and lands belonging to the Navy League of Canada. The two optional

exemptions extend only to taxes for general purposes, not to school taxes. The exemptions under The Provincial Land Tax Act are narrower for an obvious reason: except for highways, which the taxing authority may be expected to ignore, the additional forms of property are not found, or may be expected not to exist, within unorganized territories (mainly in the undeveloped north) subject to land tax.

14. The Provincial Land Tax Act exempts three other classes of property in addition to those not taxable under The Assessment Act. First, all farm land on which the owner resides and from which he derives his chief source of income by farming has been exempted by order-in-council under authority of the statute. This exemption extends to all farm buildings including dwellings. Next, mining lands, subject to the acreage tax under The Mining Act, are exempt unless they are used for some other purpose, or the value of their timber, excluding Crown timber, averages more than $2 per acre. Finally, a licensee under The Crown Timber Act can cut timber under his licence without thereby incurring liability for property taxes.

15. Important exemptions of general application provided by other statutes include the following:

The Community Centres Act authorizes a municipality in which another municipality has established a community centre to grant it total or partial exemption from taxation.

The Conservation Authorities Act totally exempts works erected for the purposes of a conservation scheme and limits the assessment of the remaining lands to an amount not in excess of its assessed value immediately prior to its acquisition by the conservation authority.

The Housing Development Act exempts from taxation, including local improvements, the land of a joint housing project where the Province agrees to make payments-in-lieu on any basis not in excess of full taxes.

The Public Schools Act provides that optional exemptions granted by municipal by-law do not extend to school rates of any kind.

The Sanatoria for Consumptives Act exempts the real property acquired and used for a sanatorium from all municipal and school taxation except utility rates or taxes for services supplied to the sanatorium.

The Schools Administration Act provides that a school belonging to a public or secondary school board or board of education and situated in an adjoining school jurisdiction is subject to municipal assessment and taxation. A city or town board of education may by agreement pay an adjoining township a fixed annual sum as taxes upon land owned by the board in the township.

The Trees Act permits the council of a township to exempt from general municipal taxation land set aside by an owner, under agreement with the municipality, as reforestation areas.

16. Exemption provisions are also found in the nineteen public statutes listed below. As well, property tax exemptions are granted to six universities in the public statutes that provide their corporate status, but these statutes are not included in the list.

The Agricultural Societies Act
The Alcoholism and Drug Addiction Research Foundation Act
The Cancer Act
The Centennial Centre of Science and Technology Act
The Children's Mental Hospitals Act
The Community Psychiatric Hospitals Act
The Grand River Conservation Act
The Municipality of Metropolitan Toronto Act
The Niagara Parks Act
The Ontario Food Terminal Act
The Ontario Institute for Studies in Education Act
The Ontario Mental Health Foundation Act
The Ontario Water Resources Commission Act
The Research Foundation Act
The St. Lawrence Parks Commission Act
The Statute Labour Act
The Stock Yards Act
The Veterans Housing Act, 1945
The Wartime Housing Act

17. A substantial number of exemptions is found in private Acts. A recent survey by the Department of Municipal Affairs catalogued 116 exemptions contained in private legislation. The number included forty-four exemptions granted in this manner to Y.M.C.A.'s and Y.W.C.A.'s. The list of such exemptions is included in an appendix to this chapter that classifies all exemptions and cites the private and public statutes that authorize them. Any attempt to reduce the scope of property tax exemptions must take note of the provisions contained in these private Acts. New legislation should be formulated, we suggest, to take precedence over the private Acts or to revoke the pertinent sections.

SIGNIFICANCE OF TAX EXEMPTIONS

18. The significance of tax-exempt properties is determined quite directly by the resulting loss in revenues to the local government treasuries. For reasons that we shall explain later, the extent of taxes lost through exemptions can be measured only in approximate terms. Nevertheless, it is useful to begin by reviewing some estimated figures for the year 1965. The information is provided in Table 12:1.

19. In that year, the total tax revenue of Ontario municipalities for all local government purposes amounted to about $879 million. An average tax rate of 71 mills was required to raise this amount from an assessment of $12,359 million—a figure that represents an incomplete total of unequalized local assessments. An even less accurate total places exempt assessments at $2,501 million. If all such property had been taxable at a rate of 71 mills the revenue yield would have amounted to more than $175 million even without improvement in the assessments. With more accurate assessing and the inclusion of those utility properties not now assessed, the yield would have been very much larger.

20. Next, Table 12:1 also shows the extent of shortfall in mill-rate equivalents of payments in lieu of taxes received for federal properties in the calendar year 1965 and for provincial properties during the Province's fiscal year ended March 31, 1966. Such differences arise in two ways. First, there are categories of federal and provincial property not eligible for payments in lieu of taxes, e.g., land held by Central Mortgage and Housing Corporation and Ontario Housing Corporation for housing developments and property of Ontario hospitals. Second, the assessment figures represent valuations that have been agreed to by the senior governments concerned and form the basis for payments in lieu of taxes, reflecting the extent of the obligation that has been assumed by the senior governments. On the average, the federal payments represent a mill rate equivalent of almost three-quarters the province-wide average weight of taxation. The Province's mill rate equivalent is about half that of the federal government or 38 per cent of the normal weight of taxation across Ontario. These figures of equivalent mill rates will be on the high side because of the included property mentioned earlier but they do serve to indicate roughly the nature and the apparent order of size of revenue losses through tax exemption.

TABLE 12:1

SELECTED APPROXIMATE TAX AND REVENUE DATA FOR ONTARIO MUNICIPALITIES, 1965
(thousands of dollars)

Total taxable assessment (unequalized)		12,359,283*
Total taxation revenue		878,613
Average required tax rate—71 mills		
Total exempt assessment (unequalized)		2,501,182*†
Potential yield at average mill rate		177,584
Total exempt assessment (unequalized) federal properties		412,241
Total payments in lieu of taxes		21,950
Average tax rate equivalent—53¼ mills		
Total exempt assessment (unequalized) provincial properties		283,023†
Total payments in lieu of taxes, fiscal year ended March 31, 1966		7,658
Paid under The Municipal Tax Assistance Act	2,260	
Paid under The Power Commission Act	5,399	
Average tax rate equivalent—27 mills		

*Municipal utility assessment in the neighbourhood of $100 million is included in both total taxable and total exempt assessment; exempt assessment would therefore be more correctly stated as $2.4 billion. The estimate of municipal utility assessment does not include substructures or superstructures not forming integral parts of buildings that under The Assessment Act are not assessable.

†Total exempt assessment for provincial properties does not include certain properties of Hydro for which grants-in-lieu are not paid, such as power dams and transmission lines, and includes only a low statutory value for generating and transformer station buildings.

Source: Department of Municipal Affairs, *Annual Report of Municipal Statistics, 1965*; Ontario, *Public Accounts, 1966*.

21. The Annual Report of Municipal Statistics contains considerable data on tax-exempt properties. It has been extracted in part from schedules to the municipal audited financial statements and in part from the assessment analyses contained in the assessors' reports of the municipalities. The schedules to the financial

statements furnish a breakdown of tax-exempt properties into land, buildings and other kinds of property. In the assessors' reports exemptions have been classified by benefiting properties—(1) federal, (2) provincial, (3) municipal, and (4) educational, religious and charitable. The properties of the local school boards, including separate school properties, are grouped under the municipal heading, leaving private schools, universities and other like educational properties to the fourth category. When exemptions by type of property holder are totalled, the figures for most municipalities do not coincide with the exemption totals reported in the schedules to the audited financial statements. A difference in the time of reporting does not constitute a sufficient explanation for the extent of the discrepancies, since both figures purport to show the position at the same year end. No doubt, assessment reductions upon the disposition of appeals, reflected in the audited financial statements but not in the assessors' returns, tend to obscure the full extent of the difference. While the exemption totals from the audited financial reports are more accurate and complete, for our immediate purpose—which is merely to show the broad effect of the exemptions pattern—the data from the two sources are sufficiently reliable, particularly since the discrepancy is only slightly over 1 per cent, although the dollar value is some $30.4 million.

22. A further weakness in the published data arises from the treatment of municipal utilities. The forms prescribed by the Department of Municipal Affairs for the audited financial statements direct that payments from municipal utilities be included with taxes and that the utility assessments form part of the total of taxable assessments. Another Branch of the Department circulates the form of the assessor's return requiring utility assessments to be shown as exempt along with remaining municipal properties. The conflicting figures end up in adjacent columns of the Annual Report of Municipal Statistics, published by the Department and referred to familiarly as the "Blue Book" statistics. Small wonder, therefore, that the exemption breakdowns on the two bases produce different totals. What is surprising is that the basis used for the breakdown by class of property produces the smaller total whereas, because it includes the municipal utility data, it should be appreciably larger.

23. The total assessments for all Ontario municipalities and the proportion of each yearly total that is tax exempt are set out in Table 12:2. The primary source of this information is the audited financial statements of the municipalities. The tabulation suggests some slight increase in the proportion of exempt properties in recent years. Any such growth in the weight of exemptions could be entirely accounted for by an improvement in the accuracy of the assessments placed upon exempt properties. In 1965, exemptions constituted somewhat less than 20 per cent of the assessment total for the Province. On the face of it, therefore, exemptions would seem to be seriously undermining the strength of the real property tax as a revenue source.

24. Table 12:3 provides a percentage breakdown of total exemptions by type of exempt property. It will be recalled that these figures come from the assessors' reports and that the total of the exemptions differs somewhat from the figures

reflected in Table 12:2. Table 12:3 reveals a shift over the years in the proportions of various exempt properties. Municipal exemptions have been growing and now exceed half the dollar value of exemptions of all types. New school construction has been the most significant factor in this growth. Federal and provincial properties constitute a declining proportion of the total, while the position of educational, religious and charitable exemptions has fluctuated but appears also to be dropping. The precise percentage changes include inexplicable fluctuations, however, that prevent the placing of too great reliance upon the complete accuracy of the data. Yet the obvious point of note is that considerably more than half the total exemptions represents municipal and school properties where, for the most part, the loss in taxation creates no problem beyond the power of each municipality to resolve for itself. Not soluble on this basis is the problem of local government property located within one taxing jurisdiction that exists tax free to serve the taxpayers of another jurisdiction. Although some of these properties are now taxable, a problem remains the precise extent of which has not been measured statistically.

25. The next two Tables provide a further breakdown of the information on exemptions contained in Tables 12:2 and 12:3. In Table 12:4, the value of exempt properties is expressed for ten classes of municipalities as percentages of total assessments. The Table covers selected years from 1947 to 1965. What this analysis indicates most clearly is that, on average, rural municipalities have a decidedly

TABLE 12:2

EXEMPTIONS FROM PROPERTY TAX IN ONTARIO
ALL MUNICIPALITIES, AS PERCENTAGE OF TOTAL ASSESSMENT, 1947-65

Year	*Total assessment (thousands of dollars)*	*Exemptions as percentage of total assessment*
1947	3,986,130	16.05%
1948	4,007,330	14.29
1949	4,559,771	12.70
1950	5,013,130	16.23
1951	5,283,889	16.54
1952	5,687,089	16.06
1953	5,996,059	15.88
1954	7,226,703	15.60
1955	7,724,202	14.97
1956	8,419,606	14.53
1957	9,245,963	14.32
1958	9,483,795	15.08
1959	10,246,710	15.41
1960	11,106,367	15.25
1961	11,594,324	14.95
1962	12,693,877	15.31
1963	13,386,247	15.48
1964	14,173,194	16.27
1965	14,860,465	16.83

Source: Department of Municipal Affairs, Annual Reports of Municipal Statistics.

TABLE 12:3

EXEMPTIONS FROM PROPERTY TAX IN ONTARIO
ALL MUNICIPALITIES, BY TYPE OF EXEMPTION
AS PERCENTAGE OF TOTAL EXEMPTIONS FOR SELECTED YEARS

Year	*Federal*	*Provincial*	*Municipal*	*Educational, religious and charitable*	*Total exemption*
1954	23.18%	17.10%	39.03%	20.69%	100.00%
1959	19.13	19.80	39.61	21.46	100.00
1964	17.54	9.88	47.64	24.94	100.00
1965	16.68	11.45	50.67	21.20	100.00

Source: Department of Municipal Affairs, Annual Reports of Municipal Statistics.

smaller proportion of tax-exempt properties within their boundaries than urban municipalities. Thus the problem of tax exemption is less acute among rural municipalities, especially within southern Ontario.

26. Proceeding to Table 12:5, the breakdown here enables us to identify more closely the kinds of exempt properties that are prevalent in the various categories of municipalities. It is necessary to examine the breakdown by type of exemption given in this Table alongside the percentage data on the extent of exempt properties contained in Table 12:4. We see, for instance, that in 1965

TABLE 12:4

EXEMPTIONS FROM PROPERTY TAX IN ONTARIO
AS PERCENTAGE OF TOTAL ASSESSMENT
BY MUNICIPAL CLASSIFICATION FOR SELECTED YEARS

	Percentage of exemptions to total assessment			
Municipal classification	*1947*	*1954*	*1964*	*1965*
Metropolitan Toronto area	13.35%	14.50%	15.99%	16.65%
Remaining cities	21.97	19.13	18.86	19.62
Towns*, villages and improvement districts 5,000 and over, in counties	16.80	15.09	14.30	14.80
Towns, villages and improvement districts 5,000 and over, in districts	22.19	17.18	17.72	17.87
Towns*, villages and improvement districts under 5,000, in counties	14.78	15.21	16.08	16.26
Towns, villages and improvement districts under 5,000, in districts	18.85	18.09	18.51	18.14
Townships 5,000 and over, in counties	23.15	15.73	14.07	13.72
Townships 5,000 and over, in districts	(†)	(†)	19.93	20.92
Townships under 5,000, in counties	5.32	7.74	7.94	7.92
Townships under 5,000, in districts	13.35	14.60	11.94	12.28
All Local Municipalities	16.05	15.60	16.27	16.83

Source: Department of Municipal Affairs, Annual Reports of Municipal Statistics.
*Including separated towns.
†Accurate information is not available for this category in these years.

exemptions reduced the taxable value of Metropolitan Toronto's assessment by about the same proportion as the average for all municipalities. On the other hand, Metropolitan Toronto had a lower than average share of federal and provincial tax-exempt properties but a considerably larger than average proportion of municipal exempt properties.

TABLE 12:5

EXEMPTIONS FROM PROPERTY TAX IN ONTARIO
TYPES OF EXEMPTION AS PERCENTAGE OF
TOTAL EXEMPTIONS BY MUNICIPAL CLASSIFICATION, 1965

	Type of exemption as percentage of total exemptions			
Municipal classification	*Federal*	*Provincial*	*Municipal*	*Educational, religious and charitable*
Metropolitan Toronto area	6.76%	10.80%	62.29%	20.15%
Remaining cities	24.63	10.08	43.59	21.70
Towns*, villages and improvement districts 5,000 and over, in counties	14.56	8.89	53.10	23.45
Towns, villages and improvement districts 5,000 and over, in districts	4.36	10.59	59.46	25.59
Towns*, villages and improvement districts under 5,000, in counties	6.49	4.68	59.44	29.39
Towns, villages and improvement districts under 5,000, in districts	4.80	9.64	58.85	26.71
Townships 5,000 and over, in counties	24.52	28.29	33.35	13.84
Townships 5,000 and over, in districts	27.99	21.05	38.53	12.43
Townships under 5,000, in counties	23.94	15.67	35.23	25.16
Townships under 5,000, in districts	8.03	21.31	50.63	20.03
All Local Municipalities	16.68	11.45	50.67	21.20

Source: Department of Municipal Affairs, *Annual Report of Municipal Statistics, 1965.*
*Including separated towns.

27. The breakdown by categories of municipalities suggests a substantial variation in the form and extent of the exemptions problem. The magnitude of these inter-municipal differences is revealed more fully in Table 12:6, which sets forth for municipalities in excess of ten thousand population the extent of the educational, religious and charitable exemptions in each municipality expressed both in thousands of dollars and as percentages of their total taxable assessments. The municipalities are listed in descending order of population.

28. On reading the Table, one is immediately struck by the extreme position of Kingston, where presumably Queen's University and several hospitals account for much of the large tax-exempt total in this category. These exemptions amounted in Kingston to no less than 26.05 per cent. The next highest municipalities in descending order are: Stratford, 12.90 per cent, Pembroke, 12.58 per cent, North Bay, 9.87 per cent, and St. Catharines, 9.40 per cent. The detailed information given in the Table may be summarized as follows:

TABLE 12:6

EXEMPTIONS FROM PROPERTY TAX IN ONTARIO, 1965
WEIGHT OF EDUCATIONAL, RELIGIOUS AND CHARITABLE EXEMPTIONS
IN LOCAL MUNICIPALITIES OVER 10,000 POPULATION

Municipality	*Population*	*Total taxable assessment*	*Educational, religious and charitable exemptions*	
			Amount	*As percentage of taxable assessment*
	(thousands)	*(thousands of dollars)*		
Toronto	643	1,900,853	110,427	5.80%
North York Twp.	361	866,045	20,647	2.38
Ottawa	284	616,130	29,466	4.78
Hamilton	281	591,732	28,150	4.76
Scarborough Twp.	262	496,696	15,580	3.14
Etobicoke Twp.	207	582,836	7,822	1.34
London	181	376,984	13,090	3.47
York Twp.	129	233,667	8,656	3.70
Windsor	115	409,979	38,519	9.40
St. Catharines	91	134,357	6,175	4.60
Kitchener	87	174,518	8,333	4.78
Toronto Twp.	82	127,054	3,008	2.37
Sudbury	81	107,674	7,090	6.59
Oshawa	74	257,275	5,544	2.16
Sault Ste. Marie	72	224,115	10,301	4.60
East York Twp.	72	130,271	4,272	3.28
Burlington	58	113,292	3,505	3.09
Brantford	57	123,692	2,957	2.39
Niagara Falls	54	114,989	3,903	3.39
Peterborough	53	91,071	3,343	3.67
Kingston	53	78,243	20,378	26.05
Sarnia	52	171,576	5,944	3.46
Oakville	51	126,247	3,666	2.90
Fort William	47	69,654	1,613	2.32
Port Arthur	46	85,107	6,841	8.04
Cornwall	44	63,699	3,110	4.88
Guelph	44	46,512	2,514	5.41
Nepean Twp.	41	40,515	787	1.94
Welland	38	71,905	4,109	5.71
Sandwich W. Twp.	34	26,349	1,451	5.51
Brampton	34	43,175	749	1.74
Belleville	33	103,971	3,315	3.19
Galt	32	48,931	831	1.70
Chatham	31	52,759	4,730	8.97
Timmins	29	27,983	2,016	7.20
Waterloo	28	62,257	1,201	1.93
Pickering Twp.	26	31,008	291	.94
Eastview	25	29,891	716	2.40
Barrie	24	30,392	1,626	5.35
Woodstock	23	36,053	2,407	6.68
Forest Hill	23	75,064	443	.59
St. Thomas	23	36,896	1,573	4.26
North Bay	23	35,943	3,547	9.87
Sandwich E. Twp.	22	19,043	198	1.04

Municipality	Population	Total taxable assessment	Educational, religious and charitable exemptions: Amount	Educational, religious and charitable exemptions: As percentage of taxable assessment
	(thousands)	(thousands of dollars)		
Stratford	22	25,694	3,314	12.90
Gloucester Twp.	21	20,130	272	1.35
Riverside	21	25,922	564	2.18
Leaside	20	80,996	654	.81
Richmond Hill	19	34,366	448	1.30
Brockville	19	22,791	2,034	8.93
Mimico	18	35,391	520	1.47
Vaughan Twp.	18	28,029	2,523	9.00
Owen Sound	18	63,646	5,215	8.19
Saltfleet Twp.	18	22,207	373	1.68
Port Colborne	18	32,995	691	2.09
Teck Twp.	16	11,291	641	5.68
Pembroke	16	18,248	2,295	12.58
Markham Twp.	16	22,076	826	3.74
Dundas	15	20,756	708	3.41
Orillia	15	26,124	922	3.53
Whitby	15	22,718	504	2.22
Ancaster Twp.	15	18,810	271	1.44
Trenton	14	16,179	395	2.44
Chinguacousy Twp.	14	24,165	65	.27
King Twp.	14	16,706	101	.61
Widdifield Twp.	13	12,747	118	.93
Preston	12	15,258	812	5.32
Kapuskasing	12	15,219	330	2.17
Long Branch	12	21,601	507	2.35
Gwillimbury, E. Twp.	12	12,381	154	1.24
Kingston Twp.	12	17,717	170	.96
Lindsay	12	14,842	892	6.01
Georgetown	11	15,916	94	.59
New Toronto	11	43,622	246	.56
Kenora	11	14,699	227	1.54
Wallaceburg	10	13,587	299	2.20
Weston	10	27,866	2,152	7.72
Darlington Twp.	10	7,598	70	.92
Cobourg	10	15,228	651	4.28
Aurora	10	15,877	148	.93

Source: Department of Municipal Affairs, *Annual Report of Municipal Statistics, 1965.*

Ratio of exemption to taxable assessment	Number of municipalities
less than 1%	11
1% or more but less than 2	13
2 or more but less than 3	14
3 or more but less than 4	12
4 or more but less than 5	8
5 or more but less than 6	7

Ratio of exemption to taxable assessment	*Number of municipalities*
6 or more but less than 7	3
7 or more but less than 8	2
8 or more but less than 9	5
9 or more but less than 10	2
10 or over	3
	80

The median for all 80 municipalities was 3.18 per cent.

29. Compulsory exemption of property from municipal taxation has been especially broadly based in Ontario. Crawford's *Canadian Municipal Government*[2] includes a chart showing the prevalence of compulsory exemptions by provinces. The position that he found remains sufficiently current to warrant reproduction:

Types or classes of land exempt from municipal taxation	*Number of provinces in which such exemptions occur*
1. Property of the Crown	10
2. Churches and places of worship	10
3. Municipal property	9
4. Cemeteries	8
5. Common schools	8
6. Colleges and institutions of learning	8
7. Property of agricultural societies	7
8. Charitable institutions	6
9. Public libraries	5
10. Registry offices	5
11. Property of the Canadian Legion	4
12. Buildings used in agricultural operations	3
13. Property of agricultural exhibitions	2
14. Property of literary societies and institutions	2
15. Property of children's aid societies	2
16. Community halls	2
17. Sites of historic buildings	2

Among the listed exemptions all are compulsory in Ontario except the property of the Canadian Legion for which a limited tax exemption can be obtained by local by-law. Thus we can see how exemptions erode the tax base of municipalities in Ontario compared with those of other Canadian provinces.

PROVINCIAL PROPERTIES

30. The tax-exempt status of provincial properties under the British North America Act does not extend to the properties of the Hydro-Electric Power Commission of Ontario. An important difference is the financial interest of local electrical utilities in the provincial hydro body. On the other hand, the similarity of Hydro to a provincial Crown corporation must be obvious. One demonstration of the kinship is the provision that has created the tax exemption and pay-

[2]K. G. Crawford, *Canadian Municipal Government*, University of Toronto Press, 1954, p. 287.

ments in lieu of taxes after the manner of Crown properties. For this reason, we shall consider the position of Hydro properties under the general heading of "Provincial Properties" although in its own separate section.

CROWN AND CROWN AGENCY PROPERTIES

31. Since 1952, the Province has paid grants to municipalities on Crown properties in lieu of general-purpose and business taxation under the provisions of The Municipal Tax Assistance Act. No payments have been made in lieu of school taxation. The terms of The Local Improvements Act notwithstanding, the Province may pay local improvement levies. In practice, it usually commutes such costs to lump-sum payments. The Municipal Tax Assistance Act also authorizes, but does not require, Crown agencies to pay grants in lieu of local taxation on the same basis. In fact, provincial government corporations and agencies make payments in lieu of taxes in respect of their properties on a basis equal to, or more generous than, that paid by the Province on the properties it owns directly. The Ontario Northland Railway accepts the normal weight of taxation upon railway properties. Where the Liquor Control Board of Ontario rents retail outlet accommodation and assumes responsibility for the taxes, it makes payments in lieu of school taxes as well as of the municipal and business levies.

32. The Assessment Branch of the Department of Municipal Affairs is responsible for assessing all provincial Crown properties, apart from dwellings, and all properties owned or occupied by provincial agencies. The Assessment Act instructs municipalities to assess and tax in the normal way dwellings owned or controlled by the Province or by one of its agencies that are occupied by a tenant who pays rent or other valuable consideration. The departmental valuations of provincial properties are expected to conform to the level of value prevailing in the municipality where the property is located. Municipalities have the right to appeal the amounts of all such assessments to the Municipal Board. Crown agencies have a similar right with respect to their properties. The determination of whether or not a property is subject to assessment rests with the Minister of Municipal Affairs.

33. The amount of the grant payable by the Province on assessed properties is based upon the local commercial tax rate for general purposes and, where applicable, the appropriate percentage supplement as a business property. Dwellings on Crown land or land controlled by a Crown agency that are taxed must pay the residential and farm rates for both general and school purposes. Each year, municipalities bill the Department of Municipal Affairs and the Crown agencies concerned for the appropriate amounts of taxes payable on dwellings and grants in lieu of taxes on other properties.

34. The Municipal Tax Assistance Act excludes a variety of properties from grants in lieu of taxes or from normal taxation. The list is as follows:

Unpatented lands,
Public lands set apart as a wilderness area,
Provincial property used for park purposes including the buildings in the parks,
Hospitals,

Museums and libraries,
Penal and reform institutions,
Educational institutions,
Highways,
Jails,
Cemeteries,
Minerals,
Farms operated by institutions,
Experimental and demonstration farms,
Cooling stations,
Weigh-scales and inspection stations,
Fish hatcheries,
Provincial forests,
Real property subject to municipal taxation under Section 34 of The Assessment Act or acquired or held for the purpose of a housing project, or any provincial property for which, in the opinion of the Minister of Municipal Affairs, municipal services are not available.

ONTARIO HYDRO PROPERTIES

35. The Hydro-Electric Power Commission of Ontario is a public corporation. It is not, however, a Crown corporation, even though its entire membership is appointed by the Lieutenant Governor in Council and must include one member of the provincial Cabinet.

36. The tax position of Hydro properties is governed by The Power Commission Act. This Act prescribes the extent of properties that are to be subject to payments in lieu of taxes and the method to be followed in valuing Hydro lands for this purpose. The amounts due from the properties that, through these statutory provisions, are made subject to payments-in-lieu are thereupon to be determined in the normal manner. The assessment of the Hydro properties, however, is to be carried out by the Assessment Branch of the Department of Municipal Affairs. Hydro dwelling establishments are also assessed by the Branch instead of by local municipal assessors, as are provincial Crown properties. The Commission or the municipality concerned may appeal values placed on Hydro properties to the Ontario Municipal Board, whose decision is final. The Minister of Municipal Affairs decides what property of the Commission comes within the scope of the legislation providing for payments in lieu of taxes.

37. One further limit is placed on the extent of payments-in-lieu under The Power Commission Act. The amount payable by the Commission must never exceed 50 per cent of the total to be raised through payments-in-lieu and by local levies for all purposes, except local improvement charges. In other words, the Hydro properties may not be made responsible for more than half the combined taxation and payment-in-lieu revenues.

38. For many years, no payments in lieu of taxes were made by Hydro under The Power Commission Act on any of its buildings, structures or power lines except its outlets for retailing electrical goods, supplies or appliances. On these commercial properties, payments equivalent to full taxation were forthcoming. In 1952, the same year in which other provincial properties were made subject to payments-in-

lieu, the Act was amended to make additional Hydro properties taxable. It was again amended in 1959 to broaden the scope of payments still further by adding the value of transformer and generating station properties to the assessment base. The effect of the change in 1952 is indicated by the fact that Hydro payments rose to $851,000 in 1952 from $595,000 in the previous year. But the increase since 1952 has been far greater. It results from the remarkable expansion of Hydro holdings as well as from the 1959 amendment. For the year ended March 31, 1966, Hydro payments totalled almost $5.4 million. Yet, because Hydro dams, wires, poles, etc., are not assessable property, the grants in lieu of taxes paid by Hydro are at a considerably lower level than the taxes paid by others assessable on all their properties.

39. The special provisions governing the valuation of Hydro properties for payments in lieu of realty taxes in part parallel the provisions applicable to other public utilities. The subject is therefore taken up again in the next chapter where attention is directed to special assessments now applicable to a variety of commercial properties. Here it is enough to note that the method of valuing land and the exemption granted to buildings and structures erected on public land and to machinery and certain structures other than buildings wherever situated, closely parallel the valuation provisions applicable to local public utilities. On the other hand, the treatment of Hydro properties is unique in that the governing statute requires the arbitrary valuation of certain buildings. Generating and transformer station buildings are to be valued at $2.00 per square foot of equalized assessment, adjusted to the applicable level of assessment. The effect of such an arbitrary, statutory basis for valuing these key properties has been to reduce sharply the total valuations on which payments in lieu of taxes are made.

40. When the Department of Municipal Affairs produced new assessment equalization indices related to current value, it rendered obsolete the provision in The Power Commission Act for valuing generating and transformer station buildings. Failure to change the legislation as required probably reflects concern about the desirable basis for future payments. Yet continued delay should not be countenanced.

41. The payments in lieu of taxes by Hydro differ in two further important respects from those applicable to other provincial properties. First, it pays the equivalent of school taxes as well as municipal and business taxes. Second, it accepts full responsibility for local improvement levies. The result of these two differences is to impose on Ontario Hydro close to twice the weight of taxation on the dollar valuations placed on its properties for payment-in-lieu purposes as compared with other provincial properties. However, it must be borne in mind that some Hydro properties are not assessable at all and others are assessed at a low statutory value, and that, on the other hand, no grants-in-lieu are paid on certain provincial properties.

PROPOSED TREATMENT OF PROVINCIAL AND HYDRO PROPERTIES

42. We see no reason to make different rules for payments in lieu of taxes according to the ownership of the property. All provincial property similar in its

character or in its use should, in our opinion, be treated alike. The assessment of transportation and communications properties is taken up in the next chapter. Subject to what is said there, we propose to draw no distinction in our recommended treatment of provincial properties between the Hydro and other provincial properties, including Crown agencies.

43. The Assessment Branch of the Department of Municipal Affairs is responsible for undertaking valuations forming the basis for payments in lieu of taxes with respect to Hydro as well as other provincial properties. The only difference concerns the tenant-occupied residences within such properties. Under The Municipal Tax Assistance Act, the responsibility remains with local assessors because tenant-occupied residences are left as taxable properties. Under The Power Commission Act, such properties are declared exempt and then made subject to Department of Municipal Affairs valuations as the base for full payments in lieu of taxes. The existing difference in practice creates no serious problem that we have been made aware of. Hence, the two differing techniques could continue in existence side by side. We do suggest, however, that local assessors might be empowered to transfer the responsibility for assessing residential tenants of provincial Crown properties to the Assessment Branch of the Department of Municipal Affairs if they so choose, with a right of appeal similar to that open to them with respect to the Assessment Branch's valuations on other portions of provincial Crown properties.

44. As already noted, Hydro makes payments in lieu of school taxes, whereas properties coming under The Municipal Tax Assistance Act do not. One reason given for this omission is the problem of allocating the payments between the public and separate school authorities. Can the provincial government meet that problem without offence to one or other school authority in the local community? The answer is clearly in the affirmative. The Hydro-Electric Power Commission solves the difficulty in the following way. On tenant-occupied residences and farms forming part of Hydro properties, the rate is determined according to each tenant's declaration of school support and the municipality must divide the resulting payment among the school boards accordingly. For the remaining properties the public school rate is employed in calculating the payment, which is then made to the municipality and *not* redistributed to the school authorities. The effect is to give local taxpayers additional assistance with their municipal taxes instead of assisting with their school taxes.

45. As we shall see, the Government of Canada makes payments in lieu of both municipal and school taxes. The federal practice is to make payments to each municipality concerned at a rate representing the weighted average between the public and separate school rates based upon the relative proportions of the taxable assessments of public and separate school supporters. The Municipal Grants Act is silent on the question of any distribution of its payments in lieu of school taxes to the local school authorities.

46. In further defence of its failure to include school taxes in its payments-in-lieu, the provincial government has emphasized the substantial amounts of money

that it already pays out in school grants. Yet an inequity results from the lack of payments in lieu of school taxes on provincial properties that the equalization features of the foundation grant plan can only reduce but not eliminate. Moreover, the payments made by both the federal authorities and Hydro demonstrate the practicability of payments in lieu of school taxes for all provincial properties. A plan can certainly be devised that will avoid religious controversy.

47. In reviewing the school grant arrangements, we have thought it desirable to propose a change from the present corporation tax adjustment grant although recognizing that the grant represents a decidedly forward step from prior grant arrangements. To conform with our recommended school grant changes, we favour a means of determining and distributing payments in lieu of school taxes that differs from both the existing federal government and the Hydro arrangements. We propose that the amount be calculated at the lower of the public or the separate school rate applicable within each territorial limit and that the distribution to school boards be on the basis of pupil enrolment. Until school authorities become taxing bodies, the payments might be made to municipalities for transmission to the school boards concerned, including separate school boards. *We therefore recommend that:*

> ***The Province make payments in lieu of school taxes on its properties, in addition to those now made in lieu of municipal taxes, and to the extent that they apply to elementary schools, such payments, as well as those now made by the Hydro-Electric Power Commission of Ontario, be computed at the lower of the public or separate school mill rate applicable where each property is situated and be distributed to the school boards on the basis of pupil enrolment.*** **12:1**

48. It is mandatory that Hydro pay local improvement levies on its properties, whereas the imposition of such levies on other provincial properties is only permissive. We propose therefore that all provincial properties, including those of Crown corporations and agencies and of the Ontario Hydro be subject to either full payments in lieu of local improvement levies or full direct payment of the levies.

49. What about the substantial number of classifications of provincial properties that are exempted from the terms of The Municipal Tax Assistance Act? We have carefully reviewed the present list and we have narrowed down the kinds of properties that we regard as warranting special treatment to the following:

forested lands,
highways,
land betterment works,
historic sites and monuments,
remote or undeveloped lands,
properties providing certain services for themselves, and
provincial parks.

We deal with each in turn.

Forested Lands

50. Forested lands have been the subject of special local assessment or tax treatment in Ontario for many years. References to such properties now exist, scattered through several different Acts. The subject is dealt with later in this chapter where we propose the amendment and consolidation of existing tax benefits. Our recommendation applies equally to the taxation of private property and to the calculation of payments in lieu of taxes on provincial and federal Crown properties.

Highways

51. Highways are not, in our opinion, suitable subjects for local realty taxation. The public roads and highways are available for use by all. Their purpose is to facilitate services to property, to provide access to property and generally to render the use of property more productive. As such, public thoroughfares of all sorts have always been exempt from realty taxation and should, we believe, remain so.

Land Betterment Works

52. An increasing role of government is the economic improvement of land for the general benefit of the community. Examples include the construction of dams on rivers, irrigation projects and other land conservation works. For the present purpose, we give the expression "land betterment works" a strictly utilitarian meaning and exclude those expenditures made to beautify the landscape.

53. Sometimes a government will construct and maintain a land betterment work from which others reap the benefit without charge. Sometimes the public authority improves land and secures part of the fruits of the undertaking for itself. Conservation authorities commonly utilize parklands that been improved by betterment works and procure income through user charges for the use of the park amenities or the provision of park services. A somewhat different example of a government-centred benefit is a dam constructed to serve a fish hatchery.

54. If any favoured treatment is to be established with respect to land betterment works, a careful line must, we suggest, be drawn between projects that produce an unfettered public benefit and those whose benefit is more confined. We think it reasonable to exempt from property taxation or its equivalent only those land betterment works — whether provided by government, Crown corporations or agencies, or other public bodies — that confer an unrestricted benefit upon the community within the area where the work is situated. For example, a dam built for flood control and prevention of soil erosion should be exempt because of its benefit to everyone in the community. On the other hand, the dam constructed for a fish hatchery that we mentioned above should be the subject of grants-in-lieu.

Historic Sites and Monuments

55. Historic sites and monuments have an element in common with both land betterment works, as we have defined them, and public highways.

56. The identification and preservation of an historic site conveys an undoubted public benefit. The terms under which the public has access to the site may vary from place to place. At the one extreme, an historic site may be privately owned

and operated for purely commercial ends. Revenue may be derived from an admission charge, the sale of souvenirs, the operation of a refreshment stand, etc. At the other extreme, an historic site may be kept open to the public, information supplied by guides or printed pamphlets, and parking areas made available, all without charge.

57. Memorials and monuments represent a form of public property on which payments in lieu of taxes might well be limited since they are community assets that impose little or no municipal service burden. Should the National War Memorial in Ottawa, for example, be the reason for large payments in lieu of taxes merely because it is a costly and noble artistic creation? Where monuments have been built by municipalities, the problem becomes somewhat academic since the local authority would be levying a tax on itself. Again, a line would have to be drawn so as to exclude from the exemption monuments that were not government property, and functional buildings or structures erected as memorials.

58. To qualify for exemption historic sites would have to be accorded recognition by an official body such as the Province's Archaeological and Historical Sites Advisory Board and monuments would have to be the property of a government. Properties that met these qualifications might then be assessed for taxation or for payments in lieu of taxes on only their utilitarian value together with any historic, patriotic or aesthetic worth that is being exploited commercially. The onus might lie with the owner—whether a government, a Crown agency, a non-profit organization or a private person—to demonstrate the grounds for reducing the assessment and the resulting taxation or payments in lieu of taxes.

Remote or Undeveloped Lands

59. A great deal of land in Canada remains underdeveloped and remote from settlement. Such land may lie within the confines of a municipality whose territorial limits have, with an eye to the future, been widely drawn. The land may be serving no productive purpose and obtaining no local government service benefits. It may represent the discharge of a governmental responsibility to protect land and nothing more. It would be most unreasonable in these circumstances to subject the land to the equivalent of local property taxation.

60. One means of freeing such land from the consequences of taxation would be to remove it from the territory of an organized municipality or school board by effecting a change of boundaries. Indeed, the land might never have been brought within the jurisdiction of a local government if the result had been to make it subject to taxation. It is our thought that such properties should be classified and made exempt without requiring their removal from the corporate limits of a municipality or school board. The status of remote or undeveloped land should, however, be confined to unpatented and other unused Crown lands. It is a reasonable presumption that land leased or purchased from the Crown is being held commercially and should be taxable. In addition, local authorities who have jurisdiction over land classified as remote or undeveloped should have an opportunity to review and seek a revision of such classification at any time.

Properties Providing Certain Services for Themselves

61. Some government properties reduce their dependence upon local government services by providing them for themselves. The most obvious illustrations are federal Crown properties, such as the defence establishments at Camp Borden, Trenton, Petawawa and Picton. These areas are largely self-contained and furnish the equivalent of most municipal services for themselves. The closest non-governmental parallel is the company town where the single enterprise that provides employment also assumes responsibility for the creation and maintenance of the town site and local community services.

62. To the extent that government properties are obliged to furnish services for themselves, they should not be expected to duplicate the outlays by payments in lieu of taxes to the municipality or school board exercising formal jurisdiction in the area. It should not, on the other hand, be possible for a government property to escape a full and fair share of local tax responsibility by the device of producing its own services.

63. Under the taxing system that now applies and will continue in effect, the cost of services to residential properties is met in part by tax revenues obtained from the related industrial and commercial properties giving the community balance. If the property holder could withdraw from the responsibility of paying municipal and school taxes, many large industrial and commercial establishments would surely provide the services for themselves at a marked saving. No individual property can expect a *quid pro quo* relationship with the local tax collector either on some or all of its services. Each property must be expected to pay its share of taxes except where, by prior arrangement, the local authorities agree not to furnish certain of the available services and to reduce the tax burden accordingly.

64. If the Province is prepared to take responsibility for full payments in lieu of local taxation, it should also accept some limitation on its right to reduce its payments by providing services for itself. The basis for any such reduction ought, we believe, to be the subject of a written agreement subject to revision from time to time. In case of dispute, the matter ought to be placed before an arbiter. We propose that the Ontario Municipal Board be given this responsibility and that, since the dispute would be between the Province and a local government, its decision be final.

Provincial Parks

65. Since 1950, land forming part of a provincial park is automatically severed from the local municipality in which it has been situated. Other provincial property used for park purposes, however, remains within municipal jurisdiction. Within provincial parks, the Department of Lands and Forests is responsible for the operation and maintenance of the areas as public recreation lands. The Department may undertake full administrative responsibility, including the assumption by its designated officials of all the power and authority of members of the Ontario Provincial Police. Unopened road allowances within the park become vested in the Crown and, after due notice, may be closed.

66. The cost of constructing and maintaining municipal roads that provide access to provincial parks may be shared on a basis agreed between the Minister and the municipalities concerned. The municipality retains title to the road. Such agreements are subject to approval by the Ontario Parks Integration Board, the body responsible for the long-term planning of the provincial parks system.

67. We can scarcely quarrel with the exemption of provincial parks from payments in lieu of municipal taxes, since the Province assumes responsibility for overseeing areas within which settlement on a continuing basis is discouraged. Our only concern, therefore, is that the sharing of financial responsibility for municipal access roads be on a fair basis. In this connection, we note the lack of stated authority for the Department to share traffic control expenditures. The problem will arise only where local police have taken over the responsibility from the Ontario Provincial Police. Second, the review of road agreements by the Parks Integration Board is intended to safeguard the provincial interest, but it may leave the municipal interest unprotected. Consequently, we favour a municipal right of appeal to the Ontario Municipal Board, which, in turn, might support its decisions with road user research by the Department of Highways. *We therefore recommend that:*

A municipality be given a right of appeal to the Ontario Municipal Board respecting the terms of any agreement made with the Minister of Lands and Forests in regard to the financing of an access road to a tax-exempt provincial park. **12:2**

WINDFALL REVENUES

68. Enlargement of the coverage of payments in lieu of taxes upon provincial properties would produce some sudden increases in municipal and school revenues of major proportions. In certain instances, the change would fall upon a relatively large municipality that has been able to manage without the payment-in-lieu by virtue of the size and strength of its remaining revenue sources. Elsewhere, properties like experimental farms or Ontario hospitals would add substantially to the revenues of municipalities with quite small populations that furnish little if any service in return. A sharp and fortuitous increase in revenues is not in most circumstances wholly to be desired. For a few municipalities, the result could be release from the bulk of their ordinary tax-paying responsibility.

69. We should at once acknowledge that certain municipalities already enjoy a favoured tax position because of the location of certain very large industries in small villages or rural townships. It is not necessary to give examples in order to establish the point. Such situations have long existed and are now to be found in a number of places throughout the Province. But two wrongs do not make a right: the Province must avoid contributing further to financial inequalities among municipalities.

70. A number of recommendations made elsewhere in this Report would, if implemented, go far toward eliminating the problem. But some of the remedial measures we propose, including the formation of larger units of administration,

will take several years to effect. Meanwhile, the Province might wish to designate as the recipient of particular payments-in-lieu a cluster of municipalities or school boards rather than the single municipal and school jurisdiction within which a provincial property is situated. Such a distribution would enable the Province to meet its property tax responsibility in full under terms that would put the funds to good use. On the other hand, this arrangement would pose administrative and political difficulties of allocating portions of the assessed value to each municipality, converting the figures to the local assessment levels and undertaking payments based on the several local tax levies. Furthermore, the extent of the windfall revenue problem is not known. We therefore leave the matter of any interim solution to provincial decision.

PUBLIC HOUSING

71. The terms on which public housing is constructed under intergovernmental arrangements have included measures to control the local tax burden on new developments. Properties acquired under The Housing Development Act, for example, are made exempt from taxation but eligible for provincial payments-in-lieu. The financing of public housing is considered in Chapter 21. We say there that a study, while beyond our terms of reference, of the function and financing of redevelopment and housing is very much needed; such a study necessarily must include the taxing arrangements as well.

RECOMMENDATIONS CONCERNING PROVINCIAL PROPERTIES

72. To provide local taxing bodies with an equitable system of payments in lieu of taxes upon provincial properties, including the properties of Crown corporations and agencies, and the properties of the Hydro-Electric Power Commission of Ontario, *we recommend that:*

The Province and all its agencies, and the Hydro-Electric Power Commission of Ontario undertake to make full payments in lieu of municipal, school, business occupancy and local improvement levies on their properties other than **12:3**

(a) public highways,

(b) land betterment works, to the extent that they convey an unrestricted community benefit,

(c) recognized historic sites that are not being exploited commercially, and monuments or memorials, except to the extent of their utilitarian value, and

(d) remote or undeveloped Crown lands not under lease or subject to mining or timber rights and not benefiting from local government services,

except to the extent that such payments are reduced in recognition of local services provided by the owner of the property upon agreement with the local authorities, who shall have a right of appeal to the Ontario Municipal Board as to the amount of any such reduction.

73. For the most part, historic sites and properties providing their own services will be owned by government, including Crown corporations or agencies and similar public bodies. The special tax treatment we propose should apply, however, when the properties are owned privately. *We therefore recommend that:*

Privately and municipally owned recognized historic sites that are not being exploited commercially be subject to taxation or payments in lieu of taxes only to the extent of their utilitarian values. **12:4**

Local authorities be permitted to enter into agreements with property owners for reductions in their taxes based upon their undertaking to provide all or some of their own local services, subject to review by the Ontario Municipal Board. **12:5**

FEDERAL GOVERNMENT PROPERTIES

74. The position of federal government properties, including the properties of Crown corporations and agencies, differs both from the current situation of provincial properties and from the modified position we favour. In general, our obvious objective must be to procure with respect to all federal properties payments in lieu of taxes on the same basis as we propose for provincial properties, making any necessary changes.

75. The prospect of federal acceptance of the revenue responsibilities we seek depends upon two things: first, the example set by the Province with respect to its own properties; second, the direction and extent of needed changes to place federal properties on the desired footing. Before beginning a description of the extent of federal grants-in-lieu on its own properties and the properties of its Crown corporations and agencies, we acknowledge that generally, federal payments have been forthcoming on a considerably more generous basis than those of the Province. Therefore the Province must itself make great strides before it can hope to convince the federal government to round out its areas of responsibility.

76. The federal government makes grants in lieu of general-purpose and school taxes on certain properties of the Crown, Crown corporations and agencies under the provisions of the Municipal Grants Act. No payments are forthcoming in lieu of the supplementary business tax, but the Municipal Grants Act authorizes the federal government to pay grants equivalent to local improvement levies upon its properties. Federal property on which grants are payable is classified so that some is subject to the commercial rate and some to the residential and farm rate. The latter includes residential quarters in buildings put to other uses, barracks and mess halls, experimental farms, vacant lands and properties that would have been exempt if not owned by the Crown. This final category raises an interesting point. The federal government includes among the properties on which it makes grants in lieu of taxes federally owned hospitals, schools and churches.

77. As already indicated, the federal government acknowledges the division of elementary education in Ontario between public and separate schools for which

tax rates may differ. Consequently, it pays a grant for school purposes at a rate calculated by dividing a municipality's total school requirements, including those for the support of separate schools, by the total assessment taxable for all school purposes. This method permits an apportionment among school boards in proportion to the share of the total school assessment held by each at the school mill rate levied by each. But the federal government, quite naturally, offers no advice or instruction as to the distribution of the grants in lieu of school taxes. Apparently such tax revenues are commonly retained in the municipal coffers.

78. Municipalities must apply for grants on federal properties; local assessors are responsible for assessing all such properties. These assessments are subject to review by officials of the Municipal Grants Branch of the federal Department of Finance who may check the valuation in the field and propose revisions. If the Municipal Grants Branch is unable to reach agreement with a local assessor on the value of a property, the matter is put to the Minister of Finance and the local assessor may make representations. There is no appeal from the Minister's decision.

79. The following categories of federal government properties are excluded from the base for grants in lieu of taxes by the Municipal Grants Act:

(1) improvements to land, or structures, forming part of a defence establishment, which the Minister of Finance designates as self-contained, such as administrative and operational buildings;

(2) property that is part of a project for the conservation, irrigation, reclamation or reforestation of land;

(3) national parks, historical sites and monuments;

(4) museums, public libraries and art galleries;

(5) all property within the boundaries of an Indian reserve;

(6) structures such as docks, piers, runways, dams, storage tanks and machinery other than that necessary to operate a building; and

(7) all property under the administration, control or management of Crown corporations, except where such bodies hold property in their own name instead of in the name of the Crown, in which case there is no exemption.

80. Crown corporations and agencies do not come under the terms of the Municipal Grants Act. They make their own arrangements for payments in lieu of taxes and, for the most part, have been left free of legislative requirements to do so. The policy was laid down by the Minister of Finance in the House of Commons in November 1949, when he said that each corporation should make "payments which would be fair and reasonable in regard to all circumstances". At present the policies adopted by Crown corporations lack uniformity; while most pay the full equivalent of the ordinary property tax, others pay only 50 per cent or less. A notable recent development is the legislation requiring the Canadian National Rail-

ways in future to pay full local taxes on its properties situated within municipal boundaries.

81. Within the City of Ottawa, the Parliament Buildings and the land on which they are situated are exempted by statute from payments in lieu of taxes. By special agreement, however, the City is reimbursed for the cost of services furnished to these properties. Certain diplomatic properties also enjoy tax immunity and the Government of Canada makes payments with respect to embassies in and near Ottawa.

PROPOSED TREATMENT OF FEDERAL PROPERTIES

82. As with provincial government properties, we have reviewed the range of exemptions from federal grants in lieu of municipal taxes with the object of singling out those particular properties warranting special treatment. We note first the somewhat narrower range of exempted properties by comparison with Ontario's Municipal Tax Assistance Act. Conversely, we are struck by one wide-ranging exemption—improvements to land, including structures, other than buildings to shelter people, plant or movable property. The consequent absence of payments-in-lieu upon harbour improvements, airport runways and similar installations precludes certain municipalities from receiving substantial grants in lieu of federal taxes. Clearly, a case can be made for seeking additional grants. Now we deal with several special problems respecting the federal grants.

Properties of Foreign Governments

83. A number of court decisions have resolved all doubt as to the tax-exempt status of embassies, consulates and other such properties of foreign governments in Canada. The federal government makes payments for the embassies in the Ottawa area. It has no direct obligation respecting these or any other foreign government properties, and the Municipal Grants Act makes no mention of them. Yet the federal and provincial governments between them must assume responsibility for each such property or leave the municipalities in which they are located under some financial handicap. It is our opinion that the Government of Canada and the provincial governments should take up the problem at a future tax conference. Wherever situated, the purposes served by foreign government properties seem more closely identified with federal responsibilities. But however the matter is resolved, the end result should be to ensure that full responsibility for payment is taken by one or other senior government for each such property.

Indian Lands

84. An Indian band is sufficiently akin to a local municipality to have been given that status under Ontario welfare legislation. Similarly, the Mission Reserve adjacent to Fort William was admitted in 1963 to the Fort William and District Health Unit. Indians who have maintained residence on a reservation have rights in common to the lands of the reserve, subject to the control exercised by the band. Municipal taxation in the normal form is not, therefore, either necessary or appropriate. Hence we see no purpose to be served in disturbing the tax-exempt status of Indian lands.

School Grants

85. As noted, our proposal for payments in lieu of school taxes on provincial properties differs from present federal practice. In fact, by employing actual school requisitions in the formula, the federal plan results in slightly larger transfers. Some change from the existing federal formula would be required to accommodate our proposed allotment of corporate assessment between the public and separate school boards. Advantage might be taken of that change to seek the conversion of federal grants to the same basis as provincial payments.

Appeal Procedures

86. The assessment of provincial properties is carried out by the Assessment Branch of the Department of Municipal Affairs. In Chapter 11, we support a municipal right of appeal from such assessments. The proposed channels of appeal are set out in Chapter 18. We propose an appeal to the Ontario Municipal Board from any proposed reduction in payments with respect to provincial properties furnishing certain of their own services, and we recommend that the same Board serve as final arbiter on the financing of the access roads to provincial parks.

87. Would it be appropriate to seek to establish similar appeal procedures in relation to federal properties? We think not. At present, the first negotiation on federal assessments or other matters lies with the Municipal Grants Branch of the Department of Finance. A final decision is made, when necessary, by the Minister of Finance. We deem it presumptuous to propose that instead referral be made either to a quasi-judicial provincial agency or to the courts. One development, however, might prove helpful. The Assessment Branch of the Department of Municipal Affairs might make its services available to advise municipalities experiencing difficulty in resolving questions respecting federal grants-in-lieu.

RECOMMENDATIONS CONCERNING FEDERAL PROPERTIES

88. The Government of Canada began paying grants in lieu of property taxes on January 1, 1950. Initially grants were forthcoming in those municipalities in which federal property exceeded 4 per cent of the value of taxable and federal property combined. The federal payments in such municipalities were equivalent to 75 per cent of full ordinary realty taxes. Five years later, grants became payable in municipalities with a concentration of federal property in excess of 2 per cent and the payments-in-lieu were intended to equal 100 per cent of taxes other than business taxes on the federal properties. From January 1, 1957, grants became payable without the necessity of establishing any degree of concentration of federal properties within the total municipal assessment. The latest move with respect to the Canadian National Railways underscores the federal government's leadership in this sphere of payments in lieu of taxes. In the circumstances, it would be entirely inappropriate for the Government of Ontario to press for any grants in lieu of federal taxes in areas where it was not already giving proper support. Furthermore, the Province would be well advised to establish a clear lead in the scope of its payments in lieu of taxes before urging the federal government to improve its performance. *We therefore recommend that:*

12:6 ***After introducing a system of full payments in lieu of taxes on provincial and Hydro properties, the Province petition the federal government to extend its system of grants in lieu of taxes on federal properties, including the properties of Crown corporations and agencies, to parallel the basis of payments in lieu of taxes on provincial properties, subject to:***

- ***(a) retention of the exemption of Indian reserves;***
- ***(b) federal decision respecting the precise basis of grants for school purposes;***
- ***(c) continuation of the present method of assessing federal properties for grants in lieu of taxes; and***
- ***(d) continuation of the referral of all matters relating to federal grants in lieu of taxes to the Minister of Finance for final determination.***

LOCAL GOVERNMENT PROPERTIES

89. Unlike federal and provincial properties, the real estate holdings of the local authorities are not exempt constitutionally from municipal or school taxation. Their tax-exempt status is granted by The Assessment Act. It does not extend to municipal utilities, which are required to make payments on a prescribed basis by the same Act, or to harbour commission property where a fee is charged for parking. Tenant-occupied municipal property is not exempt and remains subject to local improvement levies. A separate right of exemption is extended to publicly owned or controlled elementary and high schools when used and occupied for school purposes. On the other hand, as already indicated, the school legislation places a limitation on the exemption of school property that is located outside the territorial limits of the school board. Public squares, highways, lanes or other public communications are accorded a separate exemption which likewise duplicates the municipal exemption. As with other municipal legislation, the statutory provisions for tax exemption suffer in their form from antiquity and from the amending process.

90. The argument for taxation of local government properties differs in one major respect from the case for payments in lieu of taxes on provincial or federal properties. In many instances, the local taxing authority would merely be taxing itself. When this is the situation, the only beneficial results would be to maintain consistency with the treatment of other properties and to foster continual awareness of one particular cost that the local authority incurs through property ownership. But the taxation itself adds an unproductive accounting cost that must be viewed as wasteful except when overbalanced by the benefit that accrues from keeping the record straight.

TAXING MUNICIPAL UTILITIES

91. Municipal utilities have been subjected to tax because it is considered advantageous to require them to reflect all costs of their operations including taxes,

when viewing their financial results. The public authority may choose *not* to require its utility operations to be self-sustaining: responsibility for realty taxes helps to ensure that this is a conscious decision. Taxation also helps maintain a yardstick of comparison between municipal enterprises and similar private enterprises. For these reasons, we regard the taxation of municipal utilities and of other local government enterprises of a similar character with favour. Our view of the matter is that this responsibility should extend to all local government properties that fit our definition of property occupied for business purposes. Furthermore, we believe that the form and extent of taxation should coincide with the treatment of like property under private ownership.

HOLDING SELF-TAXATION TO A MINIMUM

92. Certain property owned by one local authority would be taxable by another were it not for its exempt status; other municipally owned property has been made taxable in these circumstances. As one illustration, the county buildings of each of the thirty-eight administrative counties are very largely located in a single local municipality within the county. These buildings are not taxable and the county towns are penalized accordingly. The point is underlined by the fact that county buildings for twenty-one of the thirty-eight administrative counties are located in what are now cities. The city is not part of the county in which it is situated and may have no service relationship with the county except for administration of justice and suburban roads.

93. Other examples of the problem can be cited. Some townships have found it convenient to locate their administrative offices in adjacent urban municipalities. Certain municipalities have purchased parklands or property for reforestation or have built community centres outside their boundaries. Most such municipal property is not subject to taxation or similar payments, although there are exceptions. Under Section 377 (66) of The Municipal Act, for example, a municipality may make a grant to another toward the cost of maintaining or operating a public park outside its boundaries. Likewise, The Trees Act (S.O. 1964, c. 118) permits a county council to pay annually to a municipality in which the county has acquired land for forestry purposes a sum not exceeding the amount that would have been payable if the land were not exempt. Finally, a municipality may grant total or partial exemption to a community centre established within its boundaries by another municipality.

94. In total, the present legislation provides no comprehensive or clear-cut pattern governing the tax status of property owned by one local authority situated within the territory of another, or owned by a county or high school district and located within one local municipality where it exercises jurisdiction.

95. It is by no means easy to envisage all the situations in which a degree of inequity results for one local authority, or for a segment of its taxpayers, from the granting of tax-exempt status to the property of another. Take, for example, a regional library located within a local municipality forming part of a county and

serving a region comprising two counties and a city. All participants will contribute to the support of the library, but if the regional library is tax exempt, the local municipality in which it is situated suffers by comparison with other local municipalities within the two counties and with the city because it must provide local services without compensation. If the library also escapes the county levy, all the municipalities comprising the county suffer by comparison with the city and with the municipalities forming the adjacent county. Again, for school tax purposes a regional library may be located in a high school district which includes the city and all or part of several further municipalities within the county. The tax burden on each is greater because the library carries no assessment.

96. On the other hand, if the regional library property were assessed and taxed, a cost would be spread among all the local municipalities throughout both counties and the city. The expenditure would serve to provide tax revenues to the local municipality in which the library is situated, to the city and the local municipalities or part municipalities within the high school district, again including the local municipality in which the regional library is situated, and to the municipalities comprising the county which, once again, include the local municipality containing the regional library property. A substantial number of intergovernmental payments would thus be needed to achieve complete equity.

97. If a school board has jurisdiction over all or parts of two or more municipalities, its property located in each should be taxable in order that no municipality in the district is either penalized or favoured by comparison with others. If we make the property of one school board taxable for this reason we create an inequity unless the properties of other school boards within the same county are taxable. The inequity would be reduced, but not eliminated, by making the school property subject to a levy sufficient to cover the local municipal and school requirements but not the portion of the municipal levy that is imposed for county purposes. Going further, a great many high school districts overlap county boundaries. Hence some degree of inequality of treatment will result unless high school properties are taxed throughout the whole group of counties joined by overlapping boundaries. Full recognition of this situation would require school properties to be made taxable throughout the whole of southern Ontario.

98. Added indications of the complexity of interlocking taxing areas are suggested by some further facts. Health unit boundaries do not always coincide with county boundaries. Some units include a city or a separated town; others do not. Children's Aid Society jurisdiction is in a few instances organized along religious lines like the elementary schools. Suburban roads commissions cover quite irregular territories, spreading out from each city and separated town throughout southern Ontario. In northern Ontario *ad hoc* groupings of municipalities and partially organized territories have been established for such purposes as health unit services, homes for the aged, child welfare, general welfare, community planning and conservation.

99. One final ingredient: within an increasing number of municipalities internal service areas have been formed and the arrangement is supported by differential weights of municipal taxation. Wherever police villages remain in existence, a similar situation is almost certain to apply. The following question illustrates the service area problem: Should the fire halls, the water supply and sewage disposal plants and other such properties within the urban service portion of a municipality be exempted when the result is that higher taxes must then be levied over the whole municipality to provide the other services used by all?

100. The tax dilemma presented by local government properties can be simply stated. It would be desirable in the interests of *equity* to make local government properties taxable in all instances of overlapping or interlocking jurisdictions that have been delineated for any one of three purposes—levying taxes, requisitioning tax funds, or providing particular local government services. In the interests of simplicity a more rough-and-ready pattern must be devised unless all local government properties are to be required to pay full taxes.

101. To attain such a balance, we shall first ignore all internal differences in tax or service levels. Next, we propose to determine overlapping boundaries and extra-territorial properties solely on the basis of local municipal boundaries and to confine tax requirements to local municipal and school levies excluding county or metropolitan requisitions. As part of these upper-tier requisitions we would exclude amounts requisitioned through second-tier municipalities by such other bodies as health units and, if such should arise, direct taxation by regional governments.

102. Recapitulating the position thus adopted, *we recommend that:*

(a) Local government property occupied for purposes of a business enterprise be taxable on the same basis as private business property; and **12:7**

(b) Full taxes, excluding levies for county, metropolitan or other second-tier requisitions, be payable to local municipalities and to school boards on all other properties of

- ***(i) an upper-tier municipality,***
- ***(ii) a local authority whose territorial jurisdiction overlaps local municipal boundaries,***
- ***(iii) a local municipality situated outside its boundaries, or***
- ***(iv) a local board situated outside the municipality where it exercises jurisdiction.***

103. Where local government properties become taxable by virtue of the above recommendations, the total or partial exemptions we recommend for senior government properties should of course be extended to similar locally owned properties. Among these are the total exemption of highways, roads and streets, and the pre-

ferred treatment of land betterment works, recognized historic sites, monuments, and properties providing certain of their own services. *We therefore recommend that:*

> ***The same partial or full exemption from payments in lieu of taxes as those recommended for provincial properties be extended to local government properties.*** **12:8**

NON-GOVERNMENT PROPERTIES

104. Tax exemption today is the cumulative product of the decisions of legislators and municipal councillors extending back over many years. The result in total is a confusing array of concessions, clothed in large part in the descriptive terminology of the past, involving considerable duplication reflecting no obvious or consistent criteria.

105. To note the broad sweep of non-governmental tax exemption is indeed revealing. A prime recipient of such favoured treatment is the non-partisan, non-profit organization engaged in a work of charity or similar public service endeavour. Exemptions also extend to bodies that cannot claim to be non-partisan. Among these we find various places of worship, denominational schools and sectarian community centres. As a cultural centre, Toronto's Massey Hall is exempt, so long as the premises are used for certain specified purposes. The properties of the Stratford Shakespearean Festival Foundation are dealt with differently: they may be granted exemption by municipal by-law. Some worthy organizations have the distinction of being named in the exemptions section of The Assessment Act. These include the Boy Scouts and Girl Guides Associations, the Canadian Red Cross, the St. John Ambulance Association and the Navy League of Canada. Other reputable organizations, notably the Y.M. and Y.W.C.A.'s, have had to struggle for a favoured position through the medium of innumerable private Acts.

106. Tax exemptions extend to at least one form of profit-making operation, the cemetery business.[3] And there are other organizations whose properties, according to our definition, are occupied for business. We point to the exemption given to agricultural societies. Parts of other exempt properties may also be said to have a business character—the dormitories, dining halls and tuck shops of colleges or universities, for example. Again, the portion of a farmer's land used for forestry purposes is entitled to tax exemption.

107. As noted earlier, a classification of tax exemptions by subject matter is reproduced as an appendix to this chapter. If our brief description of the conglomerate array of tax exemptions is incomplete, reference to the appendix will convince the reader of the difficulty of dealing with the various tax exemptions that run through the public statutes and the private Acts. We have found it useful, therefore, to develop a number of broad headings under which to discuss the various forms of tax exemption as the basis of a series of recommended changes.

[3] *Memory Gardens Limited* vs. *Township of Waterloo* (1955) O.W.N. 424.

INSTITUTIONS OF HIGHER LEARNING

108. Educational institutions are granted tax exemption under three different paragraphs of the exemptions section of The Assessment Act, in addition to those general exemptions granted municipal property and the properties of senior governments. One classification is public educational institutions, among which universities are specifically included; the other two are philanthropic or religious seminaries and educational seminaries. In addition, public or private statutes dealing with individual institutions customarily provide them with exemption from real estate taxation. It would be more advisable to legislate one exemption provision by public statute to supersede all existing provisions in public and private Acts. The legislation might extend to all non-governmental educational properties qualified for exemption, not just to institutions of higher learning.

109. Emphasis on post-secondary schooling has grown greatly in recent years. The formation of a Department of University Affairs is indicative of the changing situation. More and more universities and colleges are being established to provide increasing geographic coverage of the province. Almost every area now has its institution of higher learning. Nevertheless, when judged by their purposes and student capacities, such institutions are not evenly spread throughout Ontario, and so the benefits from exemptions from local taxation extend to persons residing beyond the municipal boundary. If such help is to be given, it should be at the expense of the provincial government.

110. We are of the firm opinion that tax exemptions to such institutions should disappear, to be replaced if the Province so wishes by alternative forms of financial aid. Furthermore, we see no obstacle to a changeover to financial assistance in the form of grants, which can be equivalent in amount to the lost exemption benefit. To be eligible for such help, each institution should be expected to qualify for recognition by the Department of University Affairs or the Department of Education.

111. It is important to ensure that the merits of continuing to assist each presently exempted institution be properly considered. We propose that the legislation contain the desired safeguard. Each institution of higher learning now in receipt of a tax benefit should have the opportunity to state its case to a representative of the Province, to determine whether or not its present exemption is to be replaced by a grant when the property tax exemption is terminated.

112. Should the properties of universities and other such institutions become taxable, the resulting weight of taxation will be substantial. Many of their buildings are of high quality and their properties usually include large open spaces. On the other hand, little of their property will be classed as occupied for business purposes. We conclude that the resulting municipal and school revenues will not be excessive when compared with an alternative use of the land by industrial and commercial establishments. *We therefore recommend that:*

All present exemptions from property taxation to institutions of higher learning be terminated following provincial **12:9**

review of the merits of each institution for continuing financial assistance; and provincial grant support to institutions of higher learning in lieu of the tax exemptions be confined to those institutions recognized for the purpose by either the Department of University Affairs or the Department of Education.

PRIVATE SCHOOLS

113. The position of private schools is closely akin to that of universities. We favour termination of their existing tax-exempt status after similar consideration has been given to their need for alternative financial support.

114. Private schools can vary greatly in their objectives and standards. The right to be considered for future grant assistance would, of course, accrue to all schools now obtaining tax-exemption benefits. While the matter is one to be finally determined by the Province, we favour confining such aid in the long run to schools that offer an approved form of schooling that is alternative to the tax-supported elementary or secondary schools. *We therefore recommend that:*

All present exemptions from property taxation to private schools be terminated following provincial review of the merits of each school for continuing financial assistance; and provincial grant support to private schools in lieu of tax exemptions be confined to schools providing approved education at the elementary or secondary levels. **12:10**

PUBLIC HOSPITALS

115. There were in 1965, as noted in Chapter 38, 218 public hospitals throughout Ontario of which a mere 20 were municipal institutions. In 1965, the Province was operating 15 mental hospitals and 12 sanitoria while the federal government was maintaining 11 hospitals within this province to serve Indians, veterans and defence personnel. The hospitals of the senior governments have of course been tax exempt, but the federal government makes grants-in-lieu with respect to its hospital properties whereas the Province of Ontario has excluded its hospitals from that responsibility under The Municipal Tax Assistance Act.

116. If public hospitals were made to pay taxes, would that expense be recognized as a sharable cost under the hospital insurance plan? We can only surmise what might happen by studying the existing situation of private hospitals. The 1965 inventory of hospital facilities also included 47 private hospitals and 40 private nursing homes in which patients were eligible for benefits under the hospital insurance plan, the latter on a provisional basis. Both private hospitals and nursing homes are subject to municipal taxation. This cost, as a pre-existing item of expense at the time of the introduction of the hospital insurance plan, was accepted as sharable under the plan as well as by the federal government. The federal government's voluntary payments-in-lieu on its hospitals must also be considered. As there is no federal contribution to the operating costs of Ontario's mental hospitals

and sanatoria, any tax payments to municipalities would be borne by the plan with assistance from Ontario only. The imposition of realty taxes on some 200 voluntary hospitals, many of whose properties are in high land-value locations, would add a significant amount to hospital costs. Finally, the effect of recent tax inquiries in other Canadian provinces has been to encourage a sharp reduction in tax exemptions. Considering all of these circumstances, it seems there is some prospect that negotiations with the federal government to include realty taxes on hospitals as a sharable cost would succeed.

117. In the interim, we propose that the provincial government assume the entire financial responsibility of hospital taxes under Ontario Hospital Services Commission reimbursable operating cost arrangements. This step would parallel the provincial position on patient costs in mental hospitals and sanatoria for which the Province is already seeking federal cost-sharing. In addition to the assumption of tax responsibility as it relates to those hospital operations coming under the Hospital Care Insurance Plan, the Province, in our opinion, should review any remaining property tax burden faced by public hospitals and consider paying compensating grants in precisely the same manner as for universities, colleges and private schools. *We therefore recommend that:*

Public hospitals be made subject to full realty taxes and, where applicable, local business taxes; and **12:11**

(a) public hospitals be authorized to include pertinent realty and business taxes as part of their costs under the Hospital Care Insurance Plan;

(b) the Province undertake to pay in full the realty and business taxes chargeable to the Hospital Care Insurance Plan and negotiate with the federal government to share the cost; and

(c) the Province give consideration to granting further support to each public hospital in respect of local taxes that would not be chargeable to the Hospital Care Insurance Plan, and from which it is now exempt, before the exemption is terminated.

ASSESSMENT OF UNIVERSITIES, PRIVATE SCHOOLS AND HOSPITALS

118. The assumption by the Province of the responsibility to make grants, which would offset in whole or in part the local tax obligations of institutions of higher learning, private schools and public hospitals, would give it a particular interest in the accuracy of the assessments placed upon these properties for local tax purposes. Conversely, the corporate owners of the properties might be expected to take less than the normal interest in their realty assessments, who, having never paid taxes in the past, would then recover all or most of their tax costs through provincial grants. These institutional properties are, moreover, among the more difficult to value. *We therefore recommend that:*

The Assessment Branch of the Department of Municipal Affairs be authorized to assess institutions of higher learning, private schools and public hospitals on which the Province makes grants in lieu of realty or business taxes, and such assessments be subject to appeal. **12:12**

PLACES OF WORSHIP AND OTHER RELIGIOUS PROPERTY

119. Both the Assessment Act and The Provincial Land Tax Act exempt from taxation every place of worship and any land used in connection therewith. The Assessment Act also provides exemption from local taxation for religious seminaries. In briefs presented to the Committee it was pointed out that exemption for religious organizations is not as wide as that for charitable organizations, since the land and buildings owned and used by religious bodies for their administrative, charitable, welfare, social service or educational purposes, except for religious seminaries, are not exempted by the legislation. Moreover, places of worship are subject to local improvement charges under The Local Improvement Act. On the other hand, property of religious bodies used for recreational purposes may by local by-law[4] be exempted from the payment of taxes for general purposes but not for school purposes.

120. The distinction between a religious seminary and an educational seminary run by a religious institution is by no means clear in The Assessment Act. We understand a religious seminary to be an institution for the training of clergy, laity or novitiates in particular religious doctrines, while we look upon an educational seminary as a private school run by a religious order providing elementary or secondary schooling and meeting the compulsory educational standards of the Province. Thus, educational seminaries as we interpret the phrase have already been covered under private schools. Religious seminaries, however, are in a different category and must, if they are to receive consideration, be included under a definition of religious property or as recognized institutions of higher learning.

121. Religious institutions, in addition to their primary functions, engage in recreational or community service work, which take either of two distinctive forms. Certain undertakings are intended for the members or adherents of the particular religious denomination. Other projects are quite consciously planned to assist people from the community, without regard to their religious affiliations or interests. These latter projects represent philanthropic or charitable undertakings of a kind commonly assisted by municipal grants and by general voluntary fund-raising. On projects within this second category, we take the view that churches and other religious institutions must meet the same conditions as other bodies engaged in similar work, in order to qualify for community financial support, whatever its form. As to the sectarian programs, the subject properties are, and we think should continue to be, liable for full taxation, unless they fall within the range of activities afforded support because they are inherent in places of worship or religious seminaries. Our objective in this section is to consider the future status

[4]The Assessment Act, R.S.O., 1960, c. 23, s. 5.

of places of worship and other property that has been free from the responsibility of local realty or business taxes on religious grounds.

122. The argument for governmental support of places of worship by local tax exemption is based on the indisputable indirect benefits that their activities confer upon those who may never attend church, save perhaps on the occasion of a wedding or funeral. The continued teaching of a code of morality benefits all members of our society, as citizens concerned with the quality of life for ourselves and others. Society benefits also through the active concern and constructive criticisms that our churches express on contemporary social issues.

123. While the direct subsidization of religious organizations by the State is not part of our heritage and would be difficult to establish, the granting of indirect aid to churches, through tax exemption of places of worship, is deeply embedded in our history. Yet we find little to justify burdening all property owners with the cost of the relief given to places of worship in recognition of the indirect benefits they confer upon society generally. If we accept as a fact that there is little prospect of public acceptance for direct subsidy, the problem we face is that the continued full exemption of places of worship unfairly saddles local property owners with the full burden of the tax relief given to churches.

124. In Ontario, places of worship and similar religious properties have enjoyed tax-exempt status for well over a century. The tradition of tax exemption has ensured impartiality in the assistance provided to religious bodies by the State. It has not been universally accepted, however, as an ideal formula for apportioning aid. Regardless of the denomination concerned, the extent of public subsidy has been set automatically by the value of the property that it owns and uses for religious purposes. The chief virtue of the arrangement has been to preserve an historical relationship, which is in accord with acceptable contacts between Church and State. The assistance is forthcoming without any action by the State, and much controversy is thereby avoided.

125. Yet the practice of exempting places of worship from local taxation does not remain unchallenged. Indeed, our impression is that the merits of tax exemption for churches are increasingly being questioned. Churches have been paying local improvement levies for many years, and have been paying for water, electricity, and other services provided by municipalities. We observe further that in this matter, a change in thinking on the part of religious bodies themselves may be developing. In 1960, for example, the leaders of a Baptist Conference held in Washington stated their view that tax exemption of real property did not affect their "freedom to enjoy and propagate the gospel", but added that "there is deep concern about the future, as churches increase in wealth and property". They warned that history indicates that wealthy churches create public attitudes of anti-clericalism and that, within their own ranks, there was "a strong minority opinion that any form of tax exemption for churches injures the future of the freedom of the churches".[5]

[5]Reported in *The Free Press*, Winnipeg, October 8, 1960.

126. We nevertheless hold the view that the indirect benefits to society that flow from places of worship justify some measure of relief from local taxation. We do not believe that there should be full exemption because, in our view, church members, who directly benefit from local government services, should contribute to their costs. What this contribution should be is essentially a matter of judgment and we think that it should be perhaps one-half the normal tax.

127. We realize, however, that a sudden change from complete exemption of places of worship to 50 per cent taxation, would impose tremendous hardship on churches with limited financial resources. We therefore propose that the change be made in stages over several years. Church properties should be classified for taxation as residential properties. In Chapter 11, we recommend that residential properties be taxable on a taxable assessment of 70 per cent of the assessed value. Under our proposal, places of worship would be taxed on a taxable assessment of 5 per cent of assessed value in the first year and 10 per cent in the second year, with subsequent annual increases of 5 percentage points until 35 per cent was reached in the seventh year. In addition to mitigating the financial impact on churches, this method of gradually bringing places of worship to the intended level of taxation would provide opportunity for review as to what the final level of taxation should be. Each municipality should be required to make a new assessment on each religious property as a prerequisite to its taxation, because there are strong indications that such exempt properties are now under-assessed. *We therefore recommend that:*

> ***Places of worship and land used in connection therewith, and religious seminaries not classed as institutions of higher learning or as private schools, be reassessed at actual value and taxed on a taxable assessment of 5 per cent of actual value in the first year and 10 per cent in the second year, with increases of 5 percentage points each succeeding year until a level of 35 per cent, or such other maximum percentage as a review of the tax position of places of worship made after five years may indicate to be appropriate, has been reached.*** **12:13**

128. Before concluding our consideration of churches, we emphasize that the treatment recommended here applies only to places of worship and the land used in connection with them. We reiterate that The Assessment Act now exempts such property, but it does not exempt property used by churches for charitable, welfare or social service work of a non-sectarian nature, that would be exempt if it were owned by and used for the work of a separate incorporated charitable institution. We think that such church properties should continue to be taxable in full, but that churches should qualify, like the charitable organizations, for the municipal grants that we later recommend should be paid instead of granting exemptions from local taxes.

CEMETERIES

129. Included with the exemption of places of worship in The Assessment Act is "every churchyard, cemetery or burying ground". The wording also defines this exemption to land "enclosed and actually and *bona fide* required, used and occupied for the interment of the dead."

130. Cemeteries are defined in The Cemeteries Act as "any land which is set apart or used as a place for the interment of the dead or in which human bodies have been buried". As already noted, the operation of a cemetery for profit does not remove its eligibility for exemption. Nor does the fact that a cemetery is no longer used.[6] A dwelling on the grounds used by the cemetery superintendent and gardener has also been held to be exempt.[7]

131. We conjecture that the extent of tax exemption granted to cemeteries results from a combination of circumstances: the traditional location of cemeteries in churchyards; the importance attached to accessibility in an earlier day when travel by road was often difficult, especially in winter; the widely held desire to ensure perpetual retention and care for cemetery plots; and the emotional connotations of this particular use of land.

132. Today it is quite possible to locate cemeteries on pleasant but inexpensive land well removed from the expected path of urban development. Indeed, such a trend might well be encouraged. On the other hand, it would be patently unfair to subject cemetery owners, whether they be profit-making enterprises or not, to full realty and business taxation without regard to their existing contracts and commitments. Existing cemeteries could only be made liable to taxation to the extent that their land is not now (a) occupied by graves, (b) subject to perpetual-care agreements, or (c) so located that its use for any other purpose is difficult or impossible. In the circumstances, we propose that notice of the intention to make certain cemetery lands taxable be given several years in advance. We think three years a suitable period. Meanwhile, the municipal assessors could undertake the classification of existing cemetery lands into land that will remain exempt so long as it continues to comply with the present exemption terms and other land that will become taxable at the end of three years because it is capable of being put to an alternative use. Should the use of the land change before the end of the three-year period, it would of course become taxable at that time. The assessor's classification and the valuation placed on such land should be subject to the ordinary right of appeal. Taxable cemetery lands would thus include:

(a) all lands newly purchased or designated for cemetery purposes from the effective date of the legislation, and

(b) lands retained for cemetery use beyond the three-year limit that have been classified as land adaptable to an alternative use.

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[6] *R.C. Diocese of Sault Ste. Marie* v. *Town of Sault Ste. Marie*, 24 O.L.R. 35.

[7] *Toronto General Burying Grounds* v. *Scarborough* (1959) O.W.N. 277; (1959) O.R. 514.

We therefore recommend that:

Present cemetery lands remain exempt while they comply with the terms of their existing exemption except when classified as adaptable to an alternative use, in which event they become taxable on a change of use or at the end of three years, whichever is earlier; and newly designated cemetery lands be taxable. **12:14**

CHARITABLE, COMMUNITY SERVICE AND OTHER NON-PROFIT ORGANIZATIONS

133. From the remaining heterogeneous list of tax exemptions, we shall consider simultaneously those that hinge upon governmental sympathy for the good causes in the community.

134. We would accord the same treatment to all non-profit organizations that can demonstrate that they make some form of social welfare service available without restriction as to the religion, politics or other lawful personal convictions of the recipient. Such services may of course be directed and shaped to the particular requirements of certain people, as, for example, working mothers, old people requiring bed care or students in night classes. The organization may therefore conduct eligibility screening for its service, within the indicated limits; it may charge fees for subsidized services provided they do not in total constitute full cost recovery; and the organization may also invite membership at a fee, provided that the basis of government financial support is a non-restrictive service that is open to non-members. We question whether services that cannot meet these minimal requirements should be accorded government aid on any continuing basis.

135. We believe that non-exclusive services under non-profit sponsorship come clearly within the scope of expected government financial concern. Elected representatives should be capable of appraising the merits of a public subsidy without embarrassment. In taking this stand, we intend to include certain properties of churches or religious bodies used to provide social services without sectarian screening. Government support should be provided through renewable grants because in our view they offer clear advantages over tax exemption.

136. As a means of dispensing public aid, grants have the following desirable features:

(1) each request for financial assistance clearly establishes its cost to the community;

(2) the assistance made available is flexible in amount;

(3) the extent of the subsidy is determined afresh each year by the local council;

(4) municipal aid through grants is exposed to public view, item by item and in total; and

(5) grant assistance can be adjusted to each changing condition, including reversals of public attitudes.

137. If grants are in large part to replace tax exemption, the local authorities must have adequate grant-making powers. Most of these powers are contained in those sections of The Municipal Act authorizing municipalities to pass by-laws. The following observations and recommendation of the Beckett Committee[8] are relevant:

> These sections enable municipalities to pass by-laws for numerous specified purposes without being set out in any logical order by subject matter or otherwise. . . .
>
> Certain sections pertain only to a particular class of municipality. . . .
> *Recommendation:* That all municipalities be given similar powers under these sections and that the powers be segregated by subject matter.

138. Consolidation of grant-making powers on a uniform basis has yet to be accomplished. In proceeding with this undertaking, consideration should be given to the wide powers now accorded to Metropolitan Toronto:

> The Metropolitan Council may make annual grants, not to exceed in any year a sum calculated at one-tenth of one mill in the dollar upon the total assessment upon which the metropolitan levy is apportioned among the area municipalities under subsection 5 of section 230, to institutions, associations and persons carrying on or engaged in works that in the opinion of the Metropolitan Council are for the general advantage of the inhabitants of the Metropolitan Area and for which grant or grants there is no express authority provided by any other Act.[9]

139. If such a provision were to be made the basis for new grants to replace exemption benefits, a higher grant ceiling would be justified. It would, however, be most difficult to provide a grant limit that would exercise some control over spending and at the same time give corresponding latitude to each municipality in relation to its requirements. But we doubt the desirability of any ceiling. Why should the Province set a limit on the generosity of local authorities? A municipality that drained away needed resources through excessive donations would have to face a reckoning with its own people. That, surely, is control enough.

140. As with other non-profit organizations, the exemption privileges of those engaged in good causes locally ought not to be summarily terminated. Each present recipient of tax-exempt status deserves an opportunity to be considered for a local grant before the exemption ends. In certain instances, a local government may conclude that the grant support for a particular charity should be forthcoming from the county, the metropolitan municipality or the Province. In that event, the local municipality should refer the matter on, and the tax-exempt status should remain undisturbed until each body to whom the grant question has been referred has dealt with it.

141. Finally, suppose an organization now tax free fails to win support for an offsetting government grant. If the amount at stake is sizeable, the change in circumstances should, we believe, be accomplished in stages over a three-year period.

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[8]Select Committee on The Municipal Act and Related Acts, *Second Interim Report*, March 1963, pp. 51-2.
[9]The Municipality of Metropolitan Toronto Amendment Act, 1966, c. 96, s. 38.

The new tax burden placed upon the property in the first year should not exceed one-third of the total property and business taxes or $100, whichever is the greater, after deducting the benefit of any government grant-in-lieu. In the second year, it should not exceed two-thirds of the total property and business taxes or $200, whichever is the greater, after deducting grants-in-lieu. In the third year, full taxation would apply.

142. A postscript is needed respecting Children's Aid Societies. In law, these are incorporated non-governmental organizations. Yet they have become so identified with official child welfare functions as to be equivalent, *de facto*, to local boards as defined under The Department of Municipal Affairs Act. Our intention is that they should become fully taxable and that such taxes should form part of the costs to be met, if approved, by the local and provincial levels of government. The effect of our recommendations is the same whether they are grouped with government or with voluntary organizations.

143. For these reasons, *we recommend that:*

All present exemptions from property taxation to charitable organizations, social and community service groups and similar bodies be terminated following review by the appropriate governmental authorities of the merits of each organization for continuing financial assistance; and **12:15**

(a) legislation be enacted to permit each municipality to make annual grants to charitable organizations, institutions, associations and others engaged in works that, in the opinion of the council, are for the general advantage of the inhabitants of the area; and

(b) the taxes on a formerly exempt property be limited, after deduction of any governmental grants-in-lieu, to one-third of the property and business taxes or $100, whichever is the greater, in the first year and to double that amount in the second year.

LAND FOR FORESTRY PURPOSES

144. The Assessment Act establishes an exemption of "One acre [of land] used for forestry purposes for every ten acres of the farm in one municipality under a single ownership but not more than twenty acres in all . . .". In the event that the land ceases to be used for forestry purposes, the Act gives the municipal council authority not only to restore the tax obligation but to make it retroactive for a period of up to three years as the council deems proper.

145. We are informed that the exemption is applied for by perhaps one-third at most of those eligible. Many farmers, we are told, do not press for the exemption in the belief that if they were to do so, the assessment on their remaining property might thereupon be increased. Local assessors sometimes deny the exemption because they are uncertain whether it applies. Until 1953, the same exemption was

granted both to lands used for forestry purposes and to woodlands—the term "woodlands" being carefully defined. When the applicability of the exemption to woodlands was removed, the expression "lands used for forestry purposes" gained new significance. But the term "forestry purposes" has never been defined in the Act, and it is therefore difficult for the assessor to decide whether formal forestry practice is being followed.

146. The average holding of land for forestry purposes among those who receive exemptions is about fifteen acres. The average saving in taxes is about $3.00 a year, while the maximum tax saving is perhaps $10.00 a year.

147. Defenders of the exemption argue that:

(1) it leads to a greater production of timber in Ontario;

(2) it is useful from a conservation standpoint, helping, among other things, to maintain the level of the water table in southern Ontario;

(3) it discourages grazing, which retards or prevents forest regrowth; and

(4) it contributes to the maintenance of the scenic attractiveness of rural areas.

148. Yet the figures we have given above indicate that these arguments carry little weight. Those who are concerned with building the efficient production of our forestry industries must acknowledge that such an exemption could make only an insignificant contribution. While we recognize the importance of maintaining the water table in southern and southwestern Ontario, we cannot believe that the exemption helps significantly to achieve this result.

149. Special provisions for valuing forested land contained within the valuation section of The Assessment Act are partly responsible for the low dollar value of the forestry purposes tax exemption. We quote the wording of the Act:

> Land that has been planted for forestation or reforestation purposes shall not be assessed at a greater value by reason only of such planting. (Section 35(15))
>
> Land used as woodlands shall not be assessed at a greater value by reason of the presence of the trees thereon nor shall it be assessed at a lesser value by reason of the removal of the trees. (Section 35(16))

The first subsection is of very long standing; the second dates from 1954 and follows the termination of the tax exemption accorded to woodlands.

150. The Trees Act, to which we refer in a previous section, contains several provisions relating to municipal reforestation to be carried out with the assent of the Minister of Lands and Forests. The Act gives a county or a local municipality authority to pass a by-law establishing a municipal forest. Another provision allows one local municipality to make payments in lieu of taxes on its forested lands within another municipality.

151. But the section of prime concern to us is intended to encourage townships to create forested areas through agreements with local land owners. A minimum

of five acres must be included for each one hundred acres belonging to the same owner. The township council may offer tax exemption as an inducement to reforestation.

152. We have carefully weighed the merits of the three pieces of legislation relating to forested lands. We have reached two conclusions. First, the forestation or reforestation of land in Ontario is not being greatly aided by existing tax considerations. Second, the special valuation provisions constitute the one current concession to forested lands whose continuance appears warranted. We regard forestry operations as legitimately a form of crop production and we are convinced that the valuation controls afford adequate protection for forested lands from burdensome taxation. *We therefore recommend that:*

> ***The exemption contained in The Assessment Act of up to twenty acres of a farm used for forestry purposes, and the authority given in The Trees Act for a township council to exempt from taxation lands under reforestation by agreement, both be revoked.*** **12:16**

FIXED ASSESSMENTS

153. The granting of fixed assessments on industrial properties is another form of partial exemption, which dates back to 1868. Until relatively recently, municipalities were permitted to grant non-renewable fixed assessments for a term of ten years. The action required the support of three-quarters of the entire municipal council and a two-thirds majority in a poll of persons qualified to vote on money by-laws—i.e., owners of property and tenants with long-term leases responsible for payment of the taxes. The benefit extended neither to school levies nor to local improvement charges.

154. At the 1961 spring session of the provincial Legislature, the statutory authority for granting fixed assessments was revoked. Existing fixed assessments were to remain in effect until their terms had run out. The move reflected a growing recognition across Canada of the cost to remaining taxpayers of municipal aid to industry whether by fixed assessments, fixed taxes, gifts of land or any other means.

THE GOLF COURSE PRINCIPLE

155. In 1955 the Ontario legislature introduced another form of fixed assessment that reflected a fuller recognition of the cost to the community of the fixed assessment benefit. The authority is contained in Section 39 of The Assessment Act. It permits a local municipality to enter into an agreement with the owner of a golf course under which he may pay municipal and school taxes based on a fixed assessment. When for any reason the agreement relating to all or part of the property is terminated, the owner has the choice of selling that land to the municipality for the amount of its fixed assessment or of paying the full amount of taxes that would have been payable had there been no fixed assessment, together with interest at 4 per cent per annum. The golf course principle, as it is called, does not

extend to buildings or structures on the property or to the land on which they are situated. Its evident purpose is to hold greenbelt lands in urban areas.

156. Two further features of the golf course legislation warrant attention. First, from the municipal side, the length of term is specified in the agreement, subject to the continuing use of the property as a golf course; from the owner's side, the agreement can be terminated at the end of any year, on six months' notice. Second, as might be expected, the municipal treasurer is instructed to maintain a cumulative record of the revenue loss that exists at each stage of the agreement.

157. The legislation governing fixed assessments for golf course properties remained in force without amendment until 1966. The changes effected in that year constituted refinements that merely underline the public acceptance of the plan and the government's intention of retaining it—an intention we fully endorse.

FIXED ASSESSMENT BY PRIVATE ACT

158. Two years following the repeal of the general fixed assessment legislation, the Province allowed the old form of fixed assessment to be brought back by private Act.

159. In 1963, the towns of Hearst and Wallaceburg were granted permission by private legislation to fix the assessments of specific industries. The council of Hearst was permitted to fix the assessment of the property of Levesque Plywoods Ltd. for a period of five years "on such terms and conditions as the council deems proper . . .". For Wallaceburg, the Legislature granted the council permission to make a ten-year agreement fixing the assessment of Wally Enterprises Ltd. at $32,000, exempting the enterprise from business assessment and applying the fixed assessment for both municipal and school taxation purposes.

160. In the same session, the Legislature validated a 1962 agreement between the Town of Fort Erie and The Buffalo and Fort Erie Public Bridge Authority under which *taxation* was fixed at specified amounts for the years 1963 to 1969, starting at $61,000 in 1963 and increasing by $1,000 per annum to $67,000 in 1969. To implement this arrangement the local assessor is required "to assess the same in accordance with the valuation hereby fixed". This legislation conflicts with Sections 44 and 45 of The Assessment Act, which require the assessment of bridges over international boundaries, owned by or in the possession of a person or company, to be made at their actual cash value as they would be appraised upon a sale to another company possessing similar powers, rights and franchises.

161. In a period of rising expenditures and lagging assessment levels, fixed taxation, be it noted, constitutes a greater protection to the owner than fixed assessment. It creates, by the same token, a heavier burden upon remaining taxpayers.

162. In 1964, the Legislature permitted fixed assessments in the towns of Cochrane and Smith's Falls. In Cochrane, agreement with Cochrane Industries Ltd., a plywood manufacturing business, was permitted "on such terms and conditions as the council deems fit" for a period of five years. In Smith's Falls, council

was authorized to fix the assessment for Hershey Chocolate of Canada Ltd. at $645,000 for the five years from 1964 to 1968. No business assessment applies during the period, and the fixed assessment is for general municipal and school purposes. No additional fixed assessments were granted in 1965 or 1966.

163. It is apparent that with the repeal of the general legislation enabling fixed assessments, the policy of the Ontario Legislature toward fixed assessments under private Acts has become far more permissive and even extends to approval of fixed taxation. In some instances councils have been given wide discretion; in others, the fixed assessment has also been extended to school taxation, while complete exemption has been granted from business assessment. In each of the preferential arrangements described above, however, the assent of the electors was required.

164. We have been unable to determine at how much below the prevailing levels of assessment the fixed assessments were set or, indeed, if they were established at an amount equivalent to the then prevailing levels. It is apparent, however, that if the policy of assessing at current levels of value is put into effect, industries enjoying a fixed assessment will be in an extremely advantageous position. It would seem necessary, therefore, either to delay reassessment at current levels in all municipalities where fixed assessments exist until after the expiry of the agreements, to negotiate revisions of the fixed assessment agreements, or to reassess all other properties at the same percentage of current value that the fixed assessment bears to current value.

165. The practice of enticing industry to particular municipalities by means of local tax concessions through fixed assessments or tax exemption is not justifiable in Ontario. If inducements to industry to settle in particular areas are warranted —an issue in debate—responsibility should lie with the provincial or federal governments individually or in partnership. No municipality should be permitted to make concessions to industry to the detriment of other local taxpayers and other municipalities. Even though the issue may be placed before the electors, the implications will not necessarily be clear to all. In any event we regard it as unlikely that local tax concessions are required to attract worth-while industry. In the main we believe that they have proved an unfair, unnecessary, competitive device, instituted without the discipline of adequate local and area-wide planning.

166. We condemn the practice of allowing fixed assessments or taxation by private legislation. *We therefore recommend that:*

> ***No further fixed assessments or fixed taxation agreements be authorized by either public or private legislation, and steps be taken to reconcile existing fixed assessments or taxes with the need for reassessment throughout Ontario at market value.*** **12:17**

EXEMPTION FROM BUSINESS TAX

167. The previous chapter of this Report includes our definition of occupancy of property for business purposes. It broadens the concept of business occupancy

from that now prevailing. In general, we believe that all property that according to our definition is occupied for business purposes should pay business tax on the new flat-rate basis. In this respect, we note that the special problem of assessing transportation and communications properties, for both real property and business taxes, is discussed in the next chapter.

168. A problem has arisen in recent years through court decisions on the application of business assessment to shopping centre parking areas. The present position is that such areas are not assessable for business tax either against the businesses that share in their use or the shopping centre owner. Furthermore, the principle can be extended to the corridors, washrooms and other areas used in common by tenants of office buildings and other like properties.[10] We believe that business assessment should apply either to the owner or the occupant with respect to all parts of a property that are in use for business purposes. *We therefore recommend that:*

> ***The proposed legislation respecting business assessment provide that all property used in common by business tenants and their customers be subject to business assessment against either the owner or the tenants.*** **12:18**

169. The Assessment Act makes rooming houses as defined exempt from business tax. We have already indicated our support for that position. We also wish to make clear our opinion that such properties should be categorized as residential for assessment purposes. We classify rooming houses with apartment buildings, not with hotels.

170. The position of private clubs warrants clarification. The present legislation makes every proprietary or other club in which meals are furnished subject to a 25 per cent business levy. To avoid undue elaboration, we merely note the limited coverage of the subsection as confirmed by court decisions. We expect our broader definition of business occupancy to result in the exaction of business tax from many non-proprietary clubs in relation to certain parts of their premises.

171. The Assessment Act specifies that a farm or other property used in certain specified ways that may be considered farming is exempt from business tax. Under the definition of "farm" that we propose, all such uses of land would qualify as farming, and the need for a deeming provision would therefore disappear.

172. Section 9(12) of the Act includes the following provision: "No subordinate lodge of any registered friendly society and no officer thereof is liable to any business assessment in respect of any business of such subordinate lodge." Prior to 1960, the interpretation section of the same Act defined "insurance company" as "any company or friendly society or other corporation transacting within Ontario any class of insurance to which *The Insurance Act* applies . . ." In 1960 the word "fraternal" was substituted for "friendly" but the business assessment section was not similarly altered.

[10]Pertinent cases are presented and commented upon in McKay, *The Assessor's Guide*, pp. 34-36.

173. Presumably the subordinate lodges of friendly societies would be subject to business assessment if the protection of subsection (12) were removed. We can see no justification for retention of the exempt status. *We therefore recommend that:*

The exemption from business assessment of subordinate lodges of registered friendly societies be revoked. **12:19**

174. An exemption from business tax is now granted by statute to land set aside for free employee parking. Commonly, it may serve the municipality's interest to encourage allotment of commercial or industrial space for this purpose; but the need is not always the same. Hence we favour retaining this arrangement as an option available to each municipality by by-law for renewable terms of five years. *We therefore recommend that:*

Municipalities be permitted to pass by-laws exempting from business assessment land set aside for free employee parking for a five-year period, and be permitted to renew such exemptions by by-law for further periods of five years. **12:20**

EXEMPTIONS OF MINING PROPERTIES AND PROVINCIAL PAYMENTS TO MINING MUNICIPALITIES

INTRODUCTION

175. In Ontario, the mining industry is given special treatment under The Assessment Act, the effect of which is that mines are exempt from municipal property and business taxes on their mine buildings, plant and machinery and the mineral content of their lands.[11] The Act provides that the profits from a mine shall be assessed by, and the tax levied thereon paid to, the municipality in which it is situated, or, where the mine is in unorganized territory, the school board or boards having jurisdiction over the area in which it is situated.[12] The levy of such a tax by a municipality is subject to the approval of the Department of Municipal Affairs, and is limited to specified maximum rates.[13] This approval either has not been sought or has not been granted for many years. Instead payments have been made to mining municipalities by the Province in accordance with a formula set out in Regulation 104/67 (formerly Regulation 31) issued by the Minister of Municipal Affairs under The Assessment Act[14] which provides that where a municipality receives such a payment it shall not assess the profits of any mine situated therein.[15]

176. The Act provides that any taxes levied by a municipality on mines profits, and the parts of any payment from the Province to a municipality that are computed under the formula in the Regulation by reference to mines profits and the number of miners working in the municipality, are to be distributed among the school boards and other bodies that would have received them had such taxes been

[11]The Assessment Act, R.S.O. 1960, c. 23, s. 35 (5).
[12]*Ibid.*, s. 35 (8).
[13]*Ibid.*, s. 35 (11).
[14]*Ibid.*, s. 36(1).
[15]*Ibid.*, s. 36(2).

levied in the usual way and in the same ratio.[16] The portion of the payment from the Province computed with reference to the number of miners residing inside and working outside the municipality forms part of the general funds of the municipality and is not distributed among school boards and other bodies.[17]

177. In Chapter 10 we sketch the historical background of the special treatment given to mines and mining municipalities under The Assessment Act. To summarize briefly, for about sixty years mines have been exempt from property and business taxation on their mine structures and the mineral content of their lands, and they have been required to pay special taxes on their mining profits to the Province and for a period of time to the municipalities. Profits taxes paid to the municipalities were recouped by the mines through a deduction from the provincial mining profits tax. For the years that the mines were not required to pay municipal profits taxes, the Province made payments to the mining municipalities in rough compensation for the loss of revenue resulting from the municipal property and business tax exemption for mines.

178. In 1952, the Province abolished an *ad hoc* system of making supplemental payments to mining municipalities and adopted the plan now in use whereby payments are made to designated mining municipalities on a uniform basis in accordance with a fixed formula set out in Regulation 104/67 under The Assessment Act. The City of Sudbury and fifty-nine towns, villages, townships and improvement districts are designated in 1967 as mining municipalities, including some in which there are resident miners but no mines. Certain parts of the formula for computing the payments have been changed from time to time since 1952, including a major revision in 1967, but the principles remain unchanged. The 1967 change effected a substantial increase in the general level of payments, in addition to making adjustments that became necessary upon the adoption of new assessment equalization factors by the Department of Municipal Affairs.

FORMULA FOR COMPUTATION OF PRESENT PAYMENTS

179. The first step in the formula for the computation of the payment to a mining municipality is to calculate the "municipal mines assessment". This is the aggregate of the following three amounts:

(1) $7,500 multiplied by the number of miners both working and residing in the municipality in the preceding year,

(2) $2,500 multiplied by the number of miners working in and residing outside the municipality in the preceding year, and

(3) the amount of mines profits assessed against mines in the municipality under The Mining Tax Act in respect of the year 1956, or the year two years before that for which the payment is to be made, whichever is the greater.

For the purpose of the above, a mining employee means a person working for direct compensation at locations exempted from municipal assessments under the

[16] *Ibid.*, s. 35(12) and 36(2) and (3).
[17] *Ibid.*, s. 36(2) 2.

exemption for mining properties. He is considered to be a resident employee if he was resident in the mining municipality at the time of making the last municipal assessment, and a non-resident employee if he resided outside and worked in the municipality on October 1 of the previous year.

180. Where the Mine Assessor has not completed his assessment of a mine for a year, the mines profits included in the formula are those estimated by the mine in its mining tax return, and any difference between the estimated and the assessed profits is added to or subtracted from the profits used in the computation for the year succeeding the completion of the assessment.

181. For a mine that has ceased operations, an amount of deemed mines profits is included in the computation for each of the five years following the year in which the mine last operated. The amount of deemed profits is a percentage, commencing at 100 per cent for the first year and declining by 20 points for each of the following years, of the greater of the mines profits for the year 1956 or the year preceding that in which the mine last operated.

182. The second step in the computation of the payment to a mining municipality is to calculate the "adjusted mill rate". This is the commercial mill rate for public school supporters for the year preceding that for which the payment is to be computed multiplied by the latest provincial assessment equalization factor determined by the Department of Municipal Affairs.

183. The third step is to calculate an amount by applying the "adjusted mill rate" to

(a) The municipal mines assessment determined according to step 1, and

(b) $5,000 multiplied by the number of miners residing in and working outside the municipality.

The amount so calculated, adjusted if necessary in one or more of the ways described below, is the amount of the payment.

184. The first adjustment is a reduction that the Minister of Municipal Affairs may make so that the payment will not exceed 50 per cent of the total amount that would have been levied in the preceding year for all purposes of the municipality and its local boards if no mining payment for that year had been received.

185. The second adjustment that the Minister may make is to increase the amount of the payment for a year where it would otherwise be less than the sum of the mines profits tax that the municipality would have collected under subsections 8 and 11 of Section 35 of The Assessment Act, if it were not designated a mining municipality, and the amount it could reasonably expect under any special Ontario grant scheme. In this circumstance, the Minister may increase the payment to an amount not exceeding 50 per cent of the total amount that would have been levied in the preceding year for all purposes of the municipality and its local boards if no mining payment for that year had been received.

186. Third, if the amount payable to a municipality is less than the amount paid in the preceding year, the Minister may approve an amount not greater than

that paid in the preceding year. This provision does not apply, however, where the last operating mine in a municipality has closed down and there were no miners resident in and working outside the municipality according to the register of the municipality for the year in which the mine closed. In this event the payment for the first year after the mine closed down is fixed at 100 per cent of the payment made in the year in which the mine closed down, and for each of the next four years the payment declines by 20 percentage points per year. If an application for dissolution of the municipality is made, the Minister may at his discretion accelerate any of such payments which otherwise would be payable in any of the five years.

187. The most important of the above provisions for adjustments in the payments is the one that allows the Minister to maintain the mining payment at the level reached in the prior year. This has an important influence on the amount of the grant whenever world conditions result in a sudden, although temporary, increase in the price of a metal, thereby increasing the profits of an Ontario mine during the period of the price increase. The sudden increase in profits that are included in the formula for computing payments to mining municipalities may be reflected in an increased payment to the municipality in which the mine is located. The increase in the mining payment, because of the temporary increase in world prices, would then be perpetuated because of the provision that allows the Minister to maintain the payments for future years at that level.

AMOUNTS PAID TO MINING MUNICIPALITIES UNDER PRESENT SYSTEM

188. Table 12:7 shows the payments for selected years from 1955 to 1967 in total for all municipalities, and in detail for those municipalities that received in excess of $100,000 for 1967. It will be seen that the total of the payments for 1967 of $7.9 million is more than five times the total for 1955 of $1.5 million. The 1967 payment to two of the municipalities listed in the Table, Atikokan and Sudbury, has increased at a greater rate. The 1967 payment to Sudbury, by far the greatest beneficiary of the system, increased to almost six and one half times the 1955 payment. Elliot Lake, Falconbridge and Manitouwadge received no payment in 1955; their 1967 payments were respectively, $720,000, $100,000 and $348,000.

189. The total of the payments to all municipalities in 1967 of $7.9 million was $2.5 million, or 45.7 per cent, greater than the total for 1965, and $2 million greater than for 1966. The increase for 1967 stems largely from the major changes in the formula that became effective in that year, rather than from such other influences as increasing mill rates, and increases in mine profits and the numbers of mining employees resident in the municipality or working in the municipality.

190. Table 12:8 shows the payments to each of the designated mining municipalities for the year 1967, and the portion of the payments attributable to each of the elements in the formula. It also shows the number of mining employees in each of the three categories—resident working in, resident working out and non-resident working in—and the amount of the total payment per resident miner. A large variation in the payments to the municipalities is apparent when viewed in terms of the amounts paid per resident miner.

TABLE 12:7

PROVINCIAL PAYMENTS TO MINING MUNICIPALITIES UNDER THE ASSESSMENT ACT FOR SELECTED YEARS

	*1967**	*1966**	*1965†*	*1963†*	*1961†*	*1959†*	*1957†*	*1955†*
	(thousands of dollars)							
Total, all municipalities	7,873	5,874	5,403	5,899	5,225	3,246	2,276	1,499
Municipalities receiving Over $100,000 for 1967								
City of Sudbury	2,742	1,955	1,935	1,903	1,623	576	504‡	425‡
Towns:								
Goderich	102	68	47	40	11	—	—	—
Levack	191	186	185	177	156	129	99	74
Timmins	489	266	266	266	245	215	177	154
Townships:								
Atikokan	472	417	409	378	312	223	150	55
Elliot Lake	720	720	357§	1,097§	1,064§	548§	73§	—
Falconbridge	100	83	80	68	58	45	—	—
Michipicoten	191	130	130	125	108	96	69	47
Neelon & Garson	266	223	210	176	152	168	266	107
Teck	274	274	274	274	266	274	216	164
Tisdale	373	281	281	281	281	232	209	176
Improvement Districts:								
Balmertown	121	99	91	74	49	53	49	63
Manitouwadge	348	299	266	204	162	57	43	—
	6,389	5,001	4,531	5,063	4,487	2,616	1,855	1,265

*Figures supplied by Department of Municipal Affairs.

†Figures reported in Public Accounts for fiscal year ending March 31 of following year.

‡Includes Township of McKim which later merged with Sudbury.

§Figures for Improvement District of Elliot Lake.

TABLE 12:8

PROVINCIAL PAYMENTS TO MINING MUNICIPALITIES FOR 1967 SHOWING AMOUNTS ATTRIBUTABLE TO EACH ELEMENT IN THE PAYMENT FORMULA AND THE AMOUNT PAID PER RESIDENT MINING EMPLOYEE

Municipality	Amount of Payment					Number of Miners			
	For resident miners	For non-resident miners	For mine profits	Under sec. 11 and 12 of Reg. 104/67	Total	Resident working in	Resident working out	Non-resident working in	Payment per resident miner
Cities									
Sudbury	$1,680,995	$ 64,473	$ 996,871	—	$2,742,339	2,745	8,202	945	$250.51
Towns									
Blind River	18,718				18,718		86		217.65
Caledonia	4,771				4,771		37		128.95
Capreol	20,977				20,977		147		142.70
Chelmsford	73,161				73,161		406		180.20
Cobalt	70,773	700			71,473	19	222	5	296.57
Geraldton	64,915				64,915		295		220.05
Goderich	13,675	4,497	83,852		102,024	75		74	1,360.32
Haileybury	14,879				14,879		112		132.85
Levack	190,649				190,649*	755	80	897	228.32
Matheson	5,923				5,923		53		111.75
Timmins	457,820	7,084	23,678		488,582	777	2,389	110	154.32
Villages									
Bancroft				7,416†	7,416				
Hagersville	3,586				3,586		29		123.66
Madoc	6,138				6,138		31		198.00
Marmora	18,782				18,782		114		164.75
Townships									
Atikokan	361,169	1,320	109,510		471,999*	1,268	13	14	368.46
Balfour	37,947				37,947		314		120.85
Belmont and Methuen	8,535	2,218	5,252		16,005	74	41	79	139.17
Black River	24,243	2,814	3,540		30,597	76	54	39	235.36
Blezard	84,390	3,709			88,099	2	600	53	146.34
Bucke	20,050	785			20,835	2	112	9	182.76
Capreol and Hanmer	96,605				96,605		724		133.43
Cardiff				792†	792				
Casimir and Jennings	5,054				5,054		78		64.79
Coleman	11,280	20,760	1,308		33,348*	60	4	346	521.06
Cosby, Mason and Martland	4,567				4,567		39		117.10
Dowling	57,008				57,008		324		175.95
Drury, Dennison and Graham	32,214	11,353	33,181		76,748*	127	272	326	192.35
Dungannon				972†	972				
Elliot Lake	239,323	11,957	244,504	224,501‡	720,285	1,275	9	192	560.97
Falconbridge	48,126	52,051			100,177*	342	2	1,805	291.21
Faraday				17,414†	17,414				
Hagar	12,632				12,632		72		175.44
James	3,528				3,528		30		117.60

Larder Lake	23,305				23,305		193		120.75
Marmora and Lake	7,247	8,689	17,698	791‡	34,425	72		259	478.13
McGarry	92,718				92,718*	420		270	220.76
Michipicoten	141,476	376	49,071		190,923	879		7	217.20
Mountjoy	22,444	141			22,585		238	3	94.89
Nairn	2,270				2,270		35		64.86
Neelon and Garson	118,286	38,284	109,339		265,909§	359	512	680	305.29
Oneida	1,097	3,029	3,990	1,734‡	9,850	5	5	69	985.00
Playfair	2,824				2,824		34		83.06
Ratter and Dunnett	8,786				8,786		71		123.75
Rayside	90,180				90,180		720		125.25
Red Lake	58,575				58,575		333		175.90
Ross	16,084	15,649	7,193		38,926	111		324	350.68
Seneca	3,045	3,309	607	780‡	7,741	23		75	336.57
Teck	208,896	1,738	33,787	29,159‡	273,580	513	613	23	242.97
Tisdale	246,130	76,102	50,942		373,174	876	557	1,157	260.41
Waters	18,790	15,669		3,201‡	37,660	25	375	688	94.15
Whitney	35,132	20,290	13,372		68,794	151	125	406	249.25
Improvement Districts									
Balmertown	118,070	3,239			121,309*	529	10	222	225.06
Beardmore				18,192†	18,192				
Bicroft				39,197†	39,197				
Gauthier	4,166	4,386			8,552*	39		319	219.28
Manitouwadge	186,452		161,825		348,277*	996			349.66
Onaping	81,717	13,648			95,365*	292	3	1,001	323.27
Renabie	10,963				10,963*	169		2	64.87
	$5,191,086	$388,270	$1,949,520	$344,149	$7,873,025	13,056	18,715	10,399	$247.80

*Reductions under Section 6 of Regulation 104/67, limiting total payment to 50 per cent of the municipal budget, were deducted in arriving at the above figures by allocating the deduction first to the payment for mine profits, second to the payment for non-resident miners, and last to the payment for resident miners, as follows:

Towns				
Levack	$ 8,504	$ 73,666	$ 233,476	$ 315,646
Townships				
Atikokan			194,955	194,955
Coleman			31,427	31,427
Drury, Dennison and Graham			32,751	32,751
Falconbridge		32,288	75,708	107,996
McGarry	41,504	28,762	296,663	366,929
Improvement Districts				
Balmertown		12,934	111,207	124,141
Gauthier		6,970	635	7,605
Manitouwadge			136,463	136,463
Onaping		79,095	271,623	350,718
Renabie	14,818	102	620	15,540
	$64,826	$233,817	$1,385,528	$1,684,171

†Payments under Section 11 of Regulation 104/67 as last mine closed down and no resident mining employees working outside the municipality.

‡Payment increased under Section 12 of Regulation 104/67 to amount paid in immediately preceding year.

§Amount paid to Neelon and Garson was actually $261,351 as a deduction of $4,558 was made on account of a 1957 overpayment.

CRITICISM OF PRESENT SYSTEM

Varying Needs of Municipalities Not Taken Into Consideration

191. The reason for making payments to mining municipalities in the first place is that they are denied all but very little tax support from a major employer. As the formula provides payments computed by applying the municipal mill rate for the prior year to fixed amounts of assessment per miner and profits of mines located in the municipality, it fails to take into account the varying fiscal impairment of mining municipalities caused by the lack of commercial and industrial assessment. Municipalities that have a high proportion of commercial and industrial assessment have less need for the payments than those that have a low proportion of such assessment. Because of this, we are convinced that the general level of the mining revenue payments was unduly increased for 1967 in an effort to help municipalities whose fiscal capacity was most impaired, with the result that municipalities who needed them least also received greatly increased payments. We believe that any acceptable formula for mining revenue payments must take into account the varying degrees of fiscal impairment that mining municipalities suffer because of lack of commercial and industrial assessment.

192. We find it particularly difficult to see any justification of the 1967 payment to Goderich equivalent to $1,360 for each of its 75 resident miners (or $685 for each of its 149 employed miners, if we count non-residents). Likewise, the 1967 payments to Oneida of $985 per resident miner ($125 per employed miner), to Elliot Lake of $561 ($481 per employed miner), to Coleman of $521 ($81 per employed miner) and to Marmora and Lake of $478 ($104 per employed miner) stand out as being excessive when compared to $65 for Casimir and Jennings, Nairn and Renabie, $83 for Playfair, $94 for Waters, and an average for all municipalities of $248.

Inadequacy of the Payments

193. Prior to the 1967 changes in the formula, the system of making payments to mining municipalities was subject to a barrage of criticism from the municipalities, claiming that the payments were woefully inadequate. That many of the mining municipalities were in need of more revenue is unquestionable. The case for meeting all of that need through the mining revenue payments is less clear. The number of miners resident in a municipality, whether working in the municipality or not, is in our view the most meaningful measure of the demands made upon a municipality because of mining activity. The total mining revenue payments expressed as an average per resident miner for the last few years were as follows:

1967	$247.80
1966	188.63
1965	179.57
1964	197.30
1963	179.05

The increase for 1967 over 1966 in the average payment per resident miner was 31.4 per cent.

194. Submissions were made to us by an association of mining municipalities for changes in the formula that would increase the level of payments. These suggested changes, like those actually made in 1967, did not take into account the varying degrees of fiscal capacity of mining municipalities, and hence could help the fiscally indigent municipalities only at the expense of doing too much for others.

Inordinate Recognition Given to Non-Resident Miners Working In Municipality

195. The mining revenue payments under the changed formula for 1967 include the amount that results from applying the prior year's municipal mill rate to $2,500 for each miner working in, but not living in, the municipalities. As the relative weight given to such non-resident miners has been substantially reduced from that given in prior years, the formula has been considerably improved. However, in our view, given the nature of most mining municipalities, virtually no municipal costs are occasioned by non-resident miners, and therefore only resident miners should be included in the formula.

196. In the absence of the application of the limitation of the total payment to 50 per cent of the prior year's budget, inordinate payments would be made to a municipality that has a large number of non-resident miners working in its mines. In 1967, one municipality with a total budget for 1966 of $200,000 would have received a mining revenue payment that included $84,000 for non-resident miners working in, if it were not for the over-all limitation in the payment to 50 per cent of the prior year's budget. Because of this rule, the part of the payment for non-resident miners was reduced to $52,000. However, in our view there is very little justification, based on expenditures incurred because of such miners working in the municipality, for paying any amount in respect of them, let alone an amount that represents more than 25 per cent of the municipality's budget for 1966, when one also considers that municipalities do levy taxes on mine lands excluding the mineral content and on mine buildings and structures not mainly used in obtaining, storing and treating the ore.

197. Very few mining municipalities would suffer any serious reduction in payments if this element were removed from the formula. After applying the limitation to 50 per cent of the prior year's budget, the $7,873,000 paid to municipalities included only $388,000 in respect of non-resident miners working in the municipalities. We propose later that the formula take account of resident miners only, and that equal weight be given to such resident miners whether they work in or out of the municipality.

Complicated and Capricious Formula

198. While the formula for computing the payments for 1967 is somewhat less complicated than that previously used, it still lacks simplicity and requires certain ceiling and floor provisions because of its capricious nature. The inclusion in the formula of mining profits of mines located in the municipality is the element that in our view creates the most serious inequities and distortions in the payments.

199. Inequities occur inasmuch as the amount of profits made by a mine has no relation to the demand for municipal services occasioned because of the mine

and its workers. A highly profitable high-grade mine may provide a large base for mining revenue payments to the municipality in which it is located although it may employ fewer workers and create a much smaller demand for municipal services than a larger low-grade mine, earning a smaller profit and therefore providing a much smaller base for mining revenue payments. Moreover, the demand for municipal services, coming mostly from the workers, must be met by the municipalities in which the miners reside rather than those in which the mines happen to be located. A municipality that houses miners that work in an adjoining municipality gets no recognition in its mining revenue payments for the profits of the mine. Conversely the adjoining municipality in which the mine is located receives payments that reflect the mine's profits even though it does not have to provide services to the miners living outside.

200. Distortions in the mining revenue payments occur because profits of the mines in any municipality tend to fluctuate from year to year as a result of metal price changes, the development of new mines, reductions in mining activity as ores are exhausted, and suspensions of mining because of lack of demand for the product (e.g., uranium mines). So that fluctuations in profits and the number of persons employed in the industry will not create undue swings in the payments, three controls have been built into the formula. First, after a mine has ceased operations a declining percentage of the profits for the last year of operations is carried into the formula for each of the following five years. Second, the Minister may—and usually does—approve an amount equal to the payment made in the preceding year whenever the amount computed under the formula for the current year is less than that amount. These two provisions have the effect of eliminating reductions in the payments that would otherwise occur because of decreasing mining profits and mining activity. They also have the effect of maintaining payments at a level created in a prior year because of an unusual surge in the mining profits of that year. The third control is the provision that limits the payments to a mining municipality to 50 per cent of the mining municipality's budget for the preceding year. This is necessary to prevent the payments to mining municipalities that have very profitable mines from reaching fantastic heights. However, as the effect of this last control is arbitrarily to place one-half of the burden of municipal expenditure on the municipal ratepayers, it can make things difficult for municipalities that, relative to their annual budget, have a low assessment base.

201. Our review of the 1967 payments to mining municipalities disclosed that the payments to only six of the sixty mining municipalities had to be increased by the floor provision to the level of the prior year. Ordinarily, a much larger proportion of municipalities are assisted by the rule, but this was obviated in 1967 because of the great increase in the general level of payments effected by the change in formula. For 1966, payments to twenty-three of the fifty-nine mining municipalities were increased in all by $579,000 under this rule. We anticipate that the present formula, if continued, would be relied upon in future years as much as or more than in the past.

202. For 1967 six of the sixty municipalities were assisted by the provision permitting a municipality to receive declining payments for five years after a mine

has closed down if it has no resident mining employees working outside the municipality. All of the six municipalities received similar assistance for 1966.

203. For 1967 eleven municipalities were affected by the limitation of the payments to 50 per cent of the prior year's municipal budget, the payments being reduced in all by approximately $1.7 million. Seven of these municipalities received no benefit whatever from the mining profits included in the computation of the mines assessment, and three of them also received no benefit from the amount included therein for non-resident miners working in the municipality. The reduction in the payments to each of the affected eleven municipalities was as follows:

	Amount if no reduction	Reduction under 50% rule	1967 Payment (50% of prior year budget)
Town of Levack	$506,295	$315,646	$190,649
Township of Atikokan	666,954	194,955	471,999
Township of Coleman	64,775	31,427	33,348
Township of Drury, Dennison and Graham	109,499	32,751	76,748
Township of Falconbridge	208,173	107,996	100,177
Township of McGarry	459,647	366,929	92,718
Improvement District of Balmertown	245,450	124,141	121,309
Improvement District of Gauthier	16,157	7,605	8,552
Improvement District of Manitouwadge	484,740	136,463	348,277
Improvement District of Onaping	446,083	350,718	95,365
Improvement District of Renabie	26,503	15,540	10,963
	$3,234,276	$1,684,171	$1,550,105

It will be seen that if it were not for the 50 per cent rule five municipalities (Levack, Falconbridge, Balmertown, Onaping and Renabie) would have received payments that exceeded their total budgets for the prior year. Two of them, McGarry and Onaping, would have received more than twice their prior year's total budget. For 1966, it was necessary to reduce the payments to eight municipalities under the rule.

204. It is interesting to observe that for 1966 the amounts payable under the formula were varied for thirty-seven of the fifty-nine municipalities by the application of the three special provisions. For 1967 as explained, while there were fewer municipalities that were assisted by the floor provision because of the substantial increase in payments resulting from the changes in the formula for that year, there were nevertheless twenty-three of the sixty municipalities whose payments were affected by the three special provisions.

PROPOSED FORMULA

205. We are convinced that the present system of making payments to mining municipalities is both inequitable to mining municipalities and wasteful for the Province. These effects result from using a formula that recognizes mining profits of mines located in the municipality and non-resident mining employees working in the municipality in combination with provisions limiting payments to one-half of the municipal budget and maintaining payments indefinitely at a peak reached in any prior year. The great reliance upon the special floor and other safeguard provisions is symptomatic of the inequities inherent in the basic formula. No amount of tinkering with the formula will eliminate the inequities and distortions as long as the principal elements of the present formula are retained. What is required is a completely new approach that will more closely recognize the demands for municipal services occasioned by mining; in our view these demands arise because of the presence of resident mining employees regardless of where they work.

206. We therefore propose that the present formula for the grants to mining municipalities, based on mining profits and the numbers of resident and working miners, be replaced by one that recognizes the impairment of the fiscal capacity of the municipalities occasioned by lack of commercial and industrial assessment.

207. Under our proposal, a computation would be made of the amount of the deficiency in a mining municipality's commercial and industrial assessment relative to similarly situated non-mining municipalities. Then the Province would pay the mining municipality an amount computed by applying its previous year's mill rate to such part of the deficiency as would take into account the burden imposed upon it by mining.

208. The deficiency in assessment would be computed as the amount needed to make the ratio of its commercial and industrial assessment to total assessment equal to that for similarly situated non-mining municipalities. For this purpose, we suggest that the ratio for all non-mining municipalities with populations in excess of 10,000 that are located in districts would be an appropriate yardstick for a mining municipality with a population in excess of 10,000 that is located in a district. The ratio for all non-mining municipalities in districts would be a suitable yardstick for all other mining municipalities in districts. For all mining municipalities in counties—which, generally speaking, are all small—the ratio for all non-mining municipalities in counties would be a fair standard.

209. The provincial payment to the municipality would then be computed on that portion of the deficiency that the number of persons resident in the municipality and employed in mining bears to the total number of employed persons in the municipality. *We therefore recommend that:*

The present formula for the computation of provincial payments to mining municipalities under The Assessment Act be replaced by a formula under which **12:21**

(a) the payment is computed by applying the municipality's mill rate for the immediately preceding year to a "municipal mines assessment";

(b) the "municipal mines assessment" of the municipality is computed as that proportion of its "fiscal impairment" that the number of its mining employees resident in the municipality bears to the number of all employed persons resident in the municipality; and

(c) the "fiscal impairment" of a municipality is computed as the amount needed to make the ratio of its commercial and industrial assessment to total assessment equal to that same ratio for similarly situated non-mining municipalities.

Limitation of Payment to One-Half of the Budget

210. We suggest that the present provision in the Regulation limiting the payment to one-half of the municipality's budget for the preceding year should be abandoned. Removing from the formula recognition of mine profits and non-resident mine employees would eliminate the abnormalities that made it necessary to set a limit on the payment. *We therefore recommend that:*

Upon adoption of the proposed formula for computing provincial payments to mining municipalities, the present limitation in the payment to a municipality, to 50 per cent of the total amount that would have been levied in the preceding year if no mining payment for that year had been received, be abolished. **12:22**

Power to Pay Not Less Than Mines Profits Tax Otherwise Leviable Under Assessment Act

211. Under the system we propose, there is no need for the Minister to retain the power he now has to increase the amount of a payment to a mining municipality where it would otherwise be less than the sum of the mines profit tax that the municipality would have collected under subsections 8 and 11 of Section 35 of The Assessment Act had it not been designated a mining municipality. We have seen no evidence of any action having been taken under this provision in recent years, and in any event we think that payments to a mining municipality should not be related to the profits of a mine located in the municipality. *We therefore recommend that:*

The present provision permitting the Minister of Municipal Affairs to increase the payment to a mining municipality where it would otherwise be less than the amount of the tax on mining profits that it would have collected under The Assessment Act if it were not designated a mining municipality, be repealed. **12:23**

Relief When Payment Less Than Prior Year's Payment

212. We do not like the provision that permits the Minister to approve a payment equal to that made in the preceding year when the amount otherwise payable for the year would be less than the preceding year's payment. On the other hand, we realize the practical difficulty of reducing a payment that a municipality has come to rely on. The main problem with the provision is that, as the Minister invariably approves an adjustment whenever the Regulation permits, excessive payments to a municipality due to the quirks in the present formula, are perpetuated. Furthermore, if the present provision were to be maintained under the scheme that we propose, the inordinate payments made to certain municipalities in 1967 would be continued.

213. Our solution to the problem is to make two provisions for upward adjustments in the payments. The first would be a transitional provision under which any reductions in payment consequential upon the introduction of the new scheme would be phased over a five-year period. In the year of implementation, the payment would not be allowed to fall below the amount for the last year under the old scheme. In the following year it would be reduced by no more than 20 per cent of the difference between the payment made in the final year under the old scheme and the payment that would otherwise be made in the current year under the new formula.

214. In the third, fourth and fifth years of the new system the reductions below the final payment under the old scheme would be limited to 40, 60 and 80 per cent respectively, of such differences. This provision would permit mining municipalities to adjust to the new scheme of payments gradually over a five-year period, and the full attainment of a much more equitable system of payments by the sixth year of the new formula.

215. The second provision for an upward adjustment would be a permanent feature of the proposed system. Under this proposal, the mining revenue payment would not be allowed to fall below the payment for the preceding year unless the average number of the municipality's resident mining employees for the three years ended with the year of payment had declined below the average for the three years ended with the preceding year.[18] Determining the decline by a three-year average, rather than as the actual decline for the year, would moderate the effect of a mine shut-down, particularly if it were temporary. If the average number of mining employees had declined, the payment for the current year would not be allowed to fall below the proportion of the prior year's payment that the average number of mining employees for the three years ending with the payment bears to that for the three years ending with the preceding year. For the purposes of this computation, during the first five years of the new system, the payment for the prior year

[18]The number of resident mining employees for a year, as used here, means the number on the register of the municipality, at the time of payment, as determined by the most recent assessment, which would ordinarily have been completed in the fall of the preceding year.

would be deemed to be the payment that would have been made in the prior year if there had been no upward adjustment under the transitional provision suggested in the preceding paragraph. In other words, the minimum payment would be computed by applying the applicable fraction to the amount that the preceding year's payment would have been had it not been increased under the transitional provision for adjustment.

216. Upon implementation of our recommendations for increased grants, particularly in unconditional grants to municipalities and grants to school boards, municipal commercial mill rates should drop significantly. In this event the supplement to the payment to a mining municipality, under either the transitional or the permanent provisions, should be computed having regard to the amount that the payment for the last year under the old system, or for the preceding year, would have been if the mill rate used in determining the current year payment had been applicable in computing the payment for such year.

217. There remains to be considered what the payment should be when both the transitional and permanent provisions for relief from a reduction in a payment would apply. In this event, the mining municipality would be paid the greater of the amounts determined under each of the provisions.

218. To summarize:

(1) The transitional provision would apply if the payment determined under the new formula in any of the five years following its introduction would otherwise fall below the payment made in the final year of the present scheme as adjusted for any subsequent decrease in mill rate.

(2) The permanent provision would apply only if the number of mining employees, computed on the basis of a three-year moving average, had declined for the year. If there were no such decline, the payment would not be reduced below the payment for the previous year as adjusted for any subsequent decrease in mill rate unless the payment for the previous year had been increased under the transitional provision. In that event, the payment for the current year would not be reduced below what the payment for the previous year, as adjusted for any subsequent decrease in mill rate, would have been if it had not been increased under the transitional provision.

(3) If both provisions apply, the mining municipality would be paid the greater of the amounts determined under each provision.

219. We believe that the above provisions for relief from precipitate reductions in the annual payments are sufficient without the special provision under the present system that applies when the last operating mine in a municipality has closed down and there are no miners resident in and working outside the municipality for the year that the mine closed down.

RECOMMENDATIONS

220. For the reasons expressed above, *we recommend that:*

If the payment to a mining municipality within five years **12:24**

from the implementation of the proposed formula would otherwise be less than the amount paid in the last year for which the present formula was applicable,

(a) the amount payable for the first year on the new formula be equal to the payment for the last year under the old formula as adjusted for any subsequent decrease in mill rate, and

(b) the amount payable for the second, third, fourth or fifth year on the new formula be reduced by not more than the applicable one of the following percentages of the difference between the amount otherwise payable for the year and the amount paid in the last year under the old formula as adjusted for any subsequent decrease in mill rate:

(i) for the second year, 20 per cent,

(ii) for the third year, 40 per cent,

(iii) for the fourth year, 60 per cent, and

(iv) for the fifth year, 80 per cent.

We further recommend that:

The present provision, under which the payment to a mining municipality may be increased to the amount paid in the preceding year, be changed to provide that: **12:25**

(a) a payment for a year that otherwise would be less than the payment for the preceding year be not less than the proportion of the preceding year's payment that the average number of resident mining employees for the three years ending with the year of payment bears to the average number of resident mining employees for the three years ending with the year preceding the year of payment;

(b) for the purpose of the above, where the payment for the preceding year had been increased in accordance with the transitional provision previously recommended, the payment for that year be deemed to be the payment that would have been made if it had not been so increased; and where the mill rate used in computing the payment for the year is less than that used in computing the payment for the preceding year, the payment for the preceding year be deemed to be the amount that it would have been if the current mill rate had been applicable; and

(c) where under the transitional provision previously recommended, the payment to the municipality would be greater than that under the above provision, the greater amount be paid to the municipality.

EFFECT OF PROPOSED SYSTEM ON LEVEL OF PAYMENTS

221. Because for the first year of operation of the proposed system, in the absence of a reduction in mill rate, no municipality would get less than the payment it received for the preceding year, and some municipalities would receive more, the total payments for the year would probably rise. For each of the next five years, assuming no change in the level of employment in mining, the total payments would gradually decline, reaching the normal level in the fifth year.

222. Estimates based on ratios of commercial and industrial assessment to total assessment for 1963, and 1966 mill rates, suggest that if the new system had been put into effect for 1967 the total payments would have been about $7.1 million as compared to $5.9 million for 1966 and the payments actually made for 1967 of $7.9 million. However, as explained above, if the new system became effective for 1968, the payments would probably exceed $7.9 million because of the effect of the transitional provision for a first year floor equal to the 1967 payment.

223. These estimates also indicate, assuming no changes in mill rates and numbers of resident mining employees or in the relevant assessment ratios, that the payments for the fifth year following the year of implementation, before adjustments, would amount to about $5 million. This amount would be increased by the adjustments required under the proposed permanent floor provision. A rough estimate of the amount of the increase resulting from adjustments is $500,000, so that the total payments for that year would be approximately $5.5 million—always assuming no changes in mill rates, numbers of resident mining employees or relevant assessment ratios.

224. We have already suggested that it is far from clear that the amounts paid to mining municipalities are justified by the burdens placed upon them because of mining, although we recognize that most of the municipalities have a real need for assistance. The recommendations that we have made for increased assistance to municipalities generally will make it possible for mining municipalities to rely upon mining payments only to the extent needed to meet the burdens imposed by the industry. We believe that the system proposed by us will meet this objective.

FINANCING OF PAYMENTS TO MINING MUNICIPALITIES

225. In Chapter 32, where we consider the taxation of mines, we propose a two-stage tax on mine profits consisting of a Mines Services Tax and a Mines Profits Tax. The proposed Mines Services Tax would be levied on profits from mining and processing at a rate sufficient to yield the approximate amount needed to finance the provincial payments to mining municipalities. The Mines Profits Tax would appropriate to the Province part of the economic rent accruing to the owners of the mines.

226. As the Mines Services Tax would be a substitute for municipal and school board property and business taxation, we propose that it be deductible in computing the profits subject to the Mines Profits Tax. The effect of the Mines Services Tax would be to exact from profitable mines, in proportion to their profits, the amounts needed to finance the provincial payments made to mining municipalities in lieu of local taxation of all mines, whether profitable or unprofitable. Actually, the present mining tax is considered to embody the amounts needed to finance such payments, and we have heard no criticism from either municipalities or mining companies concerning this means of financing the payments, nor have the mining municipalities suggested that mining structures should be subject to municipal taxes and the provincial payments abolished. Thus, while it is difficult to justify the pooling of revenue from the mining industry to meet municipal costs allocable to it—particularly in the absence of similar treatment for other industries—we do not believe that any change should be made in the principle. The recommendations made by us in Chapter 32 merely isolate the part of the mining tax used to finance the payments, and refine the profits base for the computation of the tax.

227. As explained earlier, because of the transitional supplementary amounts, the payments to mining municipalities in the first five years of the proposed system will include an element of assistance to meet needs that in our view are not attributable to mining. We therefore suggest that for these years the Mines Services Tax levies against the mines should be limited to the amounts required for the payments exclusive of the transitional supplements.

ALTERNATIVE SOLUTIONS

228. We studied the proposal made by Mr. Harold Bondett to the Special Committee on Mining Revenue Payments appointed by the Ontario government on September 8, 1966. While the Special Committee rejected Mr. Bondett's proposal, as we do, there is nevertheless considerable similarity between some of the principles behind his formula and our own. Mr. Bondett's formula calls for mining payments to be made at the municipality's mill rate on a municipal mines assessment equivalent to 150 per cent of the assessed value of the residential assessment pertaining to resident mining employees. This is based on the hypothesis that an ideal balance in assessment would be approximately 60 per cent *industrial* and 40 per cent residential. A municipal mines assessment of 150 per cent of the mining employee residential assessment would thus provide the proper 60-40 balance. The principal objection to Mr. Bondett's proposal is that it ignores commercial assessment. An ideal balance would be perhaps 60 per cent *commercial and industrial* (although this is considerably above the average for non-mining municipalities in either the counties or the districts), but a municipality with an ideal balance would probably have only 20 to 30 per cent industrial assessment. We do not agree that the commercial assessment of a mining municipality is affected by the exemption of mine properties from assessment.

229. What we like about the Bondett formula is that it ignores mining profits and non-resident mining employees working in the municipality. It differs radically from our formula in that it does not take into account the diversity of fiscal

capacity of the municipalities. Under our proposal, needier municipalities would receive relatively more, and less needy municipalities relatively less, than under the Bondett formula.

230. As we state in Chapter 32 where we discuss provincial mining taxes, when Ontario's municipal structure is reconciled with local finance as recommended in Chapter 23 it might be feasible for mining municipalities to tax mining properties instead of relying upon provincial payments financed through the mining tax. The feasibility of such a move will depend upon whether each mine and its employees would be contained within the boundaries of a single region, and whether or not admittedly difficult assessing problems could be overcome.

231. In the meantime, we think that the Province, through the Assessment Branch of the Department of Municipal Affairs, should undertake to assess the value of all exempt mining structures at current value. We believe that because of difficult special problems in determining the value of mining structures, the values should be determined by the Province rather than by the municipalities concerned. From the total of such exempt assessment, the exemption per resident mining employee could be computed for the Province as a whole. Consideration could then be given to making payments to mining municipalities on the basis of a municipal mines assessment determined by multiplying the exempt mining assessment per resident mining employee by the number of mining employees resident in the municipality. Such a system would have merit, but, as with the Bondett proposal, it would not take into account the varying degrees of fiscal capacity of the municipalities.

232. As no determination can be made of the exact effects of such a proposal until statistical data on the exempt mining assessment are obtained, *we recommend that:*

> ***The provincial authorities assess the value of all mining structures exempt from property and business taxes imposed by municipalities and school boards.*** **12:26**

MINING PROPERTIES EXEMPT FROM LOCAL TAXATION

233. The Assessment Act[19] grants an exemption from municipal and school property and business taxes on "the buildings, plant and machinery in, on or under mineral land, and used mainly for obtaining minerals from the ground, or storing the same, and concentrators and sampling plant . . .". Furthermore, except for certain petroleum mineral rights, the minerals in, on or under mineral land are not assessable. It has been suggested that the Act should be amended so that the exemption would clearly not apply to a smelter. As we recommend that mine processing profits should be included in the profits subject to the proposed Mines Services Tax, all structures used for processing, including a smelter and an iron ore treatment plant, should be exempt from property and business taxes. Structures such as office buildings, staff houses, bunkhouses and cookeries or dining halls are subject to tax, as these are not closely identified with obtaining minerals from the ground. In our view, these structures should continue to be taxed so that

[19] *Ibid.*, s. 35(5).

the municipality's revenue position is not affected whether such facilities are provided by the mine itself or by independent owners or businesses subject to property tax.

234. In our view, the provision in the Act that exempts mine structures ought to be amended so as to make clear the kinds of structures that are exempt. We suspect that municipalities are not all interpreting the provision in the same way. *We therefore recommend that:*

> ***The present provision in The Assessment Act exempting "buildings, plant and machinery in, on or under mineral land, and used mainly for obtaining minerals from the ground, or storing the same, and concentrators and sampling plant" be amended so as to indicate clearly the properties that are exempt and those that are taxable.*** **12:27**

235. We agree that mining lands should be taxed as provided in the Act on assessments that do not reflect the value of the mineral content of the lands. The Mines Profits Tax that we recommend, being structured so as to appropriate to the Province part of the economic rent from the mine, recognizes the mineral content of the lands on an equitable basis, and there should not be a second tax at the municipal level.

Appendix to Chapter 12

SUMMARY OF EXEMPTIONS FROM TAXATION AND ASSESSMENT CONTAINED IN THE STATUTES OF ONTARIO

AGRICULTURAL

A. *Farm Lands*

1. Exemption from taxation for some municipal services:
   The Assessment Act, s. 37(1).
2. Town of St. Mary's Act, S.O. 1954, c. 129.
3. Business Assessment not levied,
   The Assessment Act, s. 9(11).

B. *Agricultural or Horticultural Societies*

1. General exemption:
   The Assessment Act, s. 4(14).
2. Similar exemption:
   The Agricultural Societies Act, R.S.O., c. 11.

C. *Miscellaneous*

1. Meadowvale Botanical Gardens:
   The Meadowvale Botanical Gardens Act, S.O. 1960-61, c. 116.
2. Ontario Food Terminal:
   The Ontario Food Terminal Act, R.S.O., c. 272.
3. Stock Yards:
   The Stock Yards Act, R.S.O., c. 385.

BRIDGES (INTERNATIONAL)

1. Baudette and Rainy River Municipal Bridge:
   Baudette and Rainy River Municipal Bridge Act, S.O. 1961-62, c. 143.
2. The Buffalo and Fort Erie Public Bridge Authority:
   The Town of Fort Erie Act, S.O. 1962-63, c. 162.
3. Canadian National Railway Company and the International Bridge Company:
   The Town of Fort Erie Act, S.O. 1954.
4. Rainbow Bridge:
   The Rainbow Bridge Act, S.O. 1941, c. 148.
5. St. Mary's Bridge:
   The St. Mary's River Bridge Company Act, S.O. 1955, c. 16.

CEMETERIES

1. General exemption:
   The Assessment Act, s. 4(3).

2. The Beechwood Cemetery Act, Ottawa,
   S.O. 1873, c. 149.
3. Glenwood Cemetery Co. Act (Town of Picton),
   S.O. 1870-71, c. 96.
4. The Toronto General Burying Ground Act,
   S.O. 1870-71, c. 95.

CHARITABLE INSTITUTIONS

A. *Youth*

1. Boys' and Girls' Homes, etc., general exemption:
   The Assessment Act, s. 4(11).
2. Children's Aid Societies, general exemption:
   The Assessment Act, s. 4(13).
3. Independent Order of Odd Fellows, Grand Lodge Act,
   S.O. 1929, c. 131.
4. Jane Laycock Children's Home Act,
   S. O. 1903, c. 131.

B. *Adult*

1. House of Industry, general exemption:
   The Assessment Act, s. 4(11).
2. House of Refuge general exemption:
   The Assessment Act, s. 4(11).
3. Incorporated charitable institutions organized for relief of the poor, general exemption:
   The Assessment Act, s. 4(12).
4. Independent Order of Odd Fellows, Grand Lodge Act,
   S.O. 1929, c. 131.
5. United Jewish Welfare Fund (City of Toronto),
   City of Toronto Act, S.O. 1955, c. 117.

COMMERCIAL AND INDUSTRIAL

A. *Manufacturing*

1. Machinery used for manufacturing or farming purposes, general exemption:
   The Assessment Act, s. 4(17).
2. Employees' parking lot business assessment exemption:
   The Assessment Act, s. 9(2).
3. Fixed Assessments for Manufacturing Plants:
   (a) Town of Cochrane Act, S.O. 1964, c. 128.
   (b) Town of Hearst Act, S.O. 1962-63, c. 168.
   (c) Town of Smith's Falls Act, S.O. 1964, c. 142.
   (d) Town of Wallaceburg Act, S.O. 1962-63, c. 195.

B. *Mining*

1. Mining buildings, plant, etc., general exemption:
   The Assessment Act, s. 35(5).

C. *Railways (Steam)*

1. Buildings and other structures, etc., of steam railway, general exemption:
   The Assessment Act, s. 46(3) and Assessment Amendment Act, S.O. 1962-63, c. 7.

D. *Telegraph and Telephone Companies*

1. Machinery and plant, general exemption:
   The Assessment Act, s. 10(13).
2. Structures, etc., in certain classes of municipalities, general exemption:
   The Assessment Act, s. 10(13).

COMMUNITY CENTRES

1. General exemption:
   The Community Centres Act, s. 3.
2. Centre located in another municipality:
   The Community Centres Act, s. 4(3).
3. Jewish Community Centre of Toronto Act, S.O. 1951, c. 105.
4. Synagogue and Jewish Community Centre of Ottawa Act, S.O. 1952, c. 137.
5. The Windsor Jewish communal projects (City of Windsor):
   The Windsor Jewish Communal Projects Act, S.O. 1958, c. 167.

CULTURAL

1. Public libraries, general exemption:
   The Assessment Act, s. 4(14).
2. Literary and scientific (public) institutions, general exemption:
   The Assessment Act, s. 4(14).
3. Trustees of Massey Hall (City of Toronto):
   Trustees of Massey Hall Act, S.O. 1952, c. 141.
   City of Toronto Act, S.O. 1909, c. 125.
4. Ottawa Drama League (City of Ottawa):
   City of Ottawa Act, S.O. 1929, c. 114.
5. The Stratford Shakespearean Festival Foundation of Canada:
   The Stratford Shakespearean Festival Foundation of Canada Act, S.O. 1958, c. 155.

EDUCATIONAL

A. *Schools*

1. High, public and separate schools, general exemption:
   The Assessment Act, s. 4(4), as amended.

2. Seminary of learning, general exemption:
   The Assessment Act, s. 4(5).
3. Seminary of learning land, general exemption:
   The Assessment Act, s. 4(6), as amended S.O. 1962-63, c. 7.
4. (a) Board of education school site in another municipality:
   The Schools Administration Act, s. 65(3).
   (b) Board of education school site in another municipality (not in the same high school district):
   The Schools Administration Act, S.O. 1965, c. 118.
5. Chatham and Suburban Secondary Schools Act, S.O. 1956, c. 100.
6. Crescent School (Township of East York):
   The Crescent School Act, S.O. 1939, c. 58.
7. Gloucester-Ottawa High Schools Act, S.O. 1962-63, c. 163.
8. L'Institut Jeanne d'Arc (City of Ottawa):
   L'Institut Jeanne d'Arc Act, S.O. 1949, c. 129.
9. The Roman Catholic Episcopal Corporation of Ottawa Act, S.O. 1959, c. 128.
10. Town of Port Hope and Trinity College School Act, S.O. 1950, c. 113.
11. Upper Canada College (City of Toronto):
    The Upper Canada College Act, S.O. 1901, c. 42.

B. *Universities*

1. Universities, general exemption:
   The Assessment Act, s. 4(4).
2. Assumption University:
   Assumption University Act, S.O. 1964, c. 125.
3. Brock University:
   Brock University Act, S.O. 1964, c. 127.
4. Carleton College
   The Carleton College Act, S.O. 1952, c. 117.
5. Huntington University:
   The Huntington University Act, S.O. 1960, c. 143.
6. Lakehead University:
   The Lakehead University Act, S.O. 1965, c. 54.
7. Laurentian University:
   The Laurentian University of Sudbury Act, S.O. 1960, c. 151.
8. Massey College:
   Masters and Fellows of Massey College Act, S.O. 1960-61, c. 53.
9. St. Michael's University:
   The University of St. Michael's College Act, S.O. 1958, c. 162.
10. Thorneloe University:
    The Thorneloe University Act, S.O. 1960-61, c. 135.

11. Trent University:
    The Trent University Act, S.O. 1962-63, c. 192.
12. University of Guelph:
    The University of Guelph Act, S.O. 1964, c. 120.
13. University of Lalemant College:
    The University of Lalemant College Act, S.O. 1960, c. 172.
14. Université d'Ottawa (City of Ottawa):
    The Université d'Ottawa Act, S.O. 1965, c. 137.
15. University of Regiopolis:
    The University of Regiopolis Act, S.O. 1934, c. 93.
16. University of Sudbury:
    The University of Sudbury Act, S.O. 1960, c. 173.
17. University of Toronto:
    The University of Toronto Act, S.O. 1947, c. 112.
18. University of Western Ontario:
    The University of Western Ontario Act, S.O. 1923, c. 105.
19. University of Windsor:
    The University of Windsor Act, S.O. 1962-63, c. 194.
20. Victoria University:
    The Victoria University Act, S.O. 1951, c. 119.
21. York University:
    The York University Act, S.O. 1965, c. 143.

C. *General*

1. Centennial Centre of Science and Technology:
   The Centennial Centre of Science and Technology Act, S.O. 1965, c. 12.
2. Ontario Institute for Studies in Education:
   The Ontario Institute for Studies in Education Act, S.O. 1965, c. 86.

EXHIBITIONS

1. Exhibition lands, general exemption:
   The Assessment Act, s. 4(16).
2. Canadian National Exhibition Association:
   The City of Toronto Act, S.O. 1954, c. 133.
3. The Western Fair Association:
   The City of London Act, S.O. 1956, c. 108.

GOVERNMENTAL

A. *Government of Canada and Ontario*

1. Governments of Canada and any province, general exemption:
   The Assessment Act, s. 4(1).

2. Government of Ontario and Crown agencies, payments in lieu of taxes:
   The Municipal Tax Assistance Act (Ontario), c. 258.
3. The Hydro-Electric Power Commission of Ontario, payments in lieu of taxes:
   The Power Commission Act, s. 48.
4. Government of Canada, agreements to pay municipalities for services supplied to tenants of their dwelling establishments:
   The Assessment Act, s. 245.
5. Government of Canada, grant in lieu of taxes:
   The Municipal Grants Act (Canada).
6. The Ontario Water Resources Commission Act, ss. 32(9), 46.

B. *Parks (Public)*

1. Niagara parks:
   The Niagara Parks Act, s. 10.
2. St. Lawrence parks:
   The St. Lawrence Parks Commission Act, s. 12 and S.O. 1964, c. 84.

C. *Indian Lands*

1. Indian lands, general exemption:
   The Assessment Act, s. 4(2).

D. *Reform Institutions*

1. Industrial farms, general exemption:
   The Assessment Act, s. 4(11).
2. Reformation of offenders institutions, general exemption:
   The Assessment Act, s. 4(11).

E. *Municipal*

1. Municipally owned highways, streets, etc., general exemption:
   The Assessment Act, s. 4(8).
2. Municipal property, general exemption:
   The Assessment Act, s. 4(9) and S.O. 1965, c. 6.
3. Public utilities, general exemption:
   The Assessment Act, s. 43(10).
4. Toronto Transit Commission, Bloor-Danforth-University Avenue Subway:
   The Municipality of Metropolitan Toronto Act, S.O. 1965, c. 81.

F. *Conservation*

1. Conservation authorities, general exemption:
   The Conservation Authorities Act, s. 35 and S.O. 1962-63, c. 20.
2. Grand River Conservation:
   The Grand River Conservation Act, 1938 and S.O. 1962-63, c. 54.

3. Metropolitan Toronto and Region Conservation Authority:
   The Municipality of Metropolitan Toronto Act, S.O. 1960-61, c. 61, s. 223(4, 5).

HOSPITALS

A. *Hospitals (Public)*

1. Public hospitals, general exemption:
   The Assessment Act, s. 4(7).
2. Alcoholism and Drug Addiction Research Foundation:
   The Alcoholism and Drug Addiction Research Foundation Act, S.O. 1965, c. 2.
3. Elgin Memorial Hospital:
   The Elgin Memorial Hospital Act, S.O. 1920, c. 161.
4. Toronto General Hospital:
   The Toronto General Hospital Act, S.O. 1913, c. 84.
5. Toronto Western Hospital:
   The Toronto Western Hospital Act, S.O. 1942, c. 59.

B. *Sanatoria for Consumptives*

1. Sanatorium property, general exemption:
   The Sanatoria for Consumptives Act, s. 23.

C. *Cancer Treatment Centres*

1. The Ontario Cancer Treatment and Research Foundation:
   The Cancer Act, s. 15.
2. The Ontario Cancer Institute:
   The Cancer Act, s. 28.

D. *Psychiatric Hospitals*

1. Children's Psychiatric Hospitals:
   The Children's Mental Hospitals Act, S.O. 1960, c. 9.
2. Community Psychiatric Hospitals:
   The Community Psychiatric Hospitals Act, S.O. 1960-61, c. 9.
3. Clarke Institute of Psychiatry:
   The Ontario Mental Health Foundation Act, S.O. 1965, c. 88.
4. Ontario Mental Health Foundation:
   The Ontario Mental Health Foundation Act, S.O. 1964, c. 80.

HOUSING

1. Graduated reduction in taxes:
   The Assessment Act, R.S.O. 1950, s. 34.
2. Grant in lieu of taxes on property acquired under The Housing Development Act:
   The Housing Development Act, ss. 5, 6.

3. Grant in lieu of taxes on dwelling houses erected under
   The Wartime Housing Act, S.O. 1946, c. 108.
4. St. Thomas, exemption from taxation:
   The City of St. Thomas Act, S.O. 1938, c. 67.
5. Business assessment not levied on rooming houses (under certain conditions):
   The Assessment Act, s. 9(11).

MISCELLANEOUS

1. The Canadian Military Institute (City of Toronto):
   The City of Toronto Act, S.O. 1933, c. 103.
2. Covent Garden (City of London):
   The City of London Act, S.O. 1955, c. 104:
3. L'Institut Canadien Français (City of Ottawa):
   The L'Institut Canadien Français Act, S.O. 1939, c. 60.
4. Ontario Society for Prevention of Cruelty to Animals:
   The Ontario Society for Prevention of Cruelty to Animals Act, S.O. 1919, c. 124.
5. Ottawa and District Community Chests (City of Ottawa):
   The Ottawa and District Community Chests Act, S.O. 1956, c. 113, and S.O. 1964, c. 137.
6. Red Cross Society (Canadian):
   The Assessment Act, s. 4(12).
7. Research Foundation:
   The Research Foundation Act, S.O. 1944, c. 53.
8. St. John Ambulance Association:
   The Assessment Act, s. 4(12).
9. The William Lyon Mackenzie Homestead Foundation (City of Toronto):
   The City of Toronto Act, S.O. 1939, c. 73.

PATRIOTIC

1. Battle sites, general exemption:
   The Assessment Act, s. 4(15).
2. Navy League of Canada:
   The Assessment Act, s. 7.

RECREATIONAL

1. Golf courses:
   The Assessment Act, s. 39.
2. Religious institutions recreational land:
   The Assessment Act, s. 5.
3. The Town of Barrie Act, S.O. 1957, c. 127.

4. Hamilton Amateur Athletic Association:
   The City of Hamilton Act, S.O. 1914, c. 72.
5. The Ottawa Civil Service Recreational Association Act, 1960-61, c. 121.
6. The Roman Catholic Episcopal Corporation of Ottawa
   Act, S.O. 1959, c. 128.
7. Synod of Toronto and Kingston (Presbyterian Church),
   Township of Mara:
   The Synod of Toronto and Kingston Glen Mhor Camp Act,
   S.O. 1960-61, c. 134.

REFORESTATION

1. Farmer's woodlot exemption:
   The Assessment Act, s. 4(18).
2. Reforested land not increased in value:
   The Assessment Act, s. 35(15).
3. Trees planted in woodlands not taxable:
   The Assessment Act, s. 35(16, 17).
4. Reforestation in another municipality:
   The Trees Act, s. 8.
5. Township council authority to grant exemption on reforested lands:
   The Trees Act, s. 10.
6. County councils may pay grants in lieu of taxes on reforested land:
   The Trees Act, S.O. 1964, c. 118.
7. Brantford Reforestation Commission:
   The City of Brantford Act, S.O. 1937, c. 84.

RELIGIOUS ORGANIZATIONS

1. Church property, general exemption:
   The Assessment Act, s. 4(3).
2. Ottawa Auxiliary Bible Society (City of Ottawa):
   The City of Ottawa Act, S.O. 1923, c. 76.
3. Upper Canada Bible Society (City of Toronto):
   The Upper Canada Bible Society Act, S.O. 1912, c. 157.

VETERANS

A. *Housing*

1. Municipal councils providing housing for veterans:
   The Veterans Housing Act 1945, c. 13.
2. Assessment of veterans' holdings after an amalgamation:
   S.O. 1954, c. 3, s. 13.
3. City of Fort William:
   City of Fort William Act, S.O. 1946, c. 118.

B. *Club Houses, etc.*

1. Veterans' club houses:
   The Municipal Act, s. 377(69).
2. City of Galt:
   The City of Galt Act, S.O. 1919, c. 92.
3. City of Toronto:
   The City of Toronto Act, S.O. 1930, c. 105.

YOUTH ORGANIZATIONS

1. Boy Scouts (Canadian), general exemption:
   The Assessment Act, s. 4(10).
2. Girl Guides (Canadian), general exemption:
   The Assessment Act, s. 4(10).
3. King's Daughters and Sons:
   The King's Daughters and Sons Act, S.O. 1911, c. 147.
4. Ottawa Boys' Club (City of Ottawa):
   The Ottawa Boys' Club Act, S.O. 1942, c. 53.
5. Sudbury Youth Centre (City of Sudbury):
   The Sudbury Youth Centres Act, S.O. 1962-63, c. 188.

Y.M.C.A'S AND Y.W.C.A'S

1. The Executive Committee of the National Council of Young Men's Christian Association of Canada:
   S.O. 1906, c. 145; S.O. 1950, c. 97.
2. Belleville Y.M.C.A. (City of Belleville):
   The Belleville Y.M.C.A. Act, S.O. 1952, c. 142.
3. Border Cities Y.M. and Y.W.C.A.:
   The Border Cities Y.M. and Y.W.C.A. Act, S.O. 1950, c. 92.
4. Brantford Y.M.C.A. (City of Brantford):
   The Brantford Y.M.C.A. Act, S.O. 1903, c. 130; S.O. 1934, c. 69.
5. Brantford Y.W.C.A. (City of Brantford:)
   The Brantford YW.C.A. Act, S.O. 1902, c. 107.
6. Chatham Community Y.M.C.A. (City of Chatham):
   The Chatham Community Y.M.C.A. Act, S.O. 1962-63, c. 156.
7. Cobourg Y.M.C.A. and Y.W.C.A. (Town of Cobourg):
   The Cobourg Y.M.C.A. and Y.W.C.A. Act, S.O. 1962-63, c. 201.
8. Collingwood Y.M.C.A. (Town of Collingwood):
   The Collingwood Y.M.C.A. Act, S.O. 1906, c. 146.
9. Cornwall Y.M.C.A. and Y.W.C.A. (City of Cornwall):
   The Cornwall Y.M.C.A. and Y.W.C.A. Act, S.O. 1961-62, c. 176.
10. Fort William Y.M.C.A.:
    The Fort William Y.M.C.A. Act, S.O. 1912, c. 155.

11. Galt Y.M.C.A. (City of Galt):
    The Galt Y.M.C.A. Act, S.O. 1913, c. 141.
12. Greater Niagara Y.M.C.A.:
    The Greater Niagara Y.M.C.A. Act, S.O. 1951, c. 123.
13. Guelph Y.M.C.A. and Y.W.C.A. (City of Guelph):
    The Guelph Y.M.C.A. and Y.W.C.A. Act, S.O. 1962-63, c. 202.
14. Hamilton Y.M.C.A. (City of Hamilton):
    The Hamilton Y.M.C.A. Act, S.O. 1940, c. 40.
15. Hamilton Y.W.C.A. (City of Hamilton):
    The Hamilton Y.W.C.A. Act, S.O. 1940, c. 41.
16. Kenora Y.M.C.A. (Town of Kenora):
    The Kenora Y.M.C.A. Act, S.O. 1934, c. 80.
17. Kingston Y.M.C.A. (City of Kingston):
    The Kingston Y.M.C.A. Act, S.O. 1917, c. 106.
18. Kingston Y.W.C.A. (City of Kingston):
    The Kingston Y.W.C.A. Act, S.O. 1917, c. 107.
19. Kitchener-Waterloo Y.M.C.A.:
    The Kitchener-Waterloo Y.M.C.A. Act, S.O. 1928, c. 106.
20. Kitchener Y.W.C.A. (City of Kitchener):
    The Kitchener Y.W.C.A. Act, S.O. 1924, c. 146.
21. London Y.M. and Y.W.C.A. (City of London):
    The London Y.M. and Y.W.C.A. Act, S.O. 1953, c. 136.
22. Midland Y.M.C.A. (Town of Midland):
    The Midland Y.M.C.A. Act, S.O. 1924, c. 147.
23. Orillia Y.M.C.A. (Town of Orillia):
    The Orillia Y.M.C.A. Act, S.O. 1905, c. 126.
24. Oshawa Y.M.C.A. (City of Oshawa):
    The Oshawa Y.M.C.A. Act, S.O. 1910, c. 162.
25. Ottawa Y.M.C.A. (City of Ottawa):
    The Ottawa Y.M.C.A. Act, S.O. 1900, c. 140; S.O. 1910, c. 163.
26. Ottawa Y.W.C.A. (City of Ottawa):
    The Ottawa Y.W.C.A. Act, S.O. 1901, c. 109.
27. Owen Sound Y.M.C.A. (City of Owen Sound):
    The Owen Sound Y.M.C.A. Act, S.O. 1909, c. 158.
28. Peterborough Y.M.C.A. (City of Peterborough):
    The Peterborough Y.M.C.A. Act, S.O. 1896, c. 88.
29. Peterborough Y.W.C.A. (City of Peterborough):
    The City of Peterborough Act, S.O. 1904, c. 4.
30. Port Arthur Y.M.C.A. (City of Port Arthur):
    The Port Arthur Y.M.C.A. Act, S.O. 1910, c. 164.
31. Port Arthur Y.M.–Y.W.C.A.:
    The Port Arthur Y.M.–Y.W.C.A. Act, S.O. 1960-61, c. 127.

32. Sarnia Y.M.C.A.:
    The Sarnia Y.M.C.A. Act, S.O. 1952, c. 133.
33. Sault Ste. Marie Y.M.C.A. (City of Sault Ste. Marie):
    The Y.M.C.A. of Sault Ste. Marie Act, S.O. 1960-61, c. 140.
34. St. Catharines Y.M.C.A.:
    The St. Catharines Y.M.C.A. Act, S.O. 1928, c. 107.
35. St. Catharines Y.W.C.A.:
    The St. Catharines Y.W.C.A. Act, S.O. 1928, c. 108.
36. St. Thomas Railroad and City Y.M.C.A. (City of St. Thomas):
    The City of St. Thomas Act, S.O. 1938, c. 67.
37. St. Thomas Y.W.C.A. (City of St. Thomas):
    The City of St. Thomas Act, S.O. 1938, c. 67.
38. Stratford Y.M.C.A. (City of Stratford):
    The Stratford Y.M.C.A. Act, S.O. 1905, c. 127.
39. Stratford Y.W.C.A. (City of Stratford):
    The Stratford Y.W.C.A. Act, S.O. 1912, c. 156.
40. Sudbury Community Y.M. and Y.W.C.A.:
    The Sudbury Community Y.M. and Y.W.C.A. Act, S.O. 1938, c. 71.
41. Sudbury and District Y.W.C.A.:
    The Sudbury Y.W.C.A. Act, S.O. 1958, c. 156, s. 8.
42. Toronto Y.M.C.A.:
    The Toronto Y.M.C.A. Act, S.O. 1923, c. 106.
43. The Y.W.C.A. of Metropolitan Toronto:
    The Y.W.C.A. of Metropolitan Toronto Act, S.O. 1960, c. 176.
44. Woodstock Y.M.C.A. (City of Woodstock):
    The Woodstock Y.M.C.A. Act, S.O. 1910, c. 165.

Source: Ontario Department of Municipal Affairs.

Chapter 13

Taxes on Property: Assessment

INTRODUCTION

1. The foundation on which the local tax system is built is the assessment of real property. Real property assessment determines the base for taxation in support of local municipal services. Equalized, it provides the base for financing joint expenditures made through counties, high school districts and other such inter-municipal bodies. Realty assessment is likewise the base for payments in lieu of taxes on the properties of governments and of Crown corporations or agencies. Assessments are also an essential determinant of grants or payments from the Province to supplement local sources of revenue and to equalize local fiscal capacities.

2. The first requirement of an assessment system is comprehensive coverage. All real property must be included in the assessment roll, as either taxable or exempt property, and it must be properly identified according to its ownership and tenancy. Properties that are missed are like leaks in a municipal water system, draining away part of the supply and reducing the total capacity of the system.

3. The second requirement of the assessment function is that each property be assessed at a level that is equitable in relation to all other properties in the municipality. The amount of the assessed value determines the share of the local levy payable by the owner or occupant of each taxable property and of each exempt property that is subject to a payment in lieu of taxes. Assessed value is expected to disclose the comparative worth of property of all types. It should show, for example, how the value of an old house compares with a new, a large house with a small, an apartment unit with a single-family dwelling. It should also provide an accurate yardstick of comparison between the value of urban and rural properties, residential and business properties, and commercial and industrial holdings. To achieve a sufficiently fair relationship between the value of one property and another and to convince those assessed of its fairness, it is highly desirable to assess at current market values.

4. A perfect assessment system would be impossible to create. Much effort is required to build up and maintain complete coverage of all real estate within a municipality. Even after a complete inventory of real property has been assembled and recorded, prompt account must be taken of changes in ownership or tenancy, new land uses, new construction, suspended uses and demolition. But the more difficult task is to maintain an up-to-date, careful estimate of the comparative worth of all property, both taxable and exempt, under conditions of continuous physical and economic change. To do this thoroughly would require an exhaustive accumulation and analysis of data with respect to the real estate itself and the broader economic conditions that influence its market value, and then a careful interpretation of the results by persons of great capacity and excellent judgment. The cost of such an assessment service would obviously be prohibitive. The objective, therefore, must be a more modest one, scaled to a realistic evaluation of the importance of equitable assessment in relation to the cost.

5. The amount that a municipality spends on determining its base for taxation should be related to the amount of revenue to be derived from the base. The cost of administering a tax in relation to its yield is an important criterion in assessing the usefulness of a levy. The cost of levying and collecting the real property tax throughout Ontario has not been statistically determined and cannot readily be established from available sources. In a questionnaire we sent to a selected sample group of Ontario municipalities we requested, among other things, information on the costs of assessment and collection in connection with local property and business taxes. The returns indicated that taxes of nearly $392 million were raised at an estimated cost of approximately $7.2 million, or 1.8 per cent of the revenue. Of these costs, those for assessment amounted to nearly twice those for collection.

6. The yield of the property tax in Ontario is very great and may be expected to remain so. In 1965, total realty and business tax revenues exceeded $878 million. Intervening increases in mill rates indicate a figure in excess of $1 billion for the year 1967. We know too that local governments in Ontario are likely to remain heavily dependent on realty and business taxes in future years. Inequities in the property tax base that could be tolerated when the weight of taxation is light become intolerable with continuing heavy taxation.

7. Increasingly, the Province is making large grant payments to local authorities based on formulas that take into account local assessment figures. Accurate assessment information is thus an essential element of an equitable system of grants and payments. Consequently, whether to support heavy taxation or large grant payments, accurate assessment will remain a crucial requirement of the revenue system of our local governments.

THE STATE OF ASSESSING IN ONTARIO

8. Wherever the real property tax is in use inadequacies in the assessment process have been recognized as a deep-seated problem. The theme has been taken up in the recent tax inquiries in other Canadian provinces. It was made a major project of the Advisory Commission on Inter-Governmental Relations in the United States[1] and was the subject of extensive study under our sponsorship.

9. One result of our study and analysis has been a growing conviction that extreme inequalities in property assessment, with resulting inequities in taxation, have been hidden from view by the prevalence of gross under-assessment. Despite the statutory requirements to carry out a fresh assessment annually and to calculate assessed value at full actual value, which is to take account of "sale value", most assessments throughout Ontario represent less than half the current market value of the properties. Indeed, the 1966 assessment equalization factors issued in September 1966 by the Assessment Branch of the Department of Municipal Affairs placed assessment levels in no less than 921 of the 935 local municipalities at under 50 per cent of current value; that is to say, 98.5 per cent of all municipalities were in that position. What is more, the level of values, as determined by the Province's equalization sampling, was below 40 per cent in 882 municipalities, or 94.3 per cent of the total. The level of assessments found by the Department in school sections located in areas without municipal organization was similar. We might expect the level of assessments to be appreciably higher in the larger municipalities. In fact the difference was not great. Of 33 municipalities with populations in excess of 30,000, 27, or 82 per cent, were assessing below 40 per cent of current value.

10. The Province itself has been party to flagrant under-assessment by producing in 1950 and encouraging until 1965 the use of an assessment manual containing cost data related to the year 1940. We might expect, therefore, that the extent of under-assessing would be very similar from one municipality to another. Yet that has not been true. For example, the 1965 equalization report revealed the following spread of assessment levels:

[1]Advisory Commission on Inter-Governmental Relations, *The Role of the States in Strengthening the Property Tax*, 1963, 2 vols.

Ontario municipalities		*Assessed values as percentage of current value*
Number	*Percentage*	
12	1.3	under 10%
95	10.2	10 to 19
187	20.0	20 to 24
261	27.9	25 to 29
221	23.6	30 to 34
106	11.3	35 to 39
39	4.2	40 to 49
14	1.5	50 and over
935	100.0	

Making the fullest allowance for possible errors in equalization figures, which were built from small samples, the sad state of assessing in Ontario is none the less perfectly apparent.

11. The deficiencies in municipal assessing go beyond simple inter-municipal differences. In order to ascertain the nature and extent of assessment shortcomings, we undertook our own research on the relationship between assessed values of properties and current values as indicated by recent property sales. The results of our investigations are presented in some detail as an appendix to this Chapter. Here it is enough to sketch in broad outline what we found.

12. To begin with, the extent of under-assessment indicated by the Assessment Branch's equalization data was fully confirmed. So was the dispersion of assessment levels among municipalities. Next, we were able to substantiate another weakness that was made apparent to us through unpublished figures of the Assessment Branch. In developing assessment indexes from sample assessments made with the help of the Province's Assessment Manual, which has since been replaced, the Branch compiled separate data for residential, commercial, industrial and farm properties. These were combined to give a single index figure. The data by class of property, however, revealed far from uniform levels of value among the several classes of properties within a single municipality. In one municipality, industrial properties might be assessed low by comparison with residential properties. In another, the reverse situation might prevail. Such differences were found to be common and substantial.

13. Figures provided by the Department of Municipal Affairs indicated that more than two Ontario municipalities out of five were either greatly under-assessing or greatly over-assessing their local industries by comparison with all or most properties of other types. Similarly, our sample survey suggested that it was common to assess apartments at a considerably higher level than other residential properties in the same municipality. In certain places, the differences were distressingly great. From the evidence of our own survey, reinforced by the Department's equalization data, it is hard to avoid the conclusion that certain places have been deliberately

discriminating against industrial and commercial properties and apartment buildings in favour of the remaining residential properties. Metropolitan Toronto and the City of Hamilton are among such municipalities.

14. By our own investigations, still another widespread discrepancy was identified. For any one property classification—for example, farms or commercial buildings—our figures indicated that the level of values might vary greatly within the one municipality. In one sizeable city, whose situation appeared to be typical, the assessed values of residential properties for which recent sale prices were available ranged commonly between 25 and 50 per cent of indicated market value while a few reliable sales identified even greater extremes in the swing of assessed values above and below the average position.

15. Some dispersion from a median level of property assessment is to be expected, but the average deviation should not exceed an acceptable limit. According to Netzer,[2] the recognized standard of excellence for assessing single-family non-farm houses in the United States is that set by Frederick L. Bird: not more than 20 per cent deviation from the median ratio. While our studies do not permit an exact comparison, 16 of the 22 municipalities surveyed (including Metro Toronto), containing more than half the sampled properties, failed to meet Bird's standard when applied to residential properties other than apartments.

16. And yet, among the several classes of property, we found residential properties, including apartments, to be assessed with greater accuracy than industrial properties or vacant lands. The greatest disparities of all were found among commercial properties, where a substantial majority of the sampled assessments were more than 20 per cent wide of the average position. The pattern here suggests that much of the fault flows from assessors' lack of competence.

17. The information we procured by sampling cannot be regarded as conclusive evidence of the number and extent of inequitable departures in assessment valuations. Yet the research summarized in the appendix to this chapter was sufficiently detailed to leave us in no doubt that the task of assessing property stands in need of a major overhaul.

FARM ASSESSMENTS

18. In the course of our studies, we gave particular attention to the assessment and taxation of farm properties, in recognition of problems brought to our attention in briefs and at the hearings. We made a tour of areas adjacent to Metropolitan Toronto where farm lands were being purchased by urban dwellers. We obtained access to additional analytical data prepared by the Assessment Branch of the Department of Municipal Affairs. We studied farm values in Lincoln County, the first to come under the county assessment commissioner system.

19. In representations to us, it was suggested that the weight of taxation on farms was excessive even when based upon an assessment that was equitable in

[2]Dick Netzer, *Economics of the Property Tax*, Washington: The Brookings Institution, 1966, p. 177.

relation to other property, but that the burden was even greater in areas where urban dwellers, for whatever reason, were purchasing farm lands at high prices that gave an inflated indication of average property values.

20. In the United States and in England, a low rate of return on investment in farm property is regarded as an accepted fact.[3] While we cannot speak with the same assurance for our own Province, the information that we have been able to obtain inclines us to the same view.

21. Comparisons of assessed values with sale prices of farm properties made by the Assessment Branch of the Department of Municipal Affairs suggest a particular distortion. The proportion of the total farm property value assigned to the land by local assessors was consistently low. Either the value of older buildings was not being depreciated sufficiently or farm lands were being undervalued. The distortion was similar in all four counties surveyed.

22. The Province's volume *Appraisal Notes for the Assessor* includes a passing reference to the effect upon farm values of crop quotas or allotments.[4] In Lincoln County a striking example of this phenomenon emerged from comparing farms that had milk contracts with those that had not. Despite the fact that such a contract cannot be sold with the farm, we found a substantial disparity in sale prices. From the records of the Lincoln County Assessment Department, we examined eight farms with and eleven without milk contracts, sold between 1960 and 1966. We then assigned values to the component elements of each farm property, land, residence, barns and silos. Among the eight properties with milk contracts at the time of sale, the contract, although technically not transferable, appeared to add an average of perhaps $3,300 to the farm value. The value of a contract to a farm varies with the size of the contract: one may be for 500 pounds of fluid milk daily, another for 1,000 pounds. That contracts have a very real effect on selling prices was further exemplified by successive sales of two different properties. One farm that sold in 1957 for $28,000 with a contract realized only $18,150 when it was sold again in 1963 without one. Another farm without a contract sold in 1960 for $12,000. Three years later, after improvements to the dwelling costing less than $5,000, it sold for $21,000 with a contract.

23. The situation with respect to sale prices of dairy farms must apply to other types of farms such as chicken farms with or without broiler licences. The important point is that the value to a farm of a contract or quota is not properly part of its assessed value, whether the contract is transferable as a condition of sale or not. Yet it is reflected in the sale price, which an assessor would use to gauge a farm's value. The local assessor should recognize this and make the appropriate reduction in calculating the farm assessment. We wonder how many do. Perhaps this factor in assessing farms was responsible for some of the concern about farm taxes that came to our notice. We question, furthermore, whether the new provincial assess-

[3]See Netzer, *Economics of the Property Tax*, pp. 97-101; W. Lean and B. Goodall, *Aspects of Land Economics*, The Estates Gazette Limited, 1966, pp. 70-72.

[4]Crop quotas or allotments are listed among conditions to be examined before applying farm sales information (p. 134).

ment manual (*Appraisal Notes*) provides sufficient detailed guidance on this and other assessing problems. We of course acknowledge that the assessment manual is intended to be supplemented by other means of instructing practising assessors and we are aware of amendments soon to be issued.

ASSESSMENT BRANCH SURVEY

24. As it turned out, it has not been necessary for us to convince the Department of Municipal Affairs of the shocking state of assessing that has prevailed in this province. In 1964, the Assessment Branch of the Department ascertained certain facts on the condition of assessment services throughout Ontario by examining the municipal assessment rolls, 940 in all. The results of this survey were thereupon reported in a speech by the Minister to the assessors themselves. The Minister's purpose in revealing the grave shortcomings of assessing practice was to give a sense of urgency to reform measures that were already in progress.

25. We quote the Assessment Branch's findings as the Minister gave them:

1. 604 municipalities or 64.2% have neither revised nor adjusted assessed values since 1956.
2. 405 municipalities or 43.1% do not use integrated assessment system or manual, although some of these use parts of several different systems.
3. 164 municipalities or 17.5% have no appraisal records of any kind.
4. 803 municipalities or 85.4% do not use mechanical systems to prepare assessment rolls.
5. 142 municipalities or 15.1% did not close their assessment rolls by October 1st nor did they have an extension of time.
6. 133 municipalities or 14.2% did not prepare their assessment rolls in accordance with the Act.
7. 283 municipalities or 30.1% do not assess properties under Section 53 or 54 of The Assessment Act (assess and collect taxes for a part of the year).
8. 170 municipalities or 19.1% did not include population on the assessment roll.
9. 162 municipalities or 17.3% did not bother to assess or collect business tax.
10. 619 municipalities or 65.8% did not send assessment notices to tenants. Many were deprived of voting and school support privileges.
11. 590 municipalities or 62.7% showed completely unacceptable deviations from the norm for certain classes of property. For example, if the mean value of all property was 35% of market value then residential might read 26%—commercial 45% and industrial 19% and farm 39%.
12. In *every* county there is an unacceptable deviation in the ratio of assessed value to market value for the various municipalities. In the better counties the variance is more than 10% and in most counties the variance is between 15 to 30%. It is true that county equalization reduces the impact to some degree. No equalization program, no matter how well considered, can remove these inequalities.

The survey produced other startling evidence of poor assessment practice such as assessable properties missing from the roll; summer cottages assessed for business assessment, and what must be termed deliberate over- and under-assessment of property. It is safe to say that if the administration of the tax base by the senior levels of government were as inadequately administered, the nation would probably be bankrupt.[5]

PARALLEL FINDINGS IN THE REST OF CANADA

26. The state of assessing in Ontario, while far from satisfactory, is, as we have said, by no means unique. It is only fair, after our indictment of existing conditions, to make this acknowledgement.

27. The successive reports of the Royal Commission on Finance and Municipal Taxation in New Brunswick (1963), the Manitoba Royal Commission on Local Government Organization and Finance (1964), the Quebec and Saskatchewan Royal Commissions on Taxation (both dated 1965) all roundly condemned the state of assessing in their respective provinces. All saw the need for drastic remedial measures. One brief excerpt from the New Brunswick report will help to put Ontario's situation in perspective:

> We are conscious that our account of assessment procedures in the province is, with few exceptions, a gloomy one telling of neglected responsibilities and gross unfairness. Black though the picture may be, we do not think that it is overdrawn. The statistical evidence is undeniable. . . .[6]

28. In Nova Scotia, the study of provincial and municipal taxation completed in 1964 did not concern itself with the state of real property assessing in that province. Soon afterwards, however, the Deputy Minister of Municipal Affairs put forward proposals for change in the local assessment administration. He favoured larger assessment units and newly-constituted assessment appeal courts. Legislation dealing with both matters has since been enacted. The system of assessment regions that the amended Nova Scotia Assessment Act authorizes could in due course divide the Province into some twenty larger assessment units, about one-third the present number.

CAUSE AND CONSEQUENCE OF ASSESSMENT INEQUALITIES

29. We conclude this section with two further comments, one on the cause and the other on the consequences of the present extreme inequalities in municipal assessments.

30. The manual that is still most widely relied upon by local assessment departments is the old provincial manual, relating to 1940 values. Many municipal assessors who endeavour to express values in that year's terms were not even born then. The exercise must be largely artificial. Moreover, the assessor who seeks to establish the relationship to the 1940 base year for each class and kind of property

[5]Association of Assessing Officers of Ontario, *Proceedings of the Twenty-fourth Annual Meeting*, 1965, pp. 91-2.

[6]New Brunswick, Royal Commission on Finance and Municipal Taxation, *Report*, 1963, p. 233.

thereby builds in a distorted relation between the different property groupings; value relations have certainly altered over more than a quarter of a century. Structures of all classes are built in ways and of materials that were then unknown. We have no idea how much of the present inequity stems from this cause.

31. The second point concerns the provincial equalization indexes. When wide discrepancies exist among property assessments, both within municipalities and between municipalities, provincial equalization indexes must themselves be quite imprecise. Comparisons between municipalities based upon equalized assessments cannot be relied upon to show the true relative positions. But if assessments can be brought close to present value, the relative internal discrepancies will shrink, and inter-municipal comparisons, using provincial equalized assessments, will be much more meaningful. The Province could then scan a municipality's annual estimates and quickly determine whether, on the face of it, the tax level, or levels, were excessive. Further inquiries could be launched and advice provided before problems reached serious proportions.

32. In our diagnosis of the state of municipal assessing, we emphasize under-assessing as a factor contributing to serious inequalities among and within various classes of property in a municipality. But we must not leave the impression of blanket condemnation of each municipality's assessment operation. Based upon the 1966 assessment equalization carried out by the Province, the Township of McGarry (pop. 1,927) in the District of Timiskaming was actually assessing a shade above market value. The Town of Collingwood, at 93 per cent and the City of Owen Sound, at 90 per cent, were assessing next closest to present actual value, while the City of Sarnia and the Improvement District of Bicroft, with assessment levels slightly in excess of three-quarters of actual value, stood well above most municipalities. The Improvement District of Beardmore, the City of Windsor and the City of Belleville were not too far behind. Yet the instances are so rare as merely to underscore the extent of reassessment that is required. Further, while the municipalities concerned shall be nameless, there were actually three small places assessing at a mere 5 per cent of market value and one at 4 per cent. Such extreme cases must reflect and breed disrespect for a law that demands assessment at actual value.

PROBLEMS STEMMING FROM THE LEGISLATION

STATUTORY SOURCES

33. The Assessment Act is the main but by no means the only statute relating to assessment in Ontario. At least eighteen other Acts have some bearing on the assessment function. These are listed in the appendix to this chapter, with a short description of the assessor's responsibilities under each. Several are also discussed briefly in the succeeding paragraphs.

34. The Assessment Act governs assessment of real property for municipal and school purposes in all incorporated municipalities, and in all public school sections, separate school zones, and high school districts within municipally unorganized parts of territorial districts.

35. The Department of Municipal Affairs is responsible for assessment administration in all incorporated municipalities and in those school sections, zones or districts in unorganized territory to which a district assessor has been appointed by the Minister of Municipal Affairs. The Department of Education is responsible for assessment administration in school sections, zones and districts in unorganized territory to which a district assessor has not been appointed. School legislation, however, provides for the assessment function to be carried out subject to the provisions of The Assessment Act.

36. The Provincial Land Tax Act, under jurisdiction of the Minister of Lands and Forests, governs assessment of real property in territories unorganized either municipally or for school purposes where residents may enjoy such provincial services as police and fire protection, welfare services, hospitalization of indigents and construction and maintenance of access roads. The legislation does not, however, attempt to relate land tax revenues to the cost of the services provided. An "appropriate prescribed rate", when set, remains in force throughout all land tax territories from year to year until changed. The rate is 1.5 per cent (15 mills), but the figure relates to assessed values much below the present worth of property.

37. The Local Roads Boards Act, administered by the Department of Highways, provides for the statutory assessment of property in a local roads area in municipally unorganized territory, which, as that Act puts it, is not assessed under the provisions of The Provincial Land Tax Act or The Public Schools Act. The statute is silent with respect to zones assessed under The Separate Schools Act. Until the passage of The Local Roads Boards Act, municipally unorganized areas provided for the upkeep of local roads under the provisions of The Statute Labour Act.

38. It is apparent that four provincial departments have some degree of responsibility for administering the assessment function in Ontario. The Department of Municipal Affairs exercises jurisdiction respecting assessments made under The Assessment Act. The Department of Lands and Forests carries out assessing under The Provincial Land Tax Act, and The Department of Highways administers the statutory valuations required under The Local Roads Boards Act. The Department of Education is concerned with assessments made under The Public Schools Act and The Separate Schools Act, although in making the valuations, the assessors follow the provisions of The Assessment Act.

APPOINTING AND LICENSING OF ASSESSORS

39. Seven provincial statutes provide for the appointment of assessors with authority to place a value on real property. We describe each in turn.

(1) Under The Municipal Act, the councils of municipalities, other than those in the Municipality of Metropolitan Toronto, must appoint as many assessors as are deemed necessary. They also have the option of appointing commissioners, deputy assessment commissioners, acting assessment commissioners and boards of assessors. The appointing by-law remains in force until repealed; there is thus no need for annual appointments.

A 1965 amendment to The Municipal Act requires all councils to appoint as assessors persons licensed by the Department of Municipal Affairs. A complementary amendment to The Department of Municipal Affairs Act empowers the Department to license municipal assessors.

Regulations published in the *Ontario Gazette,* January 29, 1966, provided for three classes of licence described by the Minister of Municipal Affairs in the following terms in an address to the 1966 Annual Convention of the Association of Assessing Officers of Ontario:

> Regular for those who have attained the required experience and academic qualifications; Probationary for those who have not fully attained the necessary qualifications; and Temporary for those who, because of age or other reasons, have not qualified academically. Provision has also been made to allow the granting of a Regular licence upon passing of examinations in Appraisal Theory and Assessment Law.[7]

(2) Under The Assessment Act:

(a) The council of a county may appoint a county assessor, with approval of the Department of Municipal Affairs, a county assessment commissioner, with approval of the Minister, or it may make no appointment at all.

(b) The Minister may appoint a district assessor for any territorial district to hold office "during pleasure" when so requested by not less than two-thirds of the municipalities in the territorial district, cities and improvement districts excepted. Although the Minister appoints the district assessor and fixes his salary, the latter is not a provincial employee. He is employed jointly by all the municipalities and localities in the district. At the same time, the Department ensures that the district assessor and his staff are given fringe benefits similar to, or better than, those received by provincial civil servants.

(3) Under The Municipality of Metropolitan Toronto Act, the Metropolitan Council appoints assessors and an assessment commissioner for the metropolitan area and may also appoint deputy commissioners.

(4) The Public Schools Act authorizes a public school board in municipally unorganized territory to engage an assessor on a yearly basis.

(5) The Separate Schools Act adopts the provisions of The Public Schools Act respecting the appointing of assessors in municipally unorganized territory, *mutatis mutandis.*

(6) The Provincial Land Tax Act, 1961-62, provides for the appointment of a land tax collector and "such other officers as are deemed necessary . . ." The Act does not state who shall make the appointments, nor does it mention the term of office. The Act formerly required appointments to be made by the Lieutenant Governor in Council and, in practice, those appointed are full time employees of the Department of Lands and Forests.

[7]Association of Assessing Officers of Ontario, *Proceedings of the Twenty-fifth Annual Meeting,* p. 77.

(7) Under the provisions of The Local Roads Boards Act, 1964, which has application only in certain unorganized territories, no assessors are appointed. Any assessment made under The Provincial Land Tax Act or The Public Schools Act applies, but, if no such assessment has been made, the Board's secretary-treasurer enters an assessment in the "register" based on unit amounts prescribed in the statute.

BASIS OF ASSESSMENT

40. Three provincial statutes provide three distinctive bases for the assessment of real property other than that considered to be of a special class:

(1) The Assessment Act calls for real property to be assessed at its actual value by consideration of present use, location, rental value, sale value, cost of replacement of buildings and any other circumstances affecting the property's value.

(2) The Provincial Land Tax Act refers to the assessed value as the price that might be expected if the property were offered for sale in the open market by a person who is solvent.

(3) The Local Roads Boards Act provides for specified values to be placed on all the land in a local roads area where any of the land in the area is not assessed under The Provincial Land Tax Act or according to The Assessment Act in a school jurisdiction within unorganized territory.

Although The Local Roads Boards Act is very recent legislation, its valuation provisions are reminiscent of primitive provisions from the pioneer period. The Act's statutory assessments are as follows:

(a) For each dwelling, $1,000, "dwelling" may include two or more buildings used as a single dwelling unit.

(b) For each building other than a dwelling, such rate of assessment as may be prescribed (by regulation).

(c) For forested land, $4 an acre or part of an acre.

(d) For cleared land, $6 an acre or part of an acre.

(e) For all other land, $2 an acre or part of an acre.

Not only does The Local Roads Boards Act revert to arbitrary values, it makes no provision for appeal or for redress of error, a general subject to which we give further consideration in Chapter 18.

STEPS TOWARD UNIFORMITY

41. It is apparent, even from this brief survey, that the legislative provisions required to serve fully or partially organized self-governing areas, as well as those territories where services are administered by the Province, cannot be entirely uniform. It is equally plain that the maximum degree of uniformity consistent with these requirements is greatly to be desired. We think, moreover, that progress in

that direction would be stimulated by transferring the assessment provisions from both The Provincial Land Tax Act and The Local Roads Boards Act to The Assessment Act.

42. The purpose of property assessment is to permit recovery through taxation of a suitable proportion of the cost of the local government services furnished within the taxing jurisdiction. Assessment and taxation of real property under The Provincial Land Tax Act departs from this objective. Not only should the assessment system be brought into line with the desired law and practice in municipally organized areas but provincial rates should thereupon be fixed annually by region in relation to the cost of local services supplied throughout each region.

43. When a district assessor is appointed, he serves not only the incorporated municipalities—possibly excepting the cities—but also territories without municipal organization that have been organized for elementary or secondary school purposes. The reason for this move is self-evident. If poorly trained and part-time assessors and the use of outdated assessment methods are still prevalent among the organized municipalities of this province, are they not much more likely to be found in isolated school jurisdictions within unorganized territory? We propose that the district assessors assume responsibility likewise for the needed assessments within roads board areas. While we hesitate to propose that all assessments within school or local roads board jurisdictions in municipally unorganized territory be performed by licensed municipal assessors even before they can be brought under a district assessor, we are anxious to see the assessing function assigned in so far as possible to qualified persons.

44. Again in the interests of a single cohesive assessment system, we advocate the transfer of assessing responsibilities now exercised by the Department of Lands and Forests to the Assessment Branch of the Department of Municipal Affairs. We realize that the two departments collaborate on real property assessment work, but we deem it advantageous to put full responsibility on one authority. The Department of Municipal Affairs, with its established system of regional offices and an increasing pool of competent assessors, is the obvious choice. The Assessment Branch is gaining professional capacity in consequence of its continuing responsibilities as the assessor of Ontario Hydro provincial properties, as the producer of equalization indexes based upon spot checks of local assessments, and as the promoter of the new two-part assessment manual. This change would not prevent the Assessment Branch from designating certain employees of the Department of Lands and Forests as assessors within remote areas of the province as a matter of convenience.

45. In order to co-ordinate and strengthen all assessing operations throughout this province, *we recommend that:*

Assessment legislation now contained in The Local Roads Boards Act and The Provincial Land Tax Act be transferred to The Assessment Act and made uniform in so far as possible with the corresponding provisions of that Act; and **13:1**

(a) in a district where a district assessor has been appointed, responsibility for assessing in a local roads area be assigned to the district assessor,

(b) responsibility for assessing for provincial land tax purposes be assigned to the Assessment Branch of the Department of Municipal Affairs, and

(c) the required level of taxation within each provincial land tax region be calculated annually with due regard for the Province's cost of providing that region with services ordinarily provided by local government.

SPECIAL-ASSESSMENT PROPERTIES

46. Throughout the previous chapters on property tax we have had reason to refer a number of times to those transportation and communications properties that are designated as special assessment properties. We have indicated generally the nature of the departures from the ordinary assessment and taxation procedures and suggested as a desirable objective the restoration of such properties to a basis of assessment that is common to other kinds of real property. Our reasoning is that any differentiation from the weight of taxation placed upon other business properties should be clearly established and that such differences should reflect the appropriate, defined relationship to normal assessment and taxation. In order to evaluate the practicability of our goal, we must describe in some detail the provisions for special assessment currently in effect. Transportation and communications properties are sometimes privately, other times publicly, owned. Special assessment and tax provisions extend to both. We deal with both categories in this review.

Telephone and Telegraph Companies

47. The Assessment Act exempts from assessment all the machinery, plant and appliances of every telephone and telegraph company wherever situated, together with all structures on, over, under or affixed to any highway, lane or other public communication, public place or water. Land and buildings owned by a telephone or telegraph company, however, are assessable in the ordinary manner in the municipality where they are situated.

48. All such companies carrying on business in an urban municipality or a police village are also assessed, subject to statutory limitations, upon the gross receipts in that municipality for the calendar year next preceding the assessment; while those elsewhere in townships are assessed either on gross receipts or at statutory rates per mile of circuit. Business assessment on telephone and telegraph companies is 25 per cent of the assessed value of land and buildings. No business tax is levied on assessments based on gross receipts or circuit mileage. In municipally unorganized territory, telephone and telegraph lines are assessed under the provisions of The Provincial Land Tax Act on the basis of the number of circuits, at rates very similar to those applicable in townships under The Assessment Act.

49. It is evident that a very basic difference exists between the methods of valuing most of the real property in this category and real property in general, making it extremely difficult to determine if, at any particular time, an equitable relationship applies. It is obvious that, even if an equitable relationship is established, it would not be maintained since the relative weights of realty, gross receipts and statutory mileage taxes will not remain constant over time.

Water, Heat, Light, Power, Utility and Transportation Companies

50. The Assessment Act prescribes common rules for the valuation of a variety of transportation properties, including the transmission of water and of various sources of energy. Excluded from this broad classification are railways and transmission (but not distribution) pipelines for gas and petroleum products. In contrast to the communications properties, the structures of such enterprises are assessable in the ordinary manner at actual value when they are built along a highway, lane or similar public property.

51. A modification applies to transportation systems. Their structures, rails, ties, poles and other such man-made properties along public thoroughfares are assessable at their actual cash value as they would be appraised upon a sale to another company possessing similar powers, rights and franchises. Furthermore, when such structures of a transportation system merely cross a highway or are situated on private lands, they are not assessable and hence are tax exempt. The remaining transportation properties enjoy no like privilege.

52. Many transportation properties extend into two or more municipalities. The Act provides that where this occurs, the portion thereof in each municipality shall be separately assessed therein at its actual value as an integral part of the whole property. While an instruction to assess the portion within each municipality as an integral part of the whole is sound, the legislation provides no direction to facilitate it. Unless, therefore, considerable initiative is exercised by one or more of the responsible assessors or by the private utility that is assessed, consistency of valuation throughout the parts of an inter-municipal system is not likely to emerge. It is not in the interest of the company that is assessed to fight for consistency if it will be achieved by raising the lower assessments to the level of values governing the remaining assessments. This group of utilities is also subject to business assessment at 25 per cent of the assessed value of land and buildings exclusive of the value of any machinery, plant or appliances.

53. There is no provision in The Provincial Land Tax Act for the assessment of this type of private transportation enterprise. Presumably none is to be found in the remote areas where the provincial land tax is levied.

Transmission Pipe Lines

54. A transmission pipe line is defined in The Assessment Act as one "for the transportation or transmission of gas that is designated by the owner as a transmission pipe line and a pipe line for the transportation or transmission of oil . . .". By a 1966 amendment to the statutory definition of a pipe line, regulators, curb-

boxes, meters and all incidental fastenings, attachments, appliances, apparatus and appurtenances were removed from the list of included items.

55. Pipe lines are assessed according to a statutory formula that sets out the value per foot of pipe line. Figures are given for pipes ranging from ¾-inch inside diameter to 36-inch outside diameter. Provision has been made for periodic review of the rates and their revision or re-enactment by regulation. Thus the statutory values shown in The Assessment Act were revised by order-in-council in December 1965 to reflect more realistic values in keeping with the provisions of the revised manual. When the statutory values have been determined by the local assessor, the total is to be multiplied by the appropriate provincial equalization factor in order to reduce the amount to the level of assessment in use locally. No provision for review of the footage rates, nor for annual depreciation, was incorporated when the statutory rates were first introduced. An amendment in 1966 provided that depreciation at the rate of 5 per cent of the assessed value of the pipe line must be applied "every three years from the year of installation, with a maximum depreciation of 55 per cent". A departmental letter to all municipal assessors, dated August 10, 1966, stated that this amendment meant that depreciation was to be applied on a straight-line basis and should be allowed at three-year intervals calculated from the date of installation.

56. An example may be helpful. Suppose a high-pressure pipe line with a length of 1,000 feet and an inside diameter of 10 inches was installed in 1952 in a municipality where the 1967 equalization factor was 30 per cent. It would be assessed in 1967 as follows: 30 per cent of the statutory pipe value per foot ($4.89) times the length of pipe (1,000 feet) less 25 per cent depreciation. This works out at $1,100. That would remain the assessment until 1970 when the next three-year period begins, assuming that the length of pipe, the statutory rate and the equalization factor all remained unchanged. On these assumptions, the new assessment made in 1970 would be 30 per cent of ($4.89 x 1,000) less 30 per cent depreciation or $1,027.

57. Transmission pipe lines are not subject to either local improvement levies or business taxes. Other land and buildings of the transmission pipe line company are liable for business tax on the same basis as other privately owned transportation enterprises.

58. As already noted, the definition of a transmission pipe line now excludes certain items that were previously included. This change makes them assessable at actual value in the ordinary manner as "structures, machinery and fixtures erected or placed upon, in, over, under or affixed to land." However, they are not subject to business tax.

59. It can be seen that the valuation of transmission pipe lines under the provisions of The Assessment Act underwent extensive change in 1966, with alterations to the definition, the statutory values and the rate of depreciation. None of these changes was reflected in amendments to The Provincial Land Tax Act. In the latter legislation, all the items recently excluded by definition under The

Assessment Act remain part of the pipe line and the statutory values still approximate 1940 levels. Furthermore, depreciation is calculated in a different manner—different even from the method used in The Assessment Act prior to the 1966 amendment. Under The Provincial Land Tax Act, depreciation at 2 per cent per annum up to a maximum of 50 per cent is allowed only on pipe installed prior to 1940.

Railways

60. Railway lands are assessed on three different bases under The Assessment Act and, similarly, under The Provincial Land Tax Act, approximately as follows:

(1) for the roadway or right-of-way, at the actual value according to the average value of land in the locality;

(2) for vacant lands, at their actual value;

(3) for structures, substructures, superstructures, rails, ties, poles and other property upon, in, over, under or affixed to any highway, street or road and other real property, not otherwise exempt, at their actual cash value as they would be appraised upon a sale to another company possessing similar powers, rights and franchises.

All structures, substructures, superstructures, rails, ties, poles and wires and other property situated on railway lands and used exclusively for or incidental to railway purposes are not assessable except certain specified buildings such as stations, hotels and freight sheds. No railway property is subject to business assessment or taxation.

61. Under The Assessment Act, but not under The Provincial Land Tax Act, the assessment of railway lands, as entered in the roll of a municipality and finally revised following any appeals, also remains the assessment for the succeeding four years. Naturally, this quinquennial assessment is subject to changes to reflect alterations in the extent of the railway's property holdings.

62. The valuation of the roadway or right-of-way does not present any particular difficulty where it passes through open country. But a problem can arise in urban areas where the assessment must by law reflect the value of adjoining lands as enhanced by the development for which that land is suited. When adjoining lands are included in a plan of subdivision, the assessor has no alternative but to assess the railway lands at the same amount as the surrounding serviced land. The railway will not benefit from the subdivision services. The value of the railway land will only be enhanced if the railway is abandoned and the land can be sold for development. In fact, as a transportation route, the land may suffer a loss in value because the adjacent land ceases to be available for freight sidings or other such purposes, and trains may be required to travel slower through the built-up area. Thus, the development of urban land, which is beyond the control of the railway, adds to the tax costs of the railway, without any prospect of compensating increases in revenues. If planned land use calls for high-rise apartments attracting a value of, say, $80,000 an acre, that value may be set for the roadway of the railway.

Bridges and Tunnels Crossing Provincial Boundaries

63. The Assessment Act makes special provision for bridges or tunnels that lie partly within Ontario but cross international or interprovincial boundaries. Under Section 44 of The Assessment Act, the Ontario portions of such a structure are to be valued as an integral part of the whole structure at its actual cash value as it would be appraised upon sale to another company possessing similar powers, rights and franchises. But, the section continues, "subject to the provisions and basis of assessment set forth in subsection 4 of Section 40". This particular subsection, which governs the valuation of privately owned transportation properties, was amended in 1957 to make the basis of valuation coincide with that which applies to real property generally under Section 35 of The Assessment Act. No reconciling amendment was made to Section 44. It would take a remarkably competent assessor to comply with this combination of statutory requirements! Perhaps this provides some explanation of why the Legislature allowed the Town of Fort Erie to fix taxation of the Buffalo and Fort Erie Public Bridge Authority for the seven-year term 1963 to 1969.

64. A less difficult provision governs the assessment of privately owned bridges and tunnels crossing inter-municipal boundaries. Such structures "shall be valued as an integral part of the whole and on the basis of valuation of the whole". This provision is another attempt to ensure that a property that overlaps municipal boundaries is assessed at an amount that has a fitting relationship to the worth of the taxable real property of the whole enterprise. Again, we fear the dictum is of little avail.

Municipal Utilities

65. Special valuation provisions laid down in The Assessment Act with respect to public utilities would appear by court interpretation of the legal wording to be confined to the utilities of local authorities, including those run by a municipal corporation directly or by any of its local boards. Parking facilities owned by a municipal corporation or a municipal parking authority are included by statutory definition. Other examples of such utilities are local hydro-electric and gas commissions, water departments, public transportation commissions and municipal telephone companies.

66. The basis of assessment for land is "the actual value thereof according to the average value of land in the vicinity". This definition was enacted by an amendment that took effect in April 1963. The earlier version employed the word "locality". By substituting "vicinity", the basis for comparison of property values has been narrowed. Buildings, on the other hand, are to be assessed at their actual value in the ordinary way. No machinery or equipment is assessable nor is any substructure or superstructure except where it forms an integral part of the building or where it is occupied by a tenant or lessee. Municipal telephone companies, however, are an exception to the general rule. These are assessable in the same manner as privately owned telephone companies.

67. All publicly owned utilities are exempted from ordinary taxation but make payments that may be viewed by some as taxes and by others as payments-in-lieu. With the exception of municipal telephone systems, such utilities enjoy partial relief from the weight of taxation by comparison with their privately owned counterparts. The latter, it will be recalled, are assessed and taxed for all structures and fixtures situated along highways or in other public places. For business tax, however, public and private utilities are on an equal footing: business assessment is based on the assessment of lands and buildings only, excluding machinery, plant and appliances.

68. The operation of municipal public utilities is not always confined within the boundaries of a single municipality. Often, contractual arrangements or the device of joint boards or commissions will extend the operation into two or more municipalities. The legislation affords no recognition of this fact.

Hydro-Electric Power Commission of Ontario

69. Ontario Hydro properties are valued by the Assessment Branch of the Department of Municipal Affairs and their valuations result in mandatory payments in lieu of taxes. Like the municipal utilities, exemption from assessment is extended to machinery, structures, substructures, superstructures, rails, ties, poles, lines and easements. Hydro thus enjoys an advantage over private power companies. The basis of assessment for land and for buildings used exclusively for executive and administrative purposes is likewise similar to that of public utilities. The statute prescribes assessments at actual value "according to the average value of land in the locality and the assessed value of such buildings". The word "locality" remains in The Power Commission Act notwithstanding its replacement in The Assessment Act by the term "vicinity". The lag may result, however, from a wish to delay another change—alteration of the statutory rate of assessment for generating station buildings and transformer station buildings from a figure of $2 per square foot of inside ground floor area to a new figure properly related to current values.

70. The present method of applying the statutory rate for such buildings does not conform with the strict wording of the legislation. The Act requires that the assessment determined by the $2 rate be multiplied by the Department of Municipal Affairs equalization factor applicable for the year in which the annual payment is due. But the rate was set when equalization factors were related to 1940 values, and not to the current values now being used. To prevent the statutory assessment of these properties from plummeting to only a fraction of their worth, the old equalization factors are still being used, despite the wording of the statute.

71. Rather than amend the statutory rate, it would be better to abandon the statutory valuation altogether. Statutory rates are usually hammered out over a period of time and are obsolete by the time they become law. Furthermore, the application of equalization factors to such rates will mitigate inequalities that have developed recently, but with the passing of time the result will become increasingly less equitable. Statutory valuations in areas of slow growth and lower actual values will become proportionately heavier than those in areas of rapid growth and

buoyant market values. Hence, assessments set by statute in actual dollar terms have no place in an equitable system of assessment and taxation.

Problems of Special Assessments

72. A number of factors serve to make the valuation of transportation and communications properties difficult: their unique land requirements, their inter-municipal character, the variety, complexity, and special nature of the real estate holdings. It is virtually impossible to value most such properties in a fair manner, municipality by municipality. It is difficult to obtain the required information on a standardized basis in order to value the real property in total.

73. Land occupied by transportation or communications companies has usually been owned by them for a very long time. Railway lines, for example, commonly pre-date the commercial and industrial developments that now surround them. Some such developments may be related to the railway; others will be quite independent of it. The properties of transportation and communications companies may include easements, running rights and other limited forms of title. The present legislation governing the assessment of easements is not appropriate to pipe line, railway or other similar properties because of their inter-municipal character. The real estate interests of transportation and communications enterprises usually involve some form of ownership, however limited. Such property is seldom rented. Over the years these special-assessment properties rarely change hands; market value can scarcely, if ever, be derived from actual sales information. Such enterprises may divest themselves of certain realty holdings or they may add to their lands and build new structures upon them. But neither the sale prices obtained nor the costs incurred necessarily represent the real changes in value to the system of the altered investment in real property. A transportation or communications enterprise may continue to hold certain lands that have become of very little value to it for lack of a buyer for property of such specialized shape and character. Or land may be held by a railway because the Board of Transport Commissioners will not permit the company to abandon a particular route.

74. As we recount in Chapter 10, the Maclennan Commission made two important recommendations with respect to the valuation of special-assessment properties just after the turn of the century. Neither was incorporated in The Assessment Act of 1904; nor has either one been enacted since. The first called for the valuation section of the Act to declare that properties of all sorts be "assessed at their actual value" without further qualification. The second recommendation was to transfer to a provincial Board of Tax Commissioners responsibility for valuing special properties in their entirety and for apportioning the total assessment of each among the municipalities that its property traverses.

75. To a reiteration of these same recommendations we would attach only one further observation. While we are convinced of the desirability of moving in the direction of a common basis of assessment and taxation for these properties and all others, we do not think it reasonable to take the full step without a more precise knowledge of the expected consequences. That they might be substantial is suggested by a third recommendation of the Maclennan Commission. To this one we

have not made earlier reference. The Maclennan Commission proposed that increases in assessments of transportation and communications properties resulting from provincial assessment at actual value should be given effect in instalments over a ten-year period. Thus, in the first year, only 10 per cent of the additional assessment would be taxable, in the second year, 20 per cent, and so forth.

76. Let us next consider the combined result of the various provisions for special assessments that now apply. We begin with inter-municipal valuations. Although attention has been given to the difficulty of making such valuations, the only formula in use that is known to overcome attendant inconsistencies is the statutory valuation technique applied to transmission pipe lines. In fact its success is less than complete. The pipe line itself is valued but not the rights to the land it traverses, although the owner of such land may well have a reduced assessment because of the easement or right-of-way. Furthermore, even if the pipe line throughout its length had a uniform cost when constructed and had depreciated uniformly since then, the market values of particular sections of the line would probably differ from the outset.

77. Except for transmission pipe lines, none of the arrangements for special assessment relieve municipalities of the entire problem of achieving an estimate of assessed value that will be accepted as suitably precise. The instruction by statute to look at land in the locality, or the vicinity, or to place upon certain property an actual cash value as it would be appraised upon a sale to another company possessing similar rights and franchises is not entirely helpful. If these guides alleviate certain difficulties, they raise others. In our view, the various provisions for special assessment taken together do not express a consistent approach to property valuation capable of translation into an equitable result.

78. Because transportation and communications properties are so difficult to value with certainty and reasonable equity, particularly within any one municipality, the job should be given to a body as highly skilled and as free from bias as possible. The Assessment Branch of the Department of Municipal Affairs ought to fulfil these qualifications; the assignment of such a responsibility should bring it closer to this stature.

79. To suggest the precise techniques that the Assessment Branch might adopt in valuing special-assessment properties would be presumptuous on our part. We might perhaps comment, however, on one difficult element of the job: the assignment of values to private land or a right to private land that provides the route for wires, cables, pipes or rails for transportation or communication. We think it unreasonable in many instances to attach to such land the values that accrue to adjacent lands. We propose that the Assessment Branch place values on these tax-exempt lands. Such estimates will not likely cause litigation, however, since no tax payments will hinge on them. But making the assessments will strengthen the basis of valuation of taxable transportation and communications properties. It will also conform with the notion that all property should be assessed so that the implications of tax exemption are never unknown.

80. In Chapter 11, we propose that the appropriate weight of business tax relating to transportation and communications properties be determined after such properties have been valued on the same basis as other property. The properties coming under such special treatment should be precisely defined. We would exclude any holdings of transportation or communications enterprises that are not serving directly the requirements of the transportation or communications business. In addition, the nature and extent of the private land forming the route of a transportation or communications enterprise should likewise be prescribed. For example, the marshalling yards of a railway would be excluded from the definition of the railway roadway or right-of-way, as they are now.[8]

81. It is not convenient, however, to map out the valuation responsibilities of the Assessment Branch in quite the same way. We suggest, first, that the Branch perform the valuation of special-assessment properties only if they extend into two or more local assessment jurisdictions or if the local assessment jurisdiction concerned is prepared to turn the responsibility over to the Province because it finds the assessment difficult. Conversely, where the extent of jurisdictional overlap is nominal, the Department might be permitted to turn back the responsibility to the local assessors. Secondly, we propose that the Branch assess the entire holdings of any transportation or communications enterprise, not just the portion eligible for possible special tax consideration.

82. It will not be easy for the Assessment Branch to apportion even the taxable assessed value of an inter-municipal transportation or communications enterprise among the constituent taxing jurisdictions. It should seek to do so, we believe, strictly on the basis of the assessed value of real property holdings within each jurisdiction. Each local taxing authority will have the right to appeal both the total valuation placed by the Assessment Branch upon the property of any of its enterprises and also the portion of the value assigned to its jurisdiction.

83. We see four benefits accruing from the assignment to the Department of Municipal Affairs of responsibility for assessment of transportation and communications properties:

(1) In most instances, the change should immediately produce closer estimates of actual value than at present.

(2) Over a period of years such valuations should become much more precise.

(3) The growth in the importance of the Assessment Branch's function should help to attract capable people to assessment work as a professional career.

(4) Central control of transportation and communications property assessments should provide required research data for the development of a sound policy for their assessment and taxation in future.

84. As the basis for equitable tax treatment of what are now special-assessment properties, *we recommend that:*

[8] *C.P.R.* v. *Sudbury* (1959) O.W.N. 328.

13.2 ***Real property used for transportation or communications enterprises be assessable on the same basis as other real property; and***

(a) the responsibility for assessing the properties of transportation and communications enterprises that overlap local assessment jurisdictions be assigned to the Assessment Branch of the Department of Municipal Affairs, and assessments of such properties be subject to appeal by the local taxing jurisdictions within which they are situated, and

(b) the Assessment Branch be empowered

(i) to assess other transportation and communications properties at the request of the responsible local jurisdiction, and

(ii) to relinquish to local jurisdictions the responsibility for assessing transportation and communications properties where the extent of overlapping jurisdiction is nominal.

SEPARATING THE RESIDENTIAL ASSESSMENT FROM THE FARM

85. In Chapter 11, we deal with the tax position of farm properties. Among our recommendations is a proposal for separating the assessment of land and structures qualifying as a working farm from the assessment of the farm residence and other property. It seems desirable to say a further word on the matter here.

86. In carrying out the assessment of a farm property, we propose that the assessor first complete his estimate of value of the property in total in the ordinary way. Proportionate parts of the value would also be assigned to the land and to the structures placed on the land. On this basis, the assessor would seek to establish the value of the property in accordance with the concept of capital value, defined as value in exchange. Existing and alternative uses would thus both have a bearing on the assessed value. For most farm properties, the demonstrated worth of the land and farm buildings for farm purposes would be an important determinant of value. In some cases, the potential productive capacity of land for farm purposes would obviously be greater than the use actually being made of the land and would add to the assessed value. Land used for farming purposes, however, should not have value added for potential urban development unless an official plan has been adopted and the land is designated for such development.

87. Next, the assessor would divide his assessment between the residence and the working farm. In breaking the assessment into two parts, he would not, however, confine the residential portion of the assessment merely to the residence and sufficient land to accommodate the house and give it access. Rather, he would set about establishing the extent of the value represented in the working farm. On that basis, for example, a laneway giving access both to the farm buildings and to the residence would contribute value both to the working farm and to the residence.

Since access to the work areas would take priority in the use of the lane, most of the lane's value should probably be assigned to the working farm. A farm pond would be valued with the working farm even though it ornamented the residence, whereas a stream running through the farm property but not utilized for watering stock or irrigating land would not add significantly to the value of the working farm. It would add value to the residential part of the property.

88. In our opinion, capable assessors can arrive at a satisfactory division of farm values between the working farm and the remainder. When a reasonable distinction has been drawn, the new assessment information will become more valuable for statistical purposes. The worth of farm business properties can then be compared with the value of urban business properties. Farm residences and recreational properties can be measured against urban residential values. Such comparative information, when available, will help to determine sound policies with respect to the delineation or later alteration of urban service areas, and the development of the most suitable provincial grant formulas.

REFORM IN PROGRESS

89. We have already mentioned in Chapter 10 the steps taken by the Department of Municipal Affairs and the municipal assessors themselves toward improvement of assessing operations throughout the province. Much of the improvement, we found, has been of comparatively recent origin. Let us recapitulate.

90. A university-affiliated correspondence training program was started by the assessors themselves in 1954. After nine years, the Province offered to join in the support of the training program, with the result that the lesson content was completely revised. The first provincial assessment equalization took place in the mid-1950's. It led to the establishment of regional assessment offices in 1957. But it was not until 1966 that equalization index figures were released relating local assessed values to present market values. The Department of Municipal Affairs organized its Assessment Branch twenty years ago. Its first attempt at a manual came three years later, but a manual of professional quality took fourteen more years to produce. The two-part production of valuation techniques and building costs, issued in August 1964, was produced by the Assessment Branch with assistance from Queen's University, a United States appraisal firm and the State of California. The licensing of municipal assessors, which also resulted from a partnership between the Department and the municipal assessors, came about in 1966. Finally, county assessors were an institution of twenty-one years' standing before the first legislation was adopted to authorize the formation of county assessment departments. The statutory basis for district departments of similar scope came three years later, in 1964. Acceptance of the concept of larger assessment units came quickly. Twenty-nine new units are now in existence; others are in process of formation. At the present rate of progress, the forty-nine units needed to cover the organized municipal areas, other than the cities and separated towns, will shortly all have been formed. Completing the required reassessments will take somewhat longer.

91. One further very recent development of vital importance was announced by the Minister of Municipal Affairs on May 15, 1967. In an effort to overcome with greater dispatch the lack of well-trained assessors, the Department is negotiating with the heads of certain community colleges to launch two-year intramural courses for municipal assessors. The Department hopes to see the first of such courses start in the fall of 1967. Significantly, also, this project has the support and participation of both the Institute of Municipal Assessors and the provincial Department of Education.

92. When we see the determination of the Department of Municipal Affairs to make progress on all fronts in the struggle for assessment reform, and when we read the Minister's frank acknowledgement of the extent of assessment shortcomings, it is hard to see what we can offer other than encouragement. Certainly that must be the prime purpose behind our description of the problem and any proposals to assist with its solution.

THE ASSESSMENT FUNCTION

THE YEAR'S WORK

93. Much of an assessment department's time is taken up with gathering information that is unrelated to the valuation of real property, but is used in the preparation of voters' lists, population statistics and other such data. The assessor's office must determine the names of all owners and tenants and record their respective citizenships, occupations and school support. The assessor must decide which adults in a household are fit for jury duty and record the fact. The assessment department must note the number of persons resident in the household and must classify them by age groups. Where a dog tax is administered through the collector's roll, the assessment department is charged with compiling the necessary information.

94. We do not doubt the usefulness of any such data or the necessity of obtaining them afresh each year. But we do question the necessity of assigning this work to a licensed assessor, a person who is now expected to be suitably trained in assessment techniques. In fact, a number of assessment departments already use less qualified people, hired perhaps on a temporary basis, to procure what is called the census information. Where this practice is followed, however, it may mean the disappearance of the last pretence at annual reassessment.

95. The municipal assessor must compile and return a fresh assessment roll every year. Whether he revalues each property or not, he must swear by affidavit with the return of the roll that he has assessed or caused each parcel of real property to be assessed in accordance with The Assessment Act. After the roll is returned, assessment notices are mailed and appeals may be lodged to the court of revision or other specified body. The assessment department is actively concerned with this whole process; the assessor must defend his determination of property ownerships, descriptions and values. In addition to dealing with realty and business assessments, the department is responsible for the calculations in preparation for local improvement levies.

96. The assessment department is expected also to alter the assessment roll to reflect additions to taxable real estate when exempt property becomes taxable during the year, when a business property obtains a new occupant, when farm lands cease to be assessable for farm use only, or when a newly constructed building becomes suitable for occupancy. In practice, the diligent assessor is expected to make such additions to the roll on a monthly basis. Each tax change then applies to the fraction of the year represented by the remaining months.

97. Cancellations, reductions or refunds of taxes are effected through the court of revision. The assessor is expected to be involved in such proceedings. If his rank is that of assessment commissioner, the applications are processed through him; otherwise the municipal clerk fulfils this preliminary function. The grounds on which the tax burden may be lightened are numerous. Property tax adjustments are made on real property that has become exempt from taxation after the return of the roll, or that has been razed by fire or otherwise demolished. Business tax adjustments are made when occupancy of a property for business terminates. The court can also grant relief because of sickness or extreme poverty, a function we recommend be abolished. It can correct a gross or manifest error resulting either in a reduction from or an addition to the tax burden.

ASSESSMENT VERSUS APPRAISAL

98. The new Ontario assessment manual is, as noted earlier, a two-part production. Instruction on how to value property is largely contained within the volume entitled *Appraisal Notes for the Assessor.* Throughout that volume the process of valuing for tax purposes is referred to time and again as "appraising". The prominence given this term in describing the assessor's valuation work can be nothing short of confusing. The word does not appear, to our knowledge, in any of the statutory references to real property assessing in Ontario. It is not employed with this meaning in such reliable reference works as Netzer's new book, *Economics of the Property Tax.* Nor does the meaning attached to the word "appraisal" in the manual coincide with the dictionary meaning. According to the *Shorter Oxford Dictionary*, the word that is used to signify valuation for tax purposes is "assess". We raise this matter not to be contentious, but because of the need for a clear understanding, by professional assessors and the public alike, of the distinction between the kind of valuation responsibility given the municipal assessor and that given the property appraiser.

99. Property valuation in Ontario involves certain identical responsibilities for assessors and appraisers. Both are expected to determine the capital worth of property. Both are concerned, generally, with market value. In particular situations, a professional appraiser may wish to look at value in use to the owner. With respect to certain farm properties, the Ontario assessor has that responsibility. A common interest in "value in exchange" leads assessors, like appraisers, to a concern with the highest and best use to which a property might be put. But at this point, their interests begin to diverge.

100. An appraiser is responsible for a one-time valuation of a property for some

particular purpose: the amount it might be insured for, the cost of expropriation, the desirability of putting it up for sale, etc. The valuation that is made is expected to serve the stated purpose as directly and fully as possible. Consequently, the appraisal must reckon with future possibilities and prospects that have any likely validity. The appraiser is considering the value of properties, one at a time or one group at a time. Examples of the latter sort would include land expropriation for a public building site or for a highway widening. The appraiser must deal with each assignment in a painstaking way because much will hang on his opinion. What is more, he may not have had reason to be involved in the valuation of any other properties in the same area or even of the same type. Consequently, despite a strong interest in market value and market data, he may, in addition, spend far more time and effort on costing a building than an assessor could, or possibly should, do.

101. By comparison with the appraiser, the assessor is a mass producer of property values. For every valuation produced by the appraiser, the assessor is responsible for completing hundreds. As the Department manual states: "The mass appraisal process has one important advantage over the individual appraisal. The large volume of work inherent in mass appraisals provides the assessor with more extensive market data than any individual appraiser can possibly collect."[9]

102. The work of the assessor has other advantages that should not be overlooked. First, the valuation placed on a property by the assessor is more readily subject to adjustment as a consequence of queries by the property owner or his appeal to the courts. Second, the assessor's value must stand for only a single year whereas the appraiser's valuation may influence the course of events for a considerable number of years. Finally, the large volume of valuation work by the assessor does more than strengthen his resulting assessments within the year. The benefit is cumulative. Information as to property sales or rentals may have a measure of validity for five years or more. The calculation of a building's cost of construction may assist in the valuation of other buildings for an even longer time. A knowledge of the economic conditions in a business district or of the demand for properties in a residential area continually reinforces future judgments as to value.

103. The appraiser may spend several days or weeks valuing a single piece of real estate. With rare exceptions, the assessor cannot afford that luxury. Can he then be a comparable professional performer? We suggest he can if he utilizes mass production techniques of property assessment.

104. What makes the mass valuation techniques of the assessment department a legitimate professional process? Properly applied, an assessment department can maintain a continuing accumulation of fresh data and a corresponding rejection of outmoded data. The appeal process can be employed to re-appraise the validity of existing assessments, not only those under review but others of a similar nature. The regular reassessment of properties affords an opportunity to refine the values attached to most parcels of real estate where no immediate changes in the property components have taken place. Certainly errors can be eliminated. Where valuation is expected to stand for only a limited and definite term considerable weight can

[9]Department of Municipal Affairs, *Appraisal Notes for the Assessor*, p. 44.

be given to present use and immediate revenue and market factors. Speculation as to the highest and best use can be kept in the background where it belongs.

ESTIMATING VALUE

105. It is important, then, for the assessor to grasp and give due weight to two important facts:

(1) If an assessment is truly intended to form the basis of taxation of a property for only one year, the speculative potential for increased value need be given little weight.

(2) An assessor can take advantage of his volume valuation responsibilities through the use of mass production techniques to gather, assemble and analyse evidence as to real property values.

106. Among the techniques an assessor should always employ is the preparation of a land value map for each urban area for which he is responsible, and maps showing soil condition, drainage and other such information for farm lands. In addition, each property must be classed according to type (two-storey single-family dwellings, for example). When properties have been carefully classified, sound evidences of value must be gathered with respect to a sufficient number of bench-mark properties within each main property classification.

107. Data processing is already used as a means of speeding the production of assessment rolls, collection rolls and voters' lists. We should also recognize its potential for sorting and classifying properties as part of the mass valuation process. Skilled programming of computers may well result in the mechanical application of basic sales, rental and cost information to speed the work of making annual valuations.

THE ASSESSMENT MANUAL

108. In the course of our work, we examined the Province's new assessment manual. Because it is to be become such an important guide to assessment at market value, we find it necessary to volunteer some criticism of its content. We hope it will prove constructive and help stimulate desirable revision.

109. By and large, assessors are an independent breed. They recognize that although evidences of value are factual, the determination of value by a process of weighing evidence depends finally upon their own judgment. The manual is a means of assisting in the orderly collection and weighing of evidences of value. It can serve to guide the assessor's judgment.

110. The two-part manual issued by the Department of Municipal Affairs joins a large company of assessment manuals issued by most provinces and states throughout North America. These include manuals produced by firms specializing in real property assessment, and those developed by municipal assessors in jurisdictions lacking an assessment manual—or at least lacking one that they found acceptable. Many Ontario counties and local municipalities have manuals that they have sought to tailor to their individual requirements. As the new Ontario manual itself states "The manual does not set down unbreakable rules which the

assessor must follow. Indeed, the assessor who blindly follows this manual without considering circumstances in his own municipality would not be doing a proper job."[10]

111. This opinion as to the proper role of a manual we share completely. Unfortunately, it seems threatened by the recent provision in The Assessment Act that would permit the manual to be made an extension of the statute. The introduction of any explanation of market value or of the means of determining market value either as part of the statute law or in a manual that is made an extension of the statute is likely to create some distortion of the pure concept of value in exchange and would probably give rise to unnecessary litigation. We prefer to see a requirement to assess properties at present market value as an unadorned requirement of the law, open to interpretation by the courts.

112. We are also concerned that the Province's manual not be promoted to the exclusion of other reputable assessment manuals. It would be unfortunate, for example, if the Ontario manual were allowed to dominate either the correspondence or intramural training courses. Assessors in this province should, we believe, keep and refer to a variety of manuals that help them to appreciate most fully the nature of their responsibilities and the best ways of meeting them. As an indication that the present provincial manual is a fallible document, we draw attention to two debatable concepts it contains.

113. According to the *Appraisal Notes,* the information in the assessor's handbook of cost factors is predicated on the Metropolitan Toronto area as of July 1, 1962.[11] Presumably the information is intended to be updated to present market levels although nothing specific is said on the point. Instruction is given to adjust the published costs as required to reflect local conditions outside the Toronto metropolitan area. The recommended means of doing so is as follows:

> There are several well known methods used by assessors to develop local cost modifiers such as indexing material and labour costs. These methods are cumbersome and time-consuming. They are not necessarily accurate. It is usually extremely difficult to weigh the percentages of the costs which are attributable to labour as against building materials and efficiency. This manual recommends the market approach as the easiest and most reliable method of adjustment. This method is fast and accurate. The assessor need not concern himself with weighing the costs between labour, building materials and efficiency.[12]

114. Cost factors are made available to assessors to supplement evidences of value based upon sales and rental information. Yet the cost factors in the new manual are to be adjusted to local conditions and, presumably, updated from information that is now five years old through the application of market data—that is, recorded sales. It is a little like a dog chasing his own tail.

115. The second illustration concerns advice given to the assessor under the heading "Appreciation":

[10] *Appraisal Notes,* p. 4.
[11] *Ibid.,* Appendix C, p. 1.
[12] *Ibid.,* Appendix C, pp. 1-2.

> Appreciation, or the increase in value of property over time, is generally reflected by location and therefore is attributable to land value. Assessors must be extremely careful in analyzing the various reasons why properties increase in value. Property prices are continually being bid upward but it does not necessarily follow that relative value is increased. In many cases rising property prices will be the result of inflationary pressures that effect [*sic*] the entire economy. If the price of a property rises solely as a result of inflation, there is no change in value relative to other properties and the assessor should not take appreciation into account.[13]

We had believed that the primary purpose of the new manual was to foster assessment at present market value. The continuing forces of inflation are an undoubted component of today's market values. How can we discount their effects and retain up-to-date assessment? Over what span of years should we go back to remove the inflationary element that has accumulated in present-day prices? Since inflation has affected wages, various material costs and "efficiency" in different ways, can we distill out the inflationary increases without departing from equity?

ALTERNATIVE PATHS OF REFORM

LOCAL VERSUS PROVINCIAL ADMINISTRATION

116. The path of reform chosen by Ontario's Department of Municipal Affairs is not the same as those chosen by some other jurisdictions. The recent tax inquiries in New Brunswick and in Manitoba both came out strongly for provincial performance of the assessment function. The Saskatchewan and Quebec reports, on the other hand, come closer to the Department's position. They favour the retention of a municipal assessment responsibility, buttressed, however, by a greater degree of supervision by a provincial authority. The latest legislation in Nova Scotia invites larger assessment units and forgoes a provincial takeover.

117. In several states of the United States, serious consideration has been given in recent years to state operation of the assessment function.[14] In all four western provinces, some part of the assessment function has already been transferred to the provincial level.[15] For Manitoba to make assessment an exclusive provincial function would involve only the takeover of municipal assessment operations in Metropolitan Winnipeg, two other cities (Brandon and Portage la Prairie) and four towns. In England, the valuation of property for local tax purposes has been performed since 1950 by the Inland Revenue Department of the national government.

118. One might suppose that a combination of time and political fortitude would bring any self-respecting state or province to the position established in England. Yet our studies have led us to a contrary opinion. Provided that municipal

[13] *Ibid.*, p. 43.
[14] Advisory Commission on Inter-Governmental Relations, *The Role of the States in Strengthening the Property Tax*, 1963, Vol. I, p. 95.
[15] Frederic H. Finnis, *Real Property Assessment in Canada*, Canadian Tax Papers, No. 30, Toronto: Canadian Tax Foundation, 1962.

assessment jurisdictions are big enough to facilitate professional specialization and the use of volume assessment procedures, much of the responsibility, in our opinion, can with advantage be kept local.

119. The Department of Municipal Affairs can develop an exceedingly capable Assessment Branch without stripping municipal assessment departments of their major responsibilities. The Branch is now charged with assessing provincial and Hydro properties. Expansion of provincial payments-in-lieu would enlarge that function. Adoption of other recommendations would add primary liability for assessment of transportation and communications enterprises, mining properties, universities, private schools and public hospitals. The Branch must produce equalization indexes for all local assessment jurisdictions. Although the number of local assessment units will shrink, the scope of the sampling operations should be expanded by covering more properties and by supplementing sales checks with other evidences of value. The Branch must give continual leadership in the training and retraining of local assessors. In all, the opportunity exists for the Province to recruit and hold a substantial number of highly skilled specialists without pre-empting the local function. And at the local level, the formation of larger assessment units should result in attaining personnel with qualifications closely approaching those of the provincial staff.

120. If both provincial and municipal assessors are encouraged to utilize the courts in order to challenge the accuracy of each other's work, an over-all assessment system can develop that, we contend, offers greater safeguards for the taxpayer and a more assured prospect of equity than a complete provincial service could possibly do. Indeed, we stress the duality of the assessment system and the access of both sides to the courts as key elements in a sound arrangement for real property assessment.

121. In conjunction with the promotion of larger assessment jurisdictions, the Province is seeking to extend mechanized assessment procedures. It is encouraging the use of standardized record forms suitable for electronic data processing. We foresee the day, not far distant, when the Province may furnish electronic data-processing services to all municipal assessment departments.

122. Present legislation providing for larger units of administration is unsatisfactory in at least two respects. First, the cities and, in southern Ontario, the separated towns are free to remain outside the larger units that are formed. With one exception they have done so; only the City of North Bay has volunteered to come under a district system. From the latest figures, the six separated towns ranged in population from 4,686 to 13,807. Thus all were too small to remain as independent assessment units. In addition to North Bay, seven cities contain less than 25,000 population, making them likewise of quite inadequate size.

123. Second, the district assessor plan operating in northern Ontario makes the district assessment department neither fish nor fowl. On the one hand, the district assessor is hired and his salary is set by the provincial department. His assessment budget must be approved by the Minister and is subsidized by the

Province. On the other hand the assessment department is expected to serve a cluster of municipalities and school jurisdictions in unorganized territories. The local municipalities concerned, including any improvement districts, are responsible for the residual financial requirements. They are expected to give approval to and exercise basic control over the district assessment system.

124. If proposals we put forward in Chapter 23 for larger local units are adopted, the anomolous situation of district assessors in northern Ontario will disappear and most Ontario assessment jurisdictions will embrace populations in excess of 100,000. Even the present trend to county assessment will not generally produce such units. The requirements for a sound system of municipal assessment constitute one of many strong arguments for larger units of local government.

ASSESSMENT AT PRESENT VALUE

125. In Chapter 11, we expressed our determination to see property assessed at present market value. The result of such a change would be to place in the hands of the taxpayer a comprehensible estimate of the worth of his property. He would, for the first time, have a good prospect of obtaining equitable treatment at the initial level of appeal, because his assessment would be judged in relation to meaningful and understandable criteria of value.

126. Assessment at actual value has another important advantage that ought not to be overlooked. Errors in fact or in judgment are likely to be minimized. A departure of $500 from a 1940-level valuation of $5,000 or thereabouts represents an error of 10 per cent. If the $500 difference is related to a current value of $15,000, the error is only one-third as great.

127. We have proposed that assessment at present value be interpreted, with respect to a roll returned on September 30, as the value of the real property six months before, that is, on March 31. By the time appeals have been heard and the values confirmed, another three or four months will have elapsed. When the value is employed in striking a mill rate, it will be close to twelve months old. In practical terms, this represents about as up-to-date an interpretation of present value as one can get.

128. Under this system, the assessment department which is producing values of the current year must, of course, expect to make use of sales or rental information of earlier years. The same is true of cost data, although—one would hope—within narrower limits. Before any such information can be used, it will have to be adjusted to take account of intervening changes. How far back in time an assessor can go to obtain useful sales, rental or building cost information will depend upon the magnitude and frequency of significant changes.

NEEDED FREQUENCY OF REASSESSMENT

129. Traditionally, the assessment legislation in Ontario has required annual reassessment of all the properties in a municipality. At the end of World War II, however, provision was made for the adoption by by-law of either a two-year or a three-year rotary system of assessment. Under such a plan, the municipal territory

is divided into two or three parts and one part is reassessed each year. At the end of the two- or three-year span, the assessment placed upon the roll will have been entirely revised. The rotary assessment system has not become widely popular, primarily because the necessity of reassessment as a regular recurring process has not been accepted.

130. Other jurisdictions have not always made reassessment at short intervals a statutory requirement. For example, the requirement in Manitoba has been to reassess at least every seven years. But the rule has not been observed even in municipalities where the Municipal Assessment Branch of the Province is the assessor. The Manitoba Royal Commission on Local Government Organization and Finance recommended that the reassessment interval be shortened to a maximum of five years and that reassessment be carried out at intervals of from five years to one year, "depending on the activity and rate of change in property values".[16] The New Brunswick Royal Commission was satisfied to propose reassessment in that province every five years. The Quebec Royal Commission on Taxation recommended the establishment of a Real Estate Valuation Commission with authority to order or to carry out a complete or partial reassessment within a prescribed time. The frequency of reassessment was not specified. Finally, the Saskatchewan Royal Commission on Taxation recommended that no area go more than five years without reassessment and that, when circumstances demanded, assessment take place within a lesser period of time.

131. Our purpose in drawing attention to the stand taken by other tax inquiry bodies is to focus attention on one simple question: Is annual reassessment a practical goal? Would it be more realistic to aim for reassessment at regular intervals of from three to five years?

132. We must, in looking at this issue, recognize the departures from equity that are likely to accrue from a policy of less frequent than annual reassessment. Whether a rotary system of assessment is prescribed or not, the valuation of properties under a three- or five-year system is likely to be carried out at quite different times and, in the absence of careful adjustment, to be oriented to the period over which the assessment took place. All too easily a measure of inequity can exist even upon the return of the new assessment roll. If the roll is returned a second time without reassessment, a new inequity is added to the property tax based upon the changes over the past twelve months. Only reassessment can accomplish full allowance for differences that are to be expected in the rate of building material and production cost changes, of the market value of single-family dwellings by comparison with apartments, of the relative benefits of various commercial locations. To the extent that inequity is countenanced, it affects not only the fairness of local taxation but also the justice of county or other inter-municipal requisitions and of provincial grant payments.

133. If reassessment year by year is a virtually certain prospect, the person assessed will be able to relate his assessment to market value and may be expected

[16]Manitoba, Royal Commission on Local Government Organization and Finance, *Report*, 1964, p. 122.

to put up with some small difference in judgment as to value because the assessment will govern only a single year's taxes. Today, inequitable assessments remain long in effect and are more likely to become further out of line than the reverse.

134. Is annual reassessment bound to be prohibitive in cost? In our opinion, yearly reassessment can be organized in such a way that the cost is manageable and the result far ahead of the existing standard. We present a five-point program by which annual reassessment at an acceptable cost would be reasonably successful. It will require the function to be organized under large and suitably manned assessment departments, mechanized and specialized.

1. *Census Taker's Review.* The persons who visit each property yearly to obtain census information need not be qualified assessors. Money will be saved if they are not. But they should, if possible, be apprentices. Certainly, they ought to be given sufficient instruction before making their rounds so that they can make some field check of changes that affect the worth of properties, both directly and indirectly.
2. *Processing of Valuation Data.* The assessment department should establish the best possible arrangements to secure a continuing flow of fresh data on property sales and rentals, on zoning and on changes in material, manpower, mechanized construction techniques and cost levels. Such information should be tabulated, checked in the field where necessary, and incorporated into revised values of bench-mark and other properties.
3. *Reported Changes.* The assessment department should obtain a maximum flow of information from other departments indicating new construction or renovations that add to the value of buildings. The assessors should be advised automatically when any building, heating, plumbing and other permits are issued that could affect value. A further source that should be open to assessors is electrical inspections by Ontario Hydro. Other inter-departmental contacts can also reveal construction that was not otherwise reported. Since the assessment department itself has a right of entry to check upon the state of buildings, we see no reason why it should not have access to information gleaned by those who carry out fire-prevention or public health inspections or enforce building maintenance by-laws. If necessary, new legislation should be enacted to confirm the assessor's right thus to benefit from the findings of other municipal employees.
4. *Spot Checking.* Each year, the assessment department ought to select properties at random and carry out a complete review of all the physical details of the property as contained on field sheets or assessment record cards. Such sampling should be publicized as a deterrent to non-compliance with local by-laws.
5. *Three-Year Inventory.* Over a period of three years, the assessment department should accomplish a field review of all remaining properties. The municipality might be divided into three parts and one section covered each year, omitting from each section properties that were picked up within the past two years either by spot checking, or in the process of confirming the validity of sales or rental information or of adding new construction to the roll. The

three-year inventory pattern is not, we maintain, a denial of annual reassessment. Even without such an inventory, the assessment department would maintain a sufficient store of up-to-date information to form the basis of annual reassessment for some years. The three-year review is the means of preventing gradual deterioration of the assessment operation through errors creeping into the system and remaining undetected.

135. The very first recommendation in the notable report of the Advisory Commission on Inter-Governmental Relations[17] begins: "Each State should take a hard, critical look at its property tax law and rid it of all features that are impossible to administer as written. . . ." Either reassessment should be carried out annually, giving the taxpayers a truly fresh and fair base for each new tax levy, or the legislation should be altered to acknowledge a different provincial decision. Assessment that is renewed with less frequency than taxation cannot be called assessment at market value. It may begin as such following a reassessment, but it will not remain so without a fresh assessment being made each year. *We therefore recommend that*:

The Assessment Branch of the Department of Municipal Affairs develop and promote the adoption of a plan of annual reassessment in each municipal assessment jurisdiction. **13:3**

The Province make arrangements to ensure that pertinent real property information obtained by other municipal departments and local boards, and through electrical inspections by the Hydro-Electric Power Commission of Ontario, is made available on a regular basis to municipal assessment departments. **13:4**

PREPARATION FOR ASSESSMENT REFORM

136. Annual reassessment cannot be brought in overnight. The first requirement is to perform a thoroughly competent reassessment by which assessed values are brought from a level of values that is, on the average, a full generation out of date to the market value of the present day. The change requires an acceleration of the improvements in municipal assessing that the Department of Municipal Affairs is already so actively aiding. It must have the strong support of the public, cultivated in advance. Of necessity, it must be supported by an improved standard of assessment equalization that measures the rate of progress. Accessible channels of appeal will also contribute to the desired end result. This final requirement is discussed briefly in Chapter 11 and forms the central theme of Chapter 18. The remaining essentials are considered in turn.

ASSESSMENT EQUALIZATION

137. Where municipalities share in certain expenditures or where municipalities or school boards are the recipients of grant support from the Province, assessment

[17] *The Role of the States in Strengthening the Property Tax*, 1963, Vol. I, pp. 8-9.

may be a determinant used in apportioning the expenditures or revenues concerned. Where this is so, it becomes necessary to equalize assessments among the affected municipalities or school boards in order that the allocation of costs or of revenues will be equitable. Where a group of municipalities are served by a common assessment department that has brought down an assessment on a uniform basis, no such equalization is, of course, required.

138. Today, throughout Ontario, two systems of equalization exist side by side. One applies in the whole province, the second only in the south. The equalization system that is applicable both to northern and southern Ontario is carried out by the Assessment Branch of the Department of Municipal Affairs. Coverage is province-wide, embracing all local municipalities and all territories that are organized for school but not for municipal purposes, a total of more than 1,200 local jurisdictions. The equalization arrangement that is confined to southern Ontario operates within each county where a uniform assessment has yet to be established by a county assessment commissioner. The county equalization is used for determination of the county levy and for the requisitions of health units or of high school districts when contained within a single county. Where a high school district embracing all or parts of two or more municipalities cuts across a county boundary or includes land within a city, separated town or territorial district, the statute requires that provincial equalization factors be used to apportion costs. If any of the participating municipalities are of the opinion that an undue burden on their ratepayers results, the matter can be taken further to arbitration. For public or separate school jurisdictions that overlap municipal boundaries, provision is made in the first instance for arbitrators to effect the apportionment of school costs. The separate school arbitrators are expected to develop their own equalization factors by sampling local assessments. No statutory direction is given to guide public school arbitrators in their task. In northern Ontario, the appointment of a district assessor should lead in due course to uniformity of assessment throughout his area of jurisdiction. Within that territory the need for equalization would thus be eliminated. The present plan is to allow three years following the appointment of a district assessor for this position to be reached. Meanwhile, the needed adjustment is made by the use of provincial equalization factors. Equal or speedier progress is hoped for by county commissioners.

139. The Department of Municipal Affairs is seeking a steady expansion of county and district assessment departments. Progressively as more of these departments become established on a firm footing, county-wide or district-wide reassessment will be accomplished, eliminating the need for equalization except among counties, separated towns, cities and districts. But that stage of development is at least five years in the future.

140. Methods of effecting the county equalization vary from one county to another. In some, a "county" manual has been adopted in all the municipalities within the administrative county. Where this has been done, the work of the county assessor is simplified: all he need do is test the level of assessment by sampling enough properties in each municipality to satisfy himself that the manual is being

uniformly applied. Where a county manual has not been adopted by all the local municipalities, the county assessor will have to check a large number of properties in all municipalities against a common standard—usually a manual of his own, derived perhaps from the old provincial manual. Equalization factors for every classification of property in every municipality must then be prepared in order to produce an adequate equalization of aggregate values among all the municipalities. Some county assessors also test the level of assessment by reference to sales/assessment ratios.

141. Until 1965, the provincial assessment equalization was based upon the application of the 1954 version of the Province's assessment manual as representing 100 per cent of value. Properties were selected for the provincial sample and valued primarily by costing the buildings from the manual. Land values were left unequalized except in municipalities such as Windsor and Sault Ste Marie where the level of land values was known to differ greatly from the average. Since 1965, however, the method has been changed. The equalization factors published first in 1965 were based on assessment/sales ratios supplemented by some use of costing from the manual wherever sales data were inadequate. Three important changes have resulted. The sample is no longer hand-picked but is determined by the properties that have been sold. Land values are automatically included in the equalization. The equalization is prone to weakness with respect to those types of properties that are seldom sold.

142. Today, in southern Ontario, county and provincial equalization factors exist side by side year after year. They are not, however, of identical effect. The differences may not be great but they have been substantial in the past and remain consequential still. It is an anomolous situation. If the basis for apportioning county, health unit or high school district costs within a county is equitable, the allocation on a different equalization formula of school or road grants throughout the same areas cannot be. The proposition could just as well have been stated conversely. In fact, we wonder whether either equalization formula has been developed to the point where it is satisfactorily accurate.

143. The assessment equalization work of the Department of Municipal Affairs can and should be an important weapon in the crusade for equitable assessment at current value. Yet it is likely to assume this function only under two conditions: if it is made the sole equalization with official standing, and if the municipalities can challenge the figures in the courts and thereby ensure that the resulting provincial indexes command the respect of the municipalities and the local school authorities. Statutory changes needed to fulfil the second requirement are recommended in Chapter 11. To meet the first condition, county equalizations must be eliminated and replaced by provincial equalizations for county levy purposes, unless the desired attainment of the provincial equalization is to be delayed until after county-wide reassessments have been everywhere accomplished. The preferred course to follow seems plain. *We therefore recommend that:*

County assessment equalization be replaced immediately by provincial assessment equalization. **13:5**

144. There are two essentials of an adequate provincial equalization service that must not be overlooked. Figures should be produced for each local municipality and for each major class of property.

145. A single assessment department serves the Municipality of Metropolitan Toronto. Yet our examination of more than 1,000 Metro properties sold within a specified three-year period revealed substantial differences in assessment levels between the thirteen area municipalities then in existence. The latest assessment equalization report of the Department of Municipal Affairs includes figures for each local municipality within both the Municipality of Metropolitan Toronto and the administrative County of Lincoln, the only larger units where reassessment on a uniform basis is assumed to have been accomplished. But the same figure has been set down for all thirteen municipalities of Metro and, similarly, for each of the ten local municipalities within Lincoln. In the light of our own quite contrasting evidence, we find it scarcely credible that such a degree of uniformity exists.

146. Our aim is the establishment of large assessment units containing on average more than thirty municipalities. It becomes very important to ensure that these larger units do not afford a new form of concealment of inequalities in assessment levels. We propose therefore that the Assessment Branch be required to publish assessment indexes for each local municipality within each assessment jurisdiction and to develop the local index figures by treating each local municipality as a separate entity for equalization purposes.

147. The Assessment Branch's work papers for the old equalization indexes included index calculations by main property classifications—residential, farm, commercial, industrial and special-assessment properties. This amount of detail was not published, and municipal assessors were not generally aware of its existence. Such index figures by class of property should continue to be prepared and then published. Further, with each equalization index, the report should show the number of sample properties used to compute the figure, excluding any properties rejected from the sample. *We therefore recommend that:*

> ***Provincial equalization reports show separate index figures for each local municipality and for each major property classification within the municipality and denote the number of properties used in computing each index.*** **13:6**

DEVELOPING A PROFESSIONAL APPROACH

148. The assessment of real property needs to be recognized as a professional undertaking that must be performed by well-educated, professionally trained, capable people. Assessing has never enjoyed such a reputation with most Ontario taxpayers. For one thing, it is hard to convince most property holders that a municipal employee who makes short, infrequent visits to each particular property knows as much about the value as the owner does himself—if not more. Real estate valuation, the assessor's occupation, is a highly popular avocation. Moreover, the owner may be trying to downgrade the value of his property in the assessor's eyes and, where he is under-assessed, may believe he has succeeded in

doing so. Again, property owners may be convinced that assessors cannot possibly employ professional valuation techniques with the large number of properties for which each is responsible. Finally, for years assessors have been among the lowest paid and the most poorly schooled white-collar employees in the municipal establishment.[18] For many, assessing is still only a part-time occupation.

149. Municipal assessing evolves into an acknowledged professional undertaking of high standing slowly and with difficulty. The recent progress that has been made in the training of assessors has, in all the circumstances, been quite remarkable. Yet obviously much more remains to be done.

150. To elevate assessing to the rank of a profession requires the work to be organized in a manner that opens up new opportunities: administrative, technical and specialized valuation positions. Among municipal assessors, a growing field of opportunity is in prospect as a consequence of the rapid acceptance of county and district units of administration. Part-time assessing at least is on the way out. The formation of even larger units can carry the whole development much further. Similarly, we have already sought to show the greater scope that can be available to employees of the Assessment Branch. Plainly, too, the professional capacities of both the local assessors and the assessors employed by the Department will be further enlarged if promotions and transfers occur freely between the provincial and municipal services. We regard such a development as entirely appropriate and increasingly possible.

151. The training program, developed originally by municipal assessors themselves and supported more recently by the Province, must of course be maintained and raised to still higher standards. That much is obvious. Professional specialization must also be built on an increasingly strong foundation of general education. Today, the student who has less than two years' assessment experience or who is under twenty-five must have completed grade 12 before admission to the training course. We think that eventually admissions will be confined to those with full academic secondary schooling, and intramural courses will gradually replace correspondence training. Again, if the present program is to continue as in-service instruction, it should be carefully oriented toward the system of assessment that applies throughout Ontario. Furthermore, if a prescribed plan of instruction is to be a prerequisite to licensing, the courses must be equally available to assessment personnel whether stationed in the provincial capital or the most remote areas of the province. If correspondence courses are to be supplemented by intramural or field instruction for present municipal employees, the Province or the municipalities should probably meet the full cost, including compensation for the time taken from work. Again, all professional employees of the Assessment Branch must be expected to complete the training. Provincial personnel may possibly feel a need to progress beyond the mandatory requirements that attach to certification, but they must not be allowed to bypass meeting these qualifications.

[18]This opinion is fully substantiated by the annual salary surveys of the Ontario Municipal Association and by two recent salary surveys conducted by the Association of Assessing Officers of Ontario.

152. Since February 1, 1966, the Deparment of Municipal Affairs has required the licensing of all municipal assessors. This most constructive development can speed the needed improvement in assessing standards and in the public's recognition of the assessor's professional status. In our opinion, the licensing requirement should apply not only to all municipal assessors but to all who assess municipal properties for tax purposes, value municipal properties for payments in lieu of taxes, or equalize assessments and valuations for apportionment of revenues or expenditures. In other words, employees of the Assessment Branch of the Department of Municipal Affairs who perform such services ought also to be licensed. Since a large proportion of the Assessment Branch staff would thus be expected to qualify for a municipal assessor's licence, the responsibility for granting licences ought perhaps to be transferred from the Branch. And, in carrying out the licensing function, the Department might formalize the assistance it now obtains from the professional body serving Ontario assessors, the Institute of Assessing Officers of Ontario.

153. The Province may be expected to interest itself increasingly in data-processing procedures not only for production of the assessors' and collectors' rolls but also for the analysis of data required to make the assessments in the first place. At some stage, the Province will probably offer to provide central data-processing services with which all assessment departments may be linked. The next step might be to require all municipal departments to become part of the system. Such a development would be welcomed provided the municipal assessment services retained the opportunity to propose improvements in the form or content of the assessment data.

PUBLIC ACCEPTANCE OF ACTUAL VALUE

154. Few taxpayers want their property assessed at more than real worth or at a higher level of value than used for neighbouring properties. If a taxpayer seeks any change in his assessment, it will almost always be to have it lowered. We can hardly expect, therefore, that the public will display undiluted enthusiasm for a change to assessment at present value. It is essential, however, that local taxpayers be shown that such a change is necessary to assure them of equitable treatment.

155. The case for assessment at present value rests on the conviction that it is far easier to achieve equity between properties when assessments are calculated by reference to present conditions rather than those of an earlier time. The use of current values helps the property owner to make a significant contribution to the final determination of assessed value. Assessment at current value permits the owner to form his own opinion as to whether the value placed on his property by the assessor is realistic. He is in a position to question the assessor if not satisfied on that score and, if necessary, to pursue the subject through the established channels of appeal.

156. It is also important to demonstrate to property owners that the maintenance of equitable assessments represents a skilled professional undertaking. They must come to acknowledge and support it as such. An assessor who must defend

property assessments that purport to represent current value will continually demonstrate his capabilities in defending his assessments with the taxpayers and in the courts.

157. To win public support for an improved assessment operation will require a broad and well-planned educational campaign. The brunt of this responsibility must, we believe, be assumed by the Province as the only level of government that is fully committed to the cause and equipped to give it backing. The Province's first task will be to sell municipal councils on the fact that property assessment has been a neglected area of government, requiring a higher level of expenditure in order to perform the function properly. Local councils will not be won over to this view unless at the same time a substantial proportion of their electors can be made to see the point.

158. The timing of a provincial campaign for a basic improvement in the assessment system is likewise important. One or more target dates should be established for reassessment at present value either of the entire province or of designated assessment regions within the province. The Province's timetable should take account of the length of time required for strengthening of local assessment staffs to perform the more onerous functions.

159. As of December 31, 1966, there were 1,311 licensed assessors throughout Ontario. Of that total, however, only 358 were recognized by the Province as fully qualified. Six hundred and six held temporary licences and 347 probationary licences. By May 1, 1967, the number of licensed assessors had dropped to 1,250, reflecting a reduction in part-time assessors. But the number with either regular or probationary licences had risen from 705 to 861.

160. With the elimination of part-time personnel, the total number of assessors needed to man an improved municipal establishment of larger units of assessment would perhaps be no greater than now. Certainly, a total of 1,500 well-qualified, full-time assessors should, as the Department suggests, provide an adequate pool of professional manpower. Thus the shortage of fully qualified persons amounts to slightly more than one thousand.

161. To reach the required number of qualified assessors represents a formidable task. The method of training has been a correspondence program spread throughout three years. Almost every student is actively engaged in assessment work while taking his training, although a few may serve in related areas of municipal employment.

162. To speed up the program of professional assessor training will require the development of intramural instruction at universities or community colleges as the Minister proposes. That the problem is not insurmountable is illustrated by the fact that the number of full-time teachers in the elementary and secondary schools of this province totalled 71,889 as of September 30, 1966—almost fifty-five times the required complement of assessors—and included 14,358 persons who had entered the school system during the prior twelve months. The

number needed to place assessing on a proper professional footing is therefore about 7 per cent of the number of new teachers needed *each year* to maintain the local schooling system.

163. One of the public's fears is that, where reassessment occurs, it will enable a municipality to raise taxes without increasing the mill rate and without having to justify the full extent of the increase. Yet the Province can gain adequate support for the changeover. First of all, it might be pointed out that annual reassessment at current values would eliminate such concealed tax increases in the future. Second, the Province could take steps to ensure that the reassessment required to reach actual value did not provide an opportunity on this occasion for hidden tax increases. With this latter purpose in view, the Province might undertake, following each reassessment, to interpret to the public by means of its assessment index figures the relationship between the old assessment and the new. The comparison should be expressed also in approximate mill-rate equivalents—both when the new assessment is brought down and when the first tax rate is struck. *We therefore recommend that:*

The Assessment Branch publicize the effect upon mill rates of each municipal reassessment at present value. **13:7**

164. Finally, we think it important for the Province to show the public the advantages of mechanizing assessment operations. Many taxpayers are not fully aware of the number of properties with which an assessment department must deal each year and of the potential for sorting, checking and refining valuations with the help of data-processing equipment. It is through production-line techniques that the potential for professional assessing can be fully realized. The Province could provide invaluable assistance to smaller municipalities by making centralized data-processing services available at cost.

COST AND TIMING

165. Annual reassessment only becomes possible when built on a solid foundation of assessment at market value where the values assigned to properties are backed by ample evidence. The reassessment of all Ontario taxing jurisdictions in such a thoroughgoing manner will take time. The work is already in progress but is far from completion.

166. The two-part manual was released in August 1964. It has been explained to assessors subsequently in a series of instruction meetings and short courses. Where the county commissioner or district assessor system has been adopted, a target date has been set for reassessment using the new manual. Some county commissioners will be bringing in the new assessment in stages by groups of local municipalities; others will perhaps attempt the change all at once. The first few reassessments were brought in with the return of the roll on September 30, 1966. But it will be several years before the bulk of the reassessment is accomplished, without allowing for unforeseen delays.

167. The rate of reassessment will, we submit, be influenced considerably by the size, and hence the strength, of municipal assessing jurisdictions. We give

credit to the Province not only for promoting the county and district departments but for encouraging combined units for the Counties of Wellington and Dufferin in southern Ontario and the Districts of Manitoulin and Parry Sound in northern Ontario. On the other hand, three counties where the commissioner system exists range in population between 27,000 and 30,000. A fourth county has a population just under 20,000. None of these units is adequate in size. The independent position of smaller cities and separated towns poses a similar problem. Consequently, we reiterate the need to move as quickly as possible to larger regional units that consolidate groups of counties and embrace the cities and the separated towns.

168. While we recognize the need for mandatory action to bring assessment reform, we believe it can and should be combined with generous financial assistance. No municipality should delay reassessment merely for lack of funds. There is precedent for provincial assistance in that the Province paid the entire cost of the reassessment of the suburban municipalities that became part of Metropolitan Toronto. In our view, the Province should assume the extraordinary assessing costs incurred by a municipality in reassessing at market value. As there may be circumstances where it would be difficult to determine the exact amount of the extraordinary costs, we suggest that a municipality should be reimbursed for at least 50 per cent of the total cost of the reassessment. Accordingly, *we recommend that:*

The costs incurred by a municipality in completing an initial reassessment at market value be reimbursed by the Province to the extent of **13:8**

(a) all of the extraordinary costs, or

(b) 50 per cent of the total costs,

whichever is the greater.

Appendix to Chapter 13

ASSESSMENT INEQUITIES THROUGHOUT ONTARIO

COMMITTEE SURVEY

As part of our examination of the property tax, we commissioned a study whose purpose was to establish the extent of existing inequities in realty assessments. Our method was to compare the relationship of local assessments to the values of properties as established by suitable arm's-length sales throughout a three-year period ending December 31, 1963. To be certain that the sales gave true evidence of value, the study included inspections of sales records and of the actual properties, often in the company of the local assessors, whose help was invaluable.

We had hoped to employ a random sample embracing urban and rural municipalities, both large and small, throughout the province. Our desire to maintain a geographic dispersal of municipalities and the need to eliminate certain places, first, where sales information was inadequate and, second, to conserve time, required us to depart somewhat from that objective. Where more property sales were available in a municipality than the predetermined number, however, we met our requirements by a random sample. Our final selection of twenty-one municipalities and the Municipality of Metropolitan Toronto preserved sufficient objectivity and coverage to satisfy our need.

Another point of note is our decision to compile information relating to the Toronto area for each local municipality separately, with startling consequences. Despite the merger of assessment responsibilities under Metropolitan Toronto in 1954, and the earlier attempt to achieve uniformity through the Greater Toronto Assessment Board, wide differences were revealed in assessing performance between one area municipality and another.

Tables 13:1 to 13:8 list the selected municipalities in order of population and show the average ratios of assessment to market price and the range of these ratios for residential, apartment, commercial and industrial land, both vacant and improved. The form of average we have chosen is the weighted arithmetic average. By this we mean the total assessed value of the properties in each sample expressed as a percentage of the total market (sales) value of the same properties.

In comparing the range of assessment/sales ratios in individual municipalities, it is important to consider the number of properties sampled in each. The larger the sample, the greater the significance and reliability of the figures. All sales that appeared to be at arm's length were discarded but, even in an arm's-length transaction, the price paid for an individual property may differ significantly from that paid for closely comparable properties.

Deviation from the average assessment/sales ratio by individual properties does not necessarily reflect upon the standard of assessment. In fact, such individual fluctuations are inevitable, more especially in a three-year market. It is because such deviations will always occur that average sales/assessment ratios

must be calculated. On the other hand, numerous widespread departures from the average assessment/sales ratio in a municipality provide a clear indication that something is wrong with the assessment. Experience has shown that, where sales are plentiful and assessments are at current values, a spread of up to 10 percentage points on either side of the average may be acceptable and where sales are scarce a range of up to 15 points on either side may be the best that can be expected. A single sale, of course, is useless as evidence of value, four or five sales are indicative, a hundred are invaluable. A further point is that we may expect greater swings from the average for commercial properties and still more so for industrial properties, both because of the smaller number of samples and the greater real difficulty in achieving accurate assessments.

One other point should be noted before we turn to the Tables. The analysis of vacant land was limited to those samples where the permitted land use for which the land was assessed corresponded with the purpose for which the land was acquired. To illustrate, sales of land zoned and assessed for residential but sold for development of apartment buildings were discarded.

Table 13:1 covers residential property in thirty-three municipalities, including twelve within Metropolitan Toronto. Mimico was dropped because the sample there was too small. Twelve municipalities were assessing residences at an average of 20 to 29 per cent of market price, nineteen averaged between 30 and 40 per cent, one averaged 44 per cent and one 71 per cent. In Metropolitan Toronto, the residences in Swansea, where only four samples were taken, appeared to be assessed higher, at 37 per cent of market prices, than those of any other of the area municipalities. York Township residences, assessed at 29 per cent, were valued at the lowest level.

The spread between the highest and lowest assessment/sales ratios in an individual municipality was narrowest in Leaside, where only 6.2 percentage points separated the highest and lowest ratios. The position is accounted for, in part at least, by a high degree of uniformity in the ages and types of residences.

The widest spread occurred in Atikokan with 147.1 percentage points. As fifty-eight sound sales were available for study in Atikokan it is clear that such a wide spread—no less than 73 percentage points on either side of the average—is entirely unacceptable, and the more so knowing the average assessment level in Atikokan is only 45 per cent of the indicated market value. It was mentioned above that an acceptable spread in assessment/sales ratios, where assessments are made at current values and where sales are plentiful, would be up to 10 percentage points on either side of the average. If the assessment is made at 45 per cent of current values the acceptable deviation would be reduced to 4.5 points on either side. To put this another way, where the average assessment is 45 per cent of current sales prices an assessor should reasonably be able to achieve a dispersion no greater than 40.5 per cent to 49.5 per cent of market prices.

In Metropolitan Toronto, Leaside appears to be the most equitably assessed in relation to market prices. In that municipality, where assessments are made at

TABLE 13:1

ONTARIO COMMITTEE ON TAXATION: ASSESSMENT SURVEY

AVERAGE ASSESSMENT/SALES RATIOS, 1961-63

RESIDENTIAL IMPROVED LAND

Municipality	*Number in sample*	*Range of ratios*			*Weighted average ratios*
		Low	*High*	*Spread*	
		%	%	*Percentage points*	%
City of Toronto*	47	16.9	58.1	41.2	31.2
North York*	47	23.9	45.7	21.8	33.7
Hamilton	129	18.3	53.0	34.7	34.7
Scarborough*	38	28.3	48.3	20.0	33.0
Etobicoke*	34	29.5	49.3	19.8	36.0
York*	16	20.7	40.7	20.0	28.5
Kitchener	85	26.2	54.0	27.8	37.0
Sudbury	106	20.2	55.8	35.6	29.1
East York*	10	26.8	40.3	13.5	32.2
City of Sarnia	76	41.9	109.0	67.1	71.1
Forest Hill*	6	26.7	47.4	20.7	35.1
Leaside*	8	25.4	31.6	6.2	30.0
New Toronto*	4	26.8	44.7	17.9	33.5
Long Branch*	6	26.0	36.8	10.8	32.6
Weston*	5	22.9	43.0	20.1	31.1
Cobourg	53	17.9	50.6	32.7	29.8
Swansea*	4	29.6	42.4	12.8	37.1
Orilla Township	52	14.2	64.7	50.5	27.9
Sturgeon Falls	47	17.2	63.1	45.9	33.9
Charlotteville	47	11.9	40.0	28.1	24.2
Atikokan	58	21.1	168.2	147.1	43.7
Cumberland	46	12.4	54.0	41.6	23.0
Wilmot	48	9.4	42.5	33.1	23.9
Arnprior	57	13.2	46.3	33.1	28.4
Woolwich	34	12.1	42.2	30.1	22.5
Streetsville	111	20.0	47.7	27.7	26.8
Chippawa	54	24.0	81.1	57.1	34.7
Plantagenet South	21	24.7	68.0	43.3	38.5
Delaware	16	30.0	50.0	20.0	32.4
Greenock	8	17.2	40.0	22.8	28.7
Colborne	51	19.0	63.9	44.9	28.9
Wellesley	17	19.1	50.0	30.9	27.6
Springfield	14	26.3	100.0	73.7	33.9

*Area municipalities of Metropolitan Toronto.

a little more than 30 per cent of sales prices, the spread is 3.1 percentage points on either side of the average—a fair goal to achieve. In the City of Toronto, where the average is 31 per cent of sales prices the spread is more than 20 points on either side of the average—the widest spread in Metro.

Table 13:2 covers vacant residential land in twenty municipalities including three area municipalities of Metropolitan Toronto—North York, Scarborough and Etobicoke. While similar disparities to those mentioned above occur between and within municipalities when assessments are related to sales, it is also notable that vacant residential land in nineteen of the twenty municipalities is assessed at a lower percentage of sales prices than residential land that has been built upon. Orillia Township is the exception. In that municipality built-on residential land is assessed at an average of 28 per cent of sales prices and vacant residential land is assessed at 32 per cent.

TABLE 13:2

ONTARIO COMMITTEE ON TAXATION: ASSESSMENT SURVEY

AVERAGE ASSESSMENT/SALES RATIOS, 1961-63

VACANT RESIDENTIAL LAND

Municipality	*Number in sample*	*Range of ratios*			*Weighted average ratios*
		Low	*High*	*Spread*	*ratios*
		%	%	*Percentage points*	%
North York*	24	1.6	123.0	121.4	26.0
Hamilton	4	12.1	27.0	14.9	20.7
Scarborough*	15	19.1	48.6	29.5	29.0
Etobicoke*	13	14.5	58.9	44.4	33.1
Kitchener	19	11.1	82.0	70.9	30.0
Sudbury	14	6.2	32.0	25.8	21.3
Sarnia	11	29.2	66.4	37.2	44.5
Cobourg	10	11.8	38.7	26.9	18.9
Orilla Township	35	14.2	95.0	80.8	31.9
Sturgeon Falls	10	16.7	34.0	17.3	22.1
Charlotteville	5	11.4	19.2	7.8	17.7
Cumberland	8	8.1	30.0	21.9	15.6
Wilmot	8	4.4	36.4	32.0	12.9
Arnprior	9	2.7	36.9	34.2	20.0
Woolwich	16	6.8	29.2	22.4	13.6
Streetsville	5	19.1	84.0	64.9	23.7
Chippawa	11	20.3	55.0	34.7	28.0
Plantagenet South	15	16.0	95.0	79.0	26.3
Delaware	24	14.4	300.0	285.4	26.1
Colborne	4	18.3	36.0	17.7	26.3

*Area municipalities of Metropolitan Toronto.

TABLE 13:3

ONTARIO COMMITTEE ON TAXATION: ASSESSMENT SURVEY

AVERAGE ASSESSMENT/SALES RATIOS, 1961-63

APARTMENT IMPROVED LAND

Municipality	*Number in sample*	*Range of ratios*			*Weighted average ratios*
		Low	*High*	*Spread*	
		%	%	*Percentage points*	%
City of Toronto*	85	13.1	167.5	154.4	54.3
North York*	29	2.0	178.9	176.9	50.7
Hamilton	50	29.9	82.1	52.2	48.5
Scarborough*	12	42.5	82.0	39.5	62.0
Etobicoke*	20	39.6	71.9	32.3	54.1
York*	20	39.9	78.9	39.0	55.5
Kitchener	23	34.8	57.3	22.5	48.3
Sudbury	11	21.9	36.9	15.0	30.1
East York*	5	40.5	66.9	26.4	55.7
Sarnia	6	62.1	79.9	17.8	71.2
Forest Hill*	4	42.4	57.2	14.8	47.6
Mimico*	4	44.3	64.2	19.9	50.5
Cobourg	4	28.2	47.5	19.3	31.7

*Area municipalities of Metropolitan Toronto.

Table 13:3 presents comparable data for apartments in thirteen municipalities. The Table shows that the level of assessments of apartments was between 30 and 39 per cent of market price in two municipalities, between 40 and 49 per cent in

three municipalities, between 50 and 59 per cent in six municipalities, at 62 per cent in Scarborough, and 71 per cent in the City of Sarnia.

In comparing Tables 13:1 and 13:3, it is evident that, with few exceptions, apartments were being assessed at a higher percentage of assessed value than other dwellings in the same municipality. In Sarnia the difference was insignificant and it was small in Sudbury and Cobourg. In Kitchener, apartments were assessed at 48 per cent of sales prices while other residences were assessed at 37 per cent. In other words, the assessment (and tax) weight placed upon apartments was about 30 per cent higher. In Hamilton, by the same standard, apartment assessments were 40 per cent higher than private homes, and in the seven municipalities of Metropolitan Toronto for which comparisons could be made, apartments ranged from 36 per cent above the level of assessment on dwellings in Forest Hill to 95 per cent in York Township. Within individual municipalities, assessed values of apartments varied enormously in relation to sales prices. In North York, where the range was widest, apartment assessments varied from 2 to 179 per cent of market price; in Toronto, from 13 to 168 per cent; and in Hamilton from 30 to 82 per cent. These are distressingly high variations, which may be due in part to the fact that land for apartments increased rapidly in value in some areas of these municipalities in the years 1961 to 1963.

Table 13:4 shows that assessed values of vacant apartment land in six municipalities fluctuated erratically: in all the municipalities, vacant apartment land was assessed well below the level of apartment land already built upon. In Etobicoke, for example, vacant apartment land was assessed at 14 per cent of sales prices compared with 54 per cent for built-on land.

TABLE 13:4

ONTARIO COMMITTEE ON TAXATION: ASSESSMENT SURVEY
AVERAGE ASSESSMENT/SALES RATIOS, 1961-63
VACANT APARTMENT LAND

Municipality	*Number in sample*	*Range of ratios*			*Weighted average ratios*
		Low	*High*	*Spread*	
		%	%	*Percentage points*	%
City of Toronto*	5	10.5	26.5	16.0	16.3
North York*	25	5.2	60.0	54.8	26.2
Scarborough*	4	25.6	39.2	13.6	31.2
Etobicoke*	5	5.4	26.4	21.0	13.9
York*	4	29.9	35.7	5.8	34.3
City of Sarnia	8	19.4	94.2	74.8	33.9

*Area municipalities of Metropolitan Toronto.

Similar data for commercial property in twenty-five municipalities are shown in Tables 13:5 and 13:6. For the municipalities of Metropolitan Toronto and Hamilton, industrial property is shown as a separate category. In all other municipalities, commercial and industrial properties were combined. As a percentage of market prices, built-on commercial property assessments varied between 10 and

19 per cent in one municipality, between 20 and 29 per cent in six municipalities, between 30 and 39 per cent in eight municipalities, between 40 and 49 per cent in seven municipalities, and between 50 and 59 per cent in one municipality, and stood at 66 per cent in one municipality and at 117 per cent in another.

TABLE 13:5

ONTARIO COMMITTEE ON TAXATION: ASSESSMENT SURVEY
AVERAGE ASSESSMENT/SALES RATIOS, 1961-63
COMMERCIAL IMPROVED LAND‡

Municipality	*Number in sample*	*Range of ratios*			*Weighted average ratios*
		Low	*High*	*Spread*	
		%	%	*Percentage points*	%
City of Toronto*	142	14.0	123.5	109.5	43.5
North York*	10	18.7	61.0	42.3	34.8
Hamilton	109	17.1	86.0	68.9	40.8
Scarborough*	5	15.4	66.6	51.2	31.4
Etobicoke*	6	25.0	55.0	30.0	43.8
York*	7	9.9	51.6	41.7	36.7
Kitchener	71	20.5	88.5	68.0	46.8
Sudbury	32	12.8	60.2	47.4	27.0
City of Sarnia	47	33.3	144.4	111.1	66.1
Leaside*	4	24.7	81.6	56.9	45.9
Mimico*	4	37.6	150.2	112.6	50.7
Cobourg	23	20.2	83.1	62.9	34.8
Orilla Township	11	19.6	46.5	26.9	25.2
Sturgeon Falls	7	14.7	73.0	58.3	37.7
Charlotteville	13	9.9	43.7	33.8	17.6
Atikokan	11	26.6	99.0	72.4	49.3
Cumberland	6	22.6	58.9	36.3	34.5
Wilmot	5	20.1	29.7	9.6	23.8
Arnprior	9	20.6	64.6	44.0	34.5
Woolwich	8	12.2	69.6	57.4	26.9
Streetsville	5	23.1	35.8	12.7	28.6
Chippawa	4	34.4	50.6	16.2	40.1
Plantagenet South	6	12.2	43.6	31.4	20.7
Colborne	4	48.7	198.3	149.6	116.7
Springfield	4	19.0	61.5	42.5	31.0

*Area municipalities of Metropolitan Toronto.
‡Includes industrial property for all except Hamilton and the area municipalities of Metropolitan Toronto.

Indication of greater difficulty in assessing business properties lies in the fact that the range of ratios tended to be substantially greater than for residences other than apartments. It is also significant that fifteen, or 63 per cent, of the twenty-four municipalities shown in both Tables 13:1 and 13:5 assessed commercial property at a higher level than private dwellings in relation to sales prices.

In Metropolitan Toronto, six area municipalities were available for comparison of dwellings and commercial properties. In North York the relationship was very close, but commercial property assessments were 39 per cent higher than private residential in the City of Toronto, 22 per cent higher in Etobicoke, 30 per cent higher in York and 52 per cent higher in Leaside. Among other municipalities, the most extreme differential occurred in Colborne where commercial properties were assessed at 117 per cent of sales prices compared with 29 per cent for

TABLE 13:6

ONTARIO COMMITTEE ON TAXATION: ASSESSMENT SURVEY

AVERAGE ASSESSMENT/SALES RATIOS, 1961-63

VACANT COMMERCIAL LAND

Municipality	*Number in sample*	*Range of ratios*			*Weighted average ratios*
		Low	*High*	*Spread*	
		%	%	*Percentage points*	%
City of Toronto*	10	9.5	99.6	90.1	24.2
North York*	7	9.7	28.6	18.9	17.7
Hamilton	6	19.5	40.5	21.0	29.9
Scarborough*	17	8.7	46.6	37.9	25.9
Etobicoke*	7	15.0	64.0	49.0	29.0
Kitchener	9	18.6	44.7	26.1	34.5
Sudbury	23	4.6	42.5	37.9	14.7
Sturgeon Falls	5	7.8	65.0	57.2	9.9
City of Sarnia	4	13.3	47.1	33.8	20.3
Arnprior	6	3.1	46.0	42.9	19.4
Streetsville	9	10.6	24.8	14.2	15.0

*Area municipalities of Metropolitan Toronto.

residential. This means that, according to the evidence we obtained, commercial properties in Colborne were assessed 303 per cent higher than private dwellings. Table 13:6 presents the study's findings for commercial vacant land in eleven municipalities. The picture is the same as for residential vacant land; wide fluctuations in assessment/sales ratios and considerably lower assessed values for vacant commercial land than built-on commercial land.

Lastly, Tables 13:7 and 13:8 give the corresponding data for industrial properties in six municipalities of Metropolitan Toronto and in Hamilton. For three of these municipalities, the average level of assessment for improved industrial land, shown in Table 13:7, was between 40 and 49 per cent of market price. For the remaining four municipalities, it was between 50 and 59 per cent. It is clear that for both industrial and commercial property, the level of assessment in these municipalities was substantially higher than for dwellings other than apartments. The differences appear too great to be attributable to chance. The range of assessments as a percentage of market value was between 20 and 29 per cent in two municipalities, between 30 and 39 per cent in another two municipalities, between 40 and 50 per cent in two more, and in Toronto, with a sample of forty-one properties, 128 per cent. The data for industrial vacant land in Table 13:8 again discloses a pattern similar to that for other classifications of vacant land; a wide range in assessment ratios, with assessed values considerably below the assessed value of built-on industrial properties.

In comparing land assessments with those for land and buildings as a percentage of market price, one conclusion stands out. With the single exception of residential land other than for apartments in Orillia Township, the level of assessment is lower for each category of vacant land in each municipality studied than is the corresponding level of assessment on land and buildings combined. In some

TABLE 13:7

ONTARIO COMMITTEE ON TAXATION: ASSESSMENT SURVEY

AVERAGE ASSESSMENT/SALES RATIOS, 1961-63

INDUSTRIAL IMPROVED LAND

(Metropolitan Toronto and Hamilton)

Municipality	*Number in sample*	*Range of ratios*			*Weighted average ratios*
		Low	*High*	*Spread*	
		%	%	*Percentage points*	%
City of Toronto	41	22.9	151.1	128.2	49.8
North York	28	35.7	71.0	35.3	47.2
Hamilton	17	37.6	78.5	40.9	47.8
Scarborough	13	45.1	67.2	22.1	57.1
Etobicoke	47	22.2	71.8	49.6	46.3
York	10	45.1	73.3	28.2	58.9
Leaside	8	35.9	75.3	39.4	53.2

TABLE 13:8

ONTARIO COMMITTEE ON TAXATION: ASSESSMENT SURVEY

AVERAGE ASSESSMENT/SALES RATIOS, 1961-63

VACANT INDUSTRIAL LAND

(Metropolitan Toronto and Hamilton)

Municipality	*Number in sample*	*Range of ratios*			*Weighted average ratios*
		Low	*High*	*Spread*	
		%	%	*Percentage points*	%
North York	36	8.3	86.7	78.4	40.8
Hamilton	5	25.1	40.9	15.8	26.7
Scarborough	19	9.7	50.0	40.3	30.6
Etobicoke	26	13.7	63.8	50.1	37.7
York	6	20.9	72.7	51.8	34.0

municipalities the differences in average level for each category of property are so great that they cannot, we believe, be reasonably attributable to chance. This is true, for example, of all municipalities in Metropolitan Toronto for which we presented data, and of Hamilton and Sarnia.

We believe that in these municipalities a policy of discrimination in favour of land without buildings was being pursued, with or without the knowledge of the municipal councils. It represents a serious departure from the requirements of the statute. We must oppose any such differentiation between any categories of property, whether the deliberate or the accidental result of assessment procedures.

In making comparisons between municipalities in these charts, it is important to keep in mind that the dispersion of assessment/sales ratios has been influenced by the small size of most of the samples. In all the Tables, however, it is very evident that the range of variation around the average level of assessment varies substantially from municipality to municipality.

The municipalities having the highest level of assessment for dwellings other than apartments generally have the highest level of assessment for other types of property. We note further that the average level of assessment as a percentage of market value for land and buildings varied more for the four categories of property in Metropolitan Toronto and in Hamilton than in any of the other municipalities in the charts. We conclude that in most municipalities and in Metropolitan Toronto and Hamilton in particular, contrary to the provisions of The Assessment Act, there was a policy, deliberate or unintentional, of discriminating against apartments and business properties in favour of private dwellings. The wide dispersion of ratios for each category of property in Metropolitan Toronto and in Hamilton suggests, however, that the policy of discrimination has not been applied uniformly. The size of our samples for these municipalities enables us in this instance to draw a conclusion for the years 1961-63 that we believe to be fully reliable statistically. Wide variations in the range of ratios for any class of property are not, of course, confined to these two places, being also found in some degree in virtually all the other municipalities.

It should be added that in making these comments about discriminatory assessment practices, we are not implying that there has been any corrupt practice, either on the part of elected councillors bringing improper pressure to bear on assessors, or on the part of appointed officials.

The wide range of dispersion in the ratios for individual properties within each category of property suggests that within these categories there has been far more variation in ratios than is justified from the viewpoint of equity. This, we repeat, is suggested. The range is the difference between the largest and the smallest item in a series of numbers. It would be possible mathematically to have the ratios of assessment to market price for each class of property in a municipality to cluster very closely around the average value for that type of property—except for one or two properties which, for no easily accountable reason, were sold at ratios respectively far above and far below those pertaining to other more conformist properties. The reason could simply be that the sales that were wide of the mark involved persons on one side who were unfamiliar with market prices and who consented to an unfavourable transaction.

To obtain more information on the dispersion around the average ratios for various types of property, the assessors conducting the study drew up a series of five tables for the different types of property in which they showed:

(1) the number of items in each sample,

(2) the percentage of the sample falling within plus or minus 10 per cent of the average ratio of assessment to market price,

(3) the percentage of the sample falling outside the range of plus or minus 20 per cent on either side of the average ratio of assessed value to market price. Thus, if the average ratio for commercial properties was 30 per cent, this 20 per cent dispersion would give us a percentage of items where the assessment fell below 24 per cent of market price or exceeded 36 per cent.

In these calculations, all thirteen municipalities of Metropolitan Toronto were treated as an entity. The results from these tables are summarized in Table 13:9. Before passing to a consideration of it, we observe that Streetsville was the municipality with the smallest proportion of assessments deviating from the average ratio of assessment to market price by more than plus or minus 20 per cent for dwellings other than apartments and also for commercial properties.

The first column of Table 13:9 indicates the percentage of items in the samples lying beyond 20 per cent on either side of the average ratio of assessment to market price for the type of property in question. If the goals of tolerable dispersion referred to earlier had been attained, there would be no items appearing in this entire Table. Since the number of items in the samples for various municipalities differ substantially, we have indicated in column 3 the number of items in the samples for each category of property. The middle column shows the number of municipalities.

How are the data in this table to be interpreted? Let us take as an example the first category, residential properties excluding apartments. In six municipalities for which we sample a total of 660 properties, under 20 per cent of the individual properties were being assessed at a percentage of market value that fell below or above the average ratio in that municipality by 20 per cent or more. Similarly, for ten municipalities, in which we had a sample of 430 items, between 21 and 40 per cent of the homes were being assessed at a percentage of market value that fell below or above the average ratio in that municipality by 20 per cent or more. In the remaining six municipalities, with a sample of 268 properties, between 41 and 60 per cent of the homes were being assessed at the percentage of market value that deviated from the average ratio in the municipality concerned by 20 per cent or more.

We conclude that the majority of dwellings other than apartments in the municipalities concerned for the years 1961-63 were being assessed with a degree of inaccuracy that deserves public censure. This statement is equally applicable to the assessment of apartments. The assessing of industrial properties was even less satisfactory. The assessment of farms was worse. The assessment of commercial properties was worst of all, for 99 per cent of these properties were being assessed at a percentage below or above the average ratio in that municipality by 20 per cent or more.

We cannot generalize from our findings in these municipalities to comment on the uniformity of assessment in all Ontario municipalities. Our sample of municipalities was not large enough to warrant this. Yet, in view of the way in which our sample was selected, we believe it highly probable that the general level of assessing in most other Ontario municipalities in the same period falls far short of the goal

TABLE 13:9

ONTARIO COMMITTEE ON TAXATION: ASSESSMENT SURVEY

GROUPED FREQUENCY DISTRIBUTION OF MUNICIPALITIES BY PROPORTION OF SAMPLED ASSESSMENT TO MARKET VALUE RATIOS LYING MORE THAN 20 PER CENT FROM THE MUNICIPAL MEAN RATIO.

Properties in each % of sample lying beyond ± 20% from average rate	*Number of municipalities*	*Number of properties*
		Residential Improved Property
0 — 20%	6	660
21% — 40%	10	430
41% — 60%	6	268
61% — 80%	0	0
81% — 100%	0*	0
	22	1,358
		Commercial Improved Property
0 — 20%	1	5
21% — 40%	0	0
41% — 60%	8	462
61% — 80%	4	80
81% — 100%	2	15
	15	562
		Apartment Improved Property
0 — 20%	4†	90
21% — 40%	2	193
41% — 60%	0	0
61% — 80%	0	0
81% — 100%	0	0
	6	283
		Farm Improved Property
0 — 20%	0	0
21% — 40%	0	0
41% — 60%	7‡	219
61% — 80%	1	12
81% — 100%	0	0
	8	231
		Industrial Improved Property§
0 — 20%	0	0
21% — 40%	2	165
41% — 60%	0	0
61% — 80%	0	0
81% — 100%	0	0
	2	165

*The totals include only those municipalities with five or more properties in the given class.

†Two of these municipalities, Kitchener and Sarnia, with twenty-three and six apartment improved properties respectively, have no sampled assessment to market value ratios lying more than 20 per cent from the sample mean ratio.

‡The Appendix Table breaks Charlotteville into tobacco and general farm, but both types of property have a distribution of assessment to market value ratios such that about 50 per cent of these ratios lie more than 20 per cent from the mean. Hence they are recombined in this Table.

§Only in two municipalities, Hamilton and Metropolitan Toronto, are industrial properties separated from commercial properties.

we consider attainable. It is true that by the time this Report is published three full years will have elapsed since to our knowledge the last property included in our samples was sold. But we believe that the current situation in the great majority of municipalities has not changed greatly in the interim. An urgent need remains to improve the level of competence in assessing.

ANALYSIS OF PROVINCIAL EQUALIZATION DATA

Samplings of 1963 assessments made by the Province for the purpose of the 1964 equalization also showed sharp differences in the levels of assessments for different classes of property within municipalities. As explained in the body of this chapter, the Province annually prepares equalization factors for every municipality so that, when the appropriate factor is applied to the total assessment of a municipality, the local assessments are either increased or decreased to make them conform approximately to a uniform standard. In 1964, the uniform standard was the level of values on which the Department of Municipal Affairs 1954 assessment manual was based—that is, related approximately to the year 1940.

The provincial equalization factor is a composite or average factor determined after examination of all classifications of property in a municipality and weighted to take account of the proportion of the total assessment represented by each classification. By analysis of the Department equalization work sheets for the 1963 assessments of about 95 per cent of all Ontario municipalities, it has been possible to observe the extent to which the various classifications of property within each municipality have varied on the average from the composite average.

Before presenting the figures, it is important to clarify the basis of comparison that they provide. The equalization figures, both by individual class of property and in total, can be expressed as percentage figures related to a standard level of values. The chosen standard puts the base year level of values at 100. The composite equalization figure for a particular municipality shows the extent of the percentage spread below or above the index base. The individual percentage figures by class of property are also related to the over-all base of 1940 values which equates to 100. The variations between individual property classes and the composite index of a municipality are measured in percentage points. This is not the same as differences expressed as percentage departures from the composite figure. To illustrate: suppose the level of values in a particular municipality stood on the average at 80 per cent of 1940 values. If, however, industrial properties averaged 90 per cent of 1940 values, the difference between the industrial properties figure and the composite average is ten percentage points but $\frac{10}{80} \times 100$, or a 12½ per cent departure from the average. For simplicity, we have been content to work out our deviations in percentage points not per cents. When the data are analysed for most Ontario municipalities, the distinction between the two methods largely disappears. The following Table gives the detail:

PROPERTY CLASSIFICATIONS BELOW OR ABOVE THE COMPOSITE BY MORE THAN TEN PERCENTAGE POINTS, 1963 ASSESSMENTS

(Figures represent the per cent of total municipalities)

	Residential	*Professional and commercial*	*Manufacturing and industrial*	*Farm*
Per cent of municipalities:				
below composite by more than 10 percentage points	11.9	34.3	16.8	8.4
above composite by more than 10 percentage points	7.1	9.8	26.8	20.8

From the above it may be concluded that residential properties were being assessed closer to the average level of value than any other classification in most municipalities in 1963. Professional and commercial properties were the most leniently treated. Farm properties were the least commonly under-assessed, relatively to other types of property and, next to industrial properties, the most likely to be relatively over-assessed. Industrial properties do not produce such a clear picture as other property classifications. While about 17 per cent of all municipalities appeared to be considerably under-assessing industry in relation to other property —a percentage topped only by the professional/commercial classifications—some 27 per cent were over-assessing industry—the highest percentage for any classification.

Next, we look briefly at the new Department equalizations based on sales information and related to present market values. The Assessment Branch examined property sales for 1964 and, where necessary to provide an adequate number, those for 1963. The assessments made in 1964 on all such properties were then compared with the corresponding sales information and assessment/sales ratios were calculated. The department's records show that Metropolitan Toronto generated the largest number of samples in each class of property and the results, given below, show the tendency for assessment/sales ratios to vary with different classes of property:

1964 ASSESSMENTS AS A PER CENT OF MARKET VALUE —METROPOLITAN TORONTO

	Residential	*Commercial*	*Industrial*
Land and buildings	32%	40%	44.5%
Number of samples	1,746	71	6
Vacant land	16%	33%	32.3%
Number of samples	30	8	10

Only two apartment properties were identified in the departmental survey of Metropolitan Toronto. These were assessed at 50 per cent and 51 per cent of market value. Turning to the City of Hamilton, we obtain similar findings from the Department's figures. For 192 residential properties the median ratio was 34 per cent compared with 40 per cent for 23 commercial properties. In general, there was a tendency for the ratios for individual commercial properties to be more widely dispersed about the median value, probably indicating a greater difficulty in assessing commercial properties and, possibly, a greater variability in commercial market values.

The survey conducted by the Department in calculating composite asssessment to market value ratios for all Ontario municipalities involved much the same procedure as our study. There were, however, certain differences, which would lead one to expect some divergence in results. First of all, the Department chose the median ratio in each municipality as representative of that municipality; our study produced a weighted arithmetic average and a "computed" average arrived at by regression methods for each class of property in the sampled municipalities. Second, the later survey is based on 1964 and some 1963 data; our study is based on 1961-63 sales. But the major difference is in the method of selection of properties employed. Our study was designed to compare the assessment of different types of property within each municipality, and thus an effort was made to secure representation of all the different types of property in the sample drawn from each municipality. The Department's survey was not concerned with differentiation by type of property. As a result, in most municipalities their survey gives very limited information on classes of property other than residential.

In spite of these differences of approach, the conclusions we have drawn from our study are very similar to the results of the Department's survey. The arithmetic assessment of market value ratios arrived at by our study for residential property in twenty-two municipalities (counting Metropolitan Toronto as one) differ from the corresponding Department equalization factors by less than 10 per cent in all but five cases and by more than 20 per cent in only one township. Moreover, our estimates for other classes of property were also supported by an examination of the Department's survey data. Thus in Hamilton our survey estimated a mean ratio for residential property of 35 per cent, with 42 per cent of all residential properties examined lying within plus or minus 10 per cent of that ratio and 26 per cent of all properties lying beyond 20 per cent of the ratio. The corresponding Department survey results were 34, 46 and 27 per cent. For Hamilton commercial property, our corresponding study figures were 39, 28 and 53 per cent. The survey results were 40, 26 and 57 per cent. In general, the Department's results were quite close to ours wherever there were sufficiently large samples to provide adequate comparison. The degree of confirmation of our results was limited by the scanty data available in many areas of overlap but was none the less revealing, and gives us confidence in the accuracy of our findings.

LIST OF PROVINCIAL STATUTES OTHER THAN THE ASSESSMENT ACT, WITH A BEARING ON THE ASSESSMENT FUNCTION

1. The Department of Municipal Affairs Act.
   The Department may, for a fee, license qualified persons as municipal assessors and may refuse, revoke or suspend such licenses.
2. The Dog Tax and Livestock and Poultry Protection Act.
   Where a dog tax is levied through the collector's roll, the assessor is required to assess the owner or tenant for the number of dogs for which the owner or tenant is liable to be taxed.
3. The Jurors Act.
   The assessment commissioner and the assessors of every local municipality together with the head of council and the clerk are, *ex officio*, the local selectors of jurors for the municipality.
4. The Local Improvement Act.
   The assessment commissioner is one of the officers authorized to verify the cost of the work for the purposes of the court of revision and to estimate the cost of unfinished work.
5. The Local Roads Boards Act.
   This legislation provides for the assessment of property in local roads areas situated in territory without municipal organization.
6. The Municipal Act.
   The rights of persons to inspect the roll and the appointment of assessors and assessment commissioners are covered in this statute.
7. The Municipal Arbitrations Act.
   An assessor shall be appointed by the Lieutenant Governor in Council to sit with the Official Arbitrator.
8. The Municipal Franchise Extension Act.
   The assessor is responsible for obtaining the names of the persons entitled to be entered on the resident voters' list.
9. The Municipal Tax Assistance Act.
   A municipality may appeal the assessment placed on provincial property by the Department of Municipal Affairs.
10. The Municipality of Metropolitan Toronto Act.
    Part 2 of this Statute covers the appointment of the assessment commissioner and assessors in Metropolitan Toronto, the constitution of the courts of revision, the rights of area municipalities to appeal and provisions relating to additions to the roll under Sections 53 and 54 of The Assessment Act.
11. The Power Commission Act.
    The property of the Hydro-Electric Power Commission of Ontario is exempt from taxation but is subject to assessment by the Department of

Municipal Affairs. Grants in lieu of taxes are made on the basis of the assessment, which the municipality may appeal.

12. The Provincial Land Tax Act.
    Land in municipally unorganized territory is assessed under this Act.
13. The Public Schools Act.
    School Boards in municipally unorganized territory may appoint their own assessors.
14. The Secondary Schools and Board of Education Act.
    Apportionment of liability for payment of principal and interest on debentures issued by one municipality in a high school district is based upon the proportion of provincially equalized assessment in the various municipalities.
15. The Separate Schools Act.
    This legislation covers such relevant matters as assessment of separate school supporters, correction of the roll for school support, and appointment of assessors in separate school zones of municipally unorganized territory.
16. The Statute Labour Act.
    Assessment on the roll is the basis for statute labour. Liability for payment of poll tax, where this is applicable, depends in part on information gathered by the assessor.
17. The Voter's List Act.
    The compilation of the voters' list depends upon the information gathered by the assessor.
18. The Workmen's Compensation Act.
    Returns showing certain details of employers of labour in townships, towns and villages must be made to the Board by the appropriate municipal assessors.

Chapter 14

Taxes on Property: Collections

INTRODUCTION

1. In this chapter we discuss some of the issues relating to the actual levying and collection of taxes on property, including the business tax, which forms part of the combined local tax. As we have seen, the property tax provides the largest part of the funds available to local governments, and is used as the balancing item in their current estimates after expenditures and other revenues have been determined. For many citizens, the local tax represents the largest single expenditure they make each year. Hence it is essential that provision be made for the tax to be paid in a manner that minimizes its burden on taxpayers while maximizing the certainty of collection and prompt receipt of the amounts levied. Accordingly this chapter deals with such topics as the use of tax instalments, the penalty provisions for arrears, and the procedures for sale of property in the event of continued tax delinquency. Before examining these matters in detail it will be useful to consider the setting within which the actual rate of tax is struck.

THE MUNICIPAL FISCAL YEAR

2. As the statutory provisions now stand, the preparation of the municipality's annual estimates and the striking of the tax rate can be very slow procedures indeed. Since the property tax is used to fill the gap between other expected

revenues and planned expenditures, its rate cannot be set until they have been determined. This means that the yearly estimates of all the special-purpose bodies that require a share of property tax support must be submitted to the municipal corporation, which then must complete its budgetary decisions before the tax rate can be struck. Normally, work on the municipal estimates begins some time after the first January meeting of council. Municipalities may by by-law require estimates of school boards and other subsidiary bodies to be submitted by March 1. Many municipalities have not chosen to do so, however, perhaps because of the vagaries of their own budget scheduling. Using the rates that have been struck, the municipal clerk must complete and deliver the tax roll to the collector by September 1 or such earlier date as may be fixed by by-law. Accordingly, it is quite possible that the actual rate of tax may not be set until some time in the second half of the year. Even in those municipalities that seek to complete their annual estimates and strike the tax rate as expeditiously as possible, the process cannot be finished until a goodly portion of the year has passed. In the interval, the financing of local government operations is conducted in an atmosphere of some uncertainty, relieved in part by reliance upon established practices.

3. There are two implications of this phenomenon that concern us. First, and of particular importance to a tax committee, mid-year budgeting results in what we think is an important misuse of a tax: the community becomes heavily committed financially before its representatives authorize the means of raising the necessary funds. Thus money is being expended on the assumption that it will be raised in the future by a tax whose rate is not yet set. Second, until the council has adopted the estimates, it is placed in the unenviable position of spending without prior authorization. Except where interim policy decisions are taken, the municipality must fall back upon the pattern of spending that applied throughout the previous year when, if an election has intervened, the composition of the council may have been considerably different. The point is made in the context of one- or two-year terms in all but a handful of Ontario municipalities.[1]

4. Contrasting attitudes exist toward the timing of the municipality's annual budget. "In the United States it is considered good practice to adopt the budget for the year before the commencement of the year, and this is required by law in some places. In Canada, adoption of the budget, reasonably early in the year—say in March or early April—has generally been considered satisfactory."[2] Unfortunately, the growing complexity of urban budgeting tends to delay completion of the annual estimates even longer in many Ontario municipalities.

5. Several alternatives have been suggested from time to time by those who have concerned themselves with this question. One proposal is to adopt some form of pre-election budgeting—the development and tentative approval in the fall of the annual estimates for the coming year. Among the several advantages of

[1]The 1967 Municipal Directory shows that 470 of the 927 local municipalities in Ontario hold annual elections, including 62 with overlapping two-year terms. The greatest concentration is, of course, among the smallest municipalities. Except for twelve municipalities with the newly authorized three-year term, the remainder hold biennial elections.

[2]L. G. Macpherson and W. G. Leonard, *Municipal Accounting in Ontario*, Toronto: Ryerson Press, p. 61.

such a scheme is the opportunity for campaign debate, at least in election years, on specific expenditure proposals in the context of the over-all financial commitments of the municipality. It would also facilitate the speedy modification and adoption of a budget by the new council. Despite these advantages, the proposal has never gained widespread support among elected representatives in this province, and it has never been strongly advocated by municipal officials. Perhaps the reason is that candidates may regard the necessity of commiting themselves on the coming year's budget as more of a liability than an asset in the election campaign. Noteworthy also is the fact that, with one remarkable exception (the County of Grey), pre-fiscal-year budgeting is not to our knowledge being seriously pursued by any Ontario municipality even in non-election years.

6. A somewhat different form of pre-election budgeting has been put into effect in two Ontario municipalities. A remarkable private Act, passed in the spring of 1937, permits the City of Owen Sound, the County of Grey and the local municipalities comprising the county to prepare budgets and also to issue tax bills in one year applicable to the succeeding year. Both the City of Owen Sound and the County of Grey have made use of the legislation, though only the county continues to do so.

7. While Grey County budgets and requisitions its funds a year in advance, the county levy is the only item in the estimates of its local municipalities applicable to the succeeding year. The county used to ratify its estimates at its June session but now completes its budgeting in April. Even with this earlier timing, some local municipalities close off their own estimates before the county and put in an amount based upon a provisional calculation of the county requirements. While the county estimates as drawn set the ceilings on expenditures, some details are left to be resolved later. Perhaps most important, a road program for provincial subsidy approval is not drawn up until the spring of the year in which the work will be undertaken. Local municipalities are given ample time to pay the county rates. There are two equal instalments, the first due in mid-January and the second on June 1.

8. By setting its budget in advance, the county is able to obtain its funds early enough to avoid most temporary borrowing. The obvious disadvantage to the advance budgeting is that the county council in office must work within a ceiling set by its predecessors or exceed its authorized limits on expenditures. Despite this serious limitation, the County of Grey has followed the system for some thirty years. The arrangement came under lengthy review in 1964 and is again being surveyed in the spring of 1967.

9. When Owen Sound followed the system of advance budgeting it completed its estimates and struck its tax rate in the fall. The city was thus able to obtain a flow of tax revenues early enough to avoid all or most temporary borrowing. But after several years the city became seriously concerned with the confining effect upon the council in office of working under the financial limits set by its predecessor. As a consequence, pre-fiscal-year budgeting was abandoned, leaving the county in its present unique position.

10. Another proposed means of expediting the annual estimates is to change the time for elections to allow the new council a sufficient period in office before the start of the new year in which to prepare and adopt a budget. One of the major disadvantages of such a scheme is the effect it would have on the well-established routines of the political year. No longer would the summer months be available in an election year for gathering strength for the autumn campaign. Similarly December, traditionally a quiet month for the "lame duck" council, would instead be a time of performing the demanding work of budget-making in the thick of the festive season.

11. A third and, in our view, the preferred solution would be to keep the present timing of elections and move the end of the fiscal year from December 31 to March 31. The result would be a system of post-election but pre-fiscal-year budgeting. It is important to consider in some detail what is involved in this approach.

12. The change to a fiscal year ending March 31 would require a newly-elected council to sit for almost three months under the budget of its predecessor. However, in a large and growing number of municipalities, this would occur only every second or third year. It would, moreover, be significant only when an election had produced a substantial change in the composition of the council. In such circumstances, the requirement to operate under a previously authorized budget would have one beneficial result: it would give the new members of council a welcome opportunity to gain insight into the municipality's current financing before assuming the responsibility of directing its future course.

13. The present Municipal Act recognizes that a municipal council is a continuing body. "Proceedings begun by one council may be continued and completed by a succeeding council."[3] On the other hand, where fewer than three-quarters of the council members will continue in office, there is a need to limit the acts of a council after polling day until its successor takes office. The control that is now contained in legislation[4] would gain new importance following a change in the fiscal year end to March 31, for it would be essential to ensure that funds budgeted for use throughout the months of January, February and March were not diverted to other purposes and that new undertakings were not launched by an outgoing council that could cause serious financial embarrassment to its successor in office. Steps should therefore be taken to inform municipal treasurers and members of council of the controls now applicable after polling day. Observance of the new fiscal year end would impose a stringent timetable upon Ontario municipalities but one that we regard as by no means unmanageable.

14. Initial work on the estimates by the municipal treasurer and other departmental officials could be done throughout the fall. After the election, their efforts could in most circumstances be expanded without waiting for the formal induction of the new council. The earliest date for municipal elections is November 22 and the latest January 2. In practice, most elections take place on or before

[3]R.S.O. 1960, c. 249, s. 244.
[4]*Ibid.*, s. 245.

the first Monday in December. Pre-fiscal year budgeting would encourage those municipalities in which preparation of the estimates is a difficult undertaking to hold their elections early.

15. Next we note that, under the statutes, the new councils of local municipalities must meet first by the second Monday in January. The day may fall as early as January 8 or as late as January 14. County councils have until the third Tuesday in the month to hold their first meeting and this day can be as late as January 21. For both, by-laws can be passed to advance the date of the inaugural meeting and, again, municipalities with heavy budgeting responsibilities would be inclined to take the step. Thus work on the estimates could enter a new stage by about mid-January.

16. Finally, the Municipal Act now gives councils the authority to require by by-law that the estimates ". . . of every board, commission or other body for which the council is by law required to levy any rate or provide money shall be submitted to the council on or before the 1st day of March in each year . . .".[5] In a succeeding chapter, we propose that all school boards be required to strike their own mill rates and levy their own taxes, using if need be municipal tax-billing facilities. The result of that change would be to eliminate the necessity of incorporating school budgets into the municipal estimates. Other local boards for which the municipality must make financial provision should be quite capable of making their budget submission by March 1. This timing would allow the council a full month for integration of the subsidiary estimates with its own before the rate is struck. Ample opportunity would thus exist for study and discussion of the combined estimates. Local municipalities forming part of an administrative county or the Municipality of Metropolitan Toronto would have, in addition, to reckon with the implications of the metropolitan or county requisition before setting their own local levies. They would, of course, be participants in the preparation of the metropolitan or county estimates and could thus be expected to be conversant with them by the time they are made final. It should be possible, therefore, to allow the metropolitan and county municipalities until March 15 to levy on the local municipalities for their requirements. Local boards attached to these upper-tier municipalities might be required to submit estimates to them by February 15.

17. If all the dates in our timetable could be adhered to, the local municipalities should be able to complete their work on estimates and strike their tax rates by March 31. Indeed, much of the benefit of the change in the fiscal year would be lost unless this final deadline could be met in all but the most exceptional circumstances.

18. One of the benefits of the present budget timing is that municipalities can examine the full actual expenditures of the prior year before adopting the estimates of the present year. The advantage of such complete information is less, however, in municipalities that budget accurately and produce detailed financial reports at frequent intervals throughout the year. Actual data for the first six to nine months

[5] *Ibid.*, s. 297.

of the prior year and estimates for the remaining period, coupled with complete information relating to one or more earlier years, should constitute a sufficient basis of comparison.

19. If the shift in the fiscal year end to March 31 poses certain problems, it would also produce certain identifiable benefits. Perhaps most important, all local government spending could be properly planned in advance. Public services would remain continuous from one year to the next but elected representatives could be held fully accountable for the course of public spending. Appointed officials would no longer be compelled to commit the course of public spending with something less than the full knowledge and backing of the representative bodies that are intended to shoulder the responsibility. Again, a reasonably steady flow of revenues could be attained without the necessity of taxing before council or school board approval of the related expenditures.

20. The Beckett Committee recommended a change to the March 31 fiscal year end.[6] The reason it gave, which we support, is that the municipal fiscal year would thereby coincide with the Province's fiscal year. "Information regarding the grants which the Province will make to the municipalities is not available until the Provincial Budget is approved", the Report noted. Ordinarily the Provincial Treasurer brings down the budget in early February. While it may not disclose all details of the government's financial planning, no obstacle would block the Province from providing ample information on grant changes in accordance with the timetable we propose for municipal budgeting.

21. We must, at the same time, recognize the prevalence of the calendar year as the fiscal year of the local authorities in all parts of Canada. School boards in three provinces—Quebec, New Brunswick and Prince Edward Island—now end their fiscal years on June 30. Some municipal corporations within the Province of Quebec also depart from the calendar year, including the important cities of Montreal and Quebec. But, for the rest, the fiscal year ends on December 31. Hence, the change we advocate for Ontario would not be desirable statistically unless it were adopted elsewhere. But that is not an unreasonable hope in light of the dearth of pre-fiscal-year budgeting in other parts of Canada—a deficiency that the change in the fiscal year would help overcome—and the advantage to all of aligning the fiscal years of local governments with those of the provincial and national governments. Accordingly, *we recommend that:*

> ***The fiscal year of municipalities, school boards and other local boards end on March 31 of each year.*** **14:1**

22. The benefit of a prescribed schedule for the preparation of the annual estimates depends upon the Province's insistence upon the local authorities' strict adherence to the dates set for the completion of each part of the budget process. If the deadlines can be met, the timetable for preparation of the estimates and the striking of tax rates can be fitted in with a similar uniform scheduling of tax-billing

[6]Select Committee on The Municipal Act and Related Acts, *Second Interim Report*, March 1963, p. 34.

operations, a subject on which we shall have more to say later. To facilitate enforcement, it would be essential first to keep the Province informed. We suggest that the clerks of the municipalities and school boards could be required within one week of the statutory closing date to certify to the responsible provincial departments that the estimates had been completed and the rates struck as required. Similarly, local treasurers could be required to file the complete estimates and the schedule of mill rates with the Province by April 30. Next, a municipality or school board that failed to meet its timetable without having first secured provincial consent to a delay might be subject to a weekly financial penalty which the Province could exact by withholding the amount of the penalty from grant funds otherwise payable. Similarly, where a local board was late in submitting its estimates, the municipality might be empowered to impose and deduct a defined penalty from the funds due to the board. Finally, the budget completion dates, the reporting requirements and the penalties for non-compliance should all, we suggest, be laid down by statute. Accordingly, *we recommend that:*

Statutory provision be made: **14:2**

(a) requiring local municipalities and school boards to adopt their annual estimates and strike their tax rates by March 31 of each year;

(b) setting appropriate earlier dates for completion of the county and metropolitan estimates and for submission of the estimates of other local boards and commissions; and

(c) subjecting the local authorities concerned to appropriate penalties for non-compliance.

With this discussion of budget and tax-rate timing behind us, we can turn to describe and assess the methods used to collect the taxes.

COLLECTION OF TAXES

COLLECTION EXPERIENCE OF ONTARIO MUNICIPALITIES

23. In considering the merits of collection provisions and procedures, it is useful to have some idea of the effectiveness of what is being done at present. To this end we undertook to review the experience of Ontario municipalities year by year as far back as 1934, in the depth of the depression. From the published statistics we were able to view municipal performance, individually, in total, and by the traditional "Blue Book" classifications based on status and population. On the other hand, it was not feasible to differentiate fully between residential and commercial taxpayers or between the business taxes payable by the occupant and the ordinary realty taxes upon business properties payable by the owner. Since business taxes pose an acknowledged collection problem we did, however, give that matter attention. Finally, we should have liked to identify the comparative taxpayer resistance to municipal and school taxes. But, short of an opinion survey, this was not possible because the two, although separately identified on the tax bill, are each part of a common tax liability.

24. We begin by observing that the experience of Ontario municipalities in the field of tax collections has been much above the Canadian average. For 1963, the latest year for which interprovincial comparisons were obtainable, taxes unpaid and receivable by all local governments throughout Canada at the year end were the equal of 15.16 per cent of the year's current levies. This national percentage, which included overdue taxes of both the current and earlier years, compared with an Ontario figure of 10.92 per cent. Only British Columbia had a better record. Its unpaid local taxes amounted to a mere 5.47 per cent of current levies. For a number of years, the relative positions of Ontario and British Columbia have remained virtually unchanged. We can conclude, therefore, that Ontario's municipalities might well aim for a significant improvement in tax collections.

25. Turning next to inter-year comparisons, we find from Table 14:1 that the tax collection performance of all Ontario municipalities differs greatly from that of an earlier day. In 1934, Ontario municipalities on the average had collected only three-quarters of the year's taxes by December 31. In 1965, they brought in 92.5 per cent of the total that was billed. From the same table, we see that total unpaid taxes in 1934 exceeded 50 per cent of the year's levy. In 1965 they were less than 10 per cent. Facing the position on current collections, we observe a steady improvement to a turning-point in 1947. Current collections in that year dropped back to 92.76 per cent from a war-end peak of 94.36 per cent. They have since been maintained at levels ranging from 1 to 3 percentage points lower. Total unpaid taxes, which are tabulated in the next column, have followed a slightly different course. The weight of tax delinquency was reduced year by year until 1947 when total taxes outstanding amounted to only 8 per cent of the current levies. Then they began a slow climb to 10.6 per cent in 1954, at which approximate level they have remained until 1964. Finally, tax collection performance in the two most recent years, 1964 and 1965, is significant; current tax collections strengthened and total taxes outstanding dropped to less than 10 per cent in 1965.

26. Table 14:2 provides a breakdown of current tax collections by classes of municipalities with further divisions between northern and southern Ontario (districts and counties) and by population at the 5,000 level. The added detail reveals that current collections have been consistently more successful in urban than in rural municipalities of like population. Similarly, the larger municipalities have been stronger performers than the smaller. Between northern and southern Ontario the differences are more complex. Among the towns and villages, the south has done better than the north, but the gap has been narrowing until those under 5,000 population have reached parity. For the townships over 5,000, while the performance has been mixed, the north has on the whole produced the better record. An obvious explanation is that such municipalities are in reality much more urbanized than their southern counterparts. In townships under 5,000 the position on current collections is approximately reversed. Southern Ontario has held the lead through the years although the difference has grown less. Further, the smaller townships have proved poor collectors in all parts of Ontario.

27. Using the same breakdown, Table 14:3 shows the relationship of total

taxes outstanding to the current year's levy. In this table we find much greater shifts in averages throughout the selected years. In 1965 the position on collections of all unpaid taxes corresponds fairly closely, however, to that of current collections for the same year. Between north and south, however, the average burden of unpaid taxes is greater in the north for the townships in both population ranges. We are struck also by the cumulative impact on current tax collections of any weakness in municipal collection effort.

TABLE 14:1

TAX COLLECTION EXPERIENCE OF ONTARIO MUNICIPALITIES EXPRESSED AS PERCENTAGES OF THE CURRENT LEVIES 1934-65

Year	*Current tax collections as percentage of current levies*	*Taxes outstanding as percentage of current levies*
1934	75.11%	50.05%
1935	77.56	45.76
1936	*	40.23
1937	80.77	36.00
1938	82.09	33.28
1939	83.07	31.03
1940	88.47	26.89
1941	88.52	21.62
1942	90.41	17.84
1943	91.12	15.24
1944	93.34	12.65
1945	94.33	10.84
1946	94.36	9.45
1947	92.76	8.05
1948	93.26	8.43
1949	91.78	9.46
1950	92.29	9.30
1951	91.35	9.61
1952	92.50	9.43
1953	92.55	9.67
1954	91.81	10.61
1955	92.00	10.60
1956	91.82	10.65
1957	91.88	10.89
1958	92.33	10.45
1959	92.36	10.19
1960	91.89	10.53
1961	91.98	10.87
1962	91.81	10.94
1963	91.85	10.85
1964	92.16	10.45
1965	92.52	9.88

Source: Department of Municipal Affairs, Annual Reports of Municipal Statistics.
*Information not available.

TABLE 14:2

CURRENT TAX COLLECTIONS OF ONTARIO MUNICIPALITIES EXPRESSED AS PERCENTAGES OF THE CURRENT LEVIES, SELECTED YEARS

	1934	*1939*	*1946*	*1951*	*1955*	*1961*	*1965*
Metropolitan Toronto area	75.9%	86.1%	95.8%	93.6%	93.8%	93.8%	94.6%
Remaining cities	77.9	84.3	97.4	92.8	96.0	94.9	94.6
Towns,* villages and improvement districts 5,000 and over, in counties	76.1	84.8	94.7	93.5	92.9	91.9	93.4
Towns, villages and improvement districts 5,000 and over, in districts	71.4	81.5	89.3	85.9	89.8	91.3	92.2
Towns,* villages and improvement districts under 5,000, in counties	78.5	83.1	94.2	91.4	89.8	88.6	88.8
Towns, villages and improvement districts under 5,000, in districts	72.7	78.4	92.3	89.7	87.5	88.2	88.7
Townships, 5,000 and over, in counties	64.9	72.6	89.6	85.9	86.2	85.7	83.7
Townships, 5,000 and over, in districts	74.0	86.3	89.9	81.6	82.8	84.3	87.2
Townships under 5,000 in counties	67.1	75.7	87.6	85.2	81.4	81.8	83.5
Townships under 5,000 in districts	61.9	62.9	73.9	74.3	73.9	77.5	80.0
All Local Municipalities	75.1	83.1	94.4	91.2	92.0	92.0	92.5

Source: Department of Municipal Affairs, Annual Reports of Municipal Statistics.
*Including separated towns.

28. Tables 14:2 and 14:3 deal with averages. Hence they do not disclose and give full emphasis to some Ontario municipalities' weakness as tax collectors. To show the extent of the problem, we examined the 1965 current collections record of each municipality. We found that no less than 230 municipalities—almost one-quarter of the total number—realized less than 80 per cent of the current levy within the year. The problem was heavily concentrated among the townships under 5,000. In this category, 42 per cent of the municipalities obtained less than an 80 per cent collection performance; four collected only about 55 per cent of the amount billed. The remaining areas were mostly the smaller towns, the villages and the larger townships.

29. Current tax collections can and should be maintained at no less than 90 per cent of the current levy. Where the receipts are below 80 per cent, the position must be regarded as unsatisfactory. Thus one-quarter of Ontario municipalities stand in need of a substantial improvement in their tax collection operations.

30. An examination of total taxes outstanding is another useful way of measuring municipal tax collection performance. Delinquency on current tax collections might be caused in part by the practice in many Ontario municipalities of issuing tax bills very late in the year. But the accumulation of substantial tax arrears

TABLE 14:3

TAXES OUTSTANDING OF ONTARIO MUNICIPALITIES EXPRESSED AS PERCENTAGES OF THE CURRENT LEVIES, SELECTED YEARS

	1934	*1939*	*1946*	*1951*	*1955*	*1961*	*1965*
Metropolitan Toronto area	44.8%	24.6%	5.8%	6.8%	7.0%	7.2%	6.2%
Remaining cities	47.3	27.0	7.4	4.9	5.0	6.4	7.0
Towns,* villages and improvement districts 5,000 and over, in counties	49.4	38.7	10.3	9.5	10.3	11.7	9.9
Towns, villages and improvement districts 5,000 and over, in districts	62.4	31.0	16.8	19.7	16.7	13.1	10.8
Towns,* villages and improvement districts under 5,000, in counties	58.0	35.7	9.4	12.7	15.6	18.5	18.8
Towns, villages and improvement districts under 5,000, in districts	50.5	46.0	13.7	13.3	17.9	19.3	18.6
Townships 5,000 and over, in counties	72.5	54.4	16.9	18.7	18.1	19.0	16.6
Townships 5,000 and over, in districts	81.9	26.7	23.4	19.4	25.5	22.6	21.4
Townships under 5,000, in counties	58.0	43.3	16.7	19.9	26.6	28.4	27.5
Townships under 5,000, in districts	95.9	74.9	37.9	39.5	43.2	39.0	35.5
All Local Municipalities	50.1	31.0	9.5	9.6	10.6	10.9	9.9

Source: Department of Municipal Affairs, Annual Reports of Municipal Statistics.
*Including separated towns.

reveals a more deep-seated problem. When taxes outstanding reach 50 per cent of the current levy there is no longer any question that the position is far from satisfactory. In 1965, eighty-one Ontario municipalities were so situated. Most were townships under 5,000 population; some were urban municipalities in the same population bracket; two were larger townships. Attention should be drawn also to the fact that taxes outstanding in seven of these municipalities ranged from 105 to 152 per cent of the current levy. Thus tax collecting had become a severe and chronic problem in 8.6 per cent of Ontario municipalities.

31. Turning now to business taxes, we first remind our readers that, since the tax is payable by the occupant of business property rather than the owner, special collection difficulties occur where the property is tenant-occupied. The business tax for which a tenant is responsible does not constitute a lien against the realty in the event of non-payment. Consequently, business taxes from a property can become uncollectible while the remaining taxes continue to be paid regularly. A business tenant may die, become bankrupt, vacate premises without leaving a forwarding address, or move to a distant place and resist collection proceedings.

32. As part of our collections inquiry, a questionnaire was circulated to a selected sample of sixty-five municipalities. Comprehensive replies came from forty-

one places, or about two-thirds of the total. Among them, the difficulty most frequently recognized was non-payment of business taxes. It was identified as the chief source of tax write-offs. All this means that the collection performance of Ontario municipalities could be materially improved if a means could be found to place collection of business taxes on the same footing as the ordinary property tax.

FACTORS AFFECTING COLLECTIONS

33. From the preceding review of the experience of Ontario municipalities, it is apparent that the effectiveness of tax collection operations varies considerably between classes of municipalities and far more widely from one municipality to another. Obviously the individual differences reflect in no small measure circumstances peculiar to the particular place. For example, current tax collections in Sault Ste. Marie dropped off sharply in the first year following that city's amalgamation with the Townships of Korah and Tarentorus from the levels attained by the separate municipalities beforehand. Again, the quality of each particular tax collector's effort is likewise a major determinant of his municipality's position. But beyond such individual differences, other factors might be expected to have a bearing on the level of performance. We have in mind the date chosen for the first tax billing and the number of instalments into which the current tax levy is split.

34. To pursue these questions, we subjected a sample 160 municipalities to intensive statistical analysis with the help of a computer. The information was based on the year 1963. While taxes have climbed sharply since then, our analysis shows that tax receipts in municipalities with higher per-capita tax levies were better than in those with low levies. In other words, resistance to high taxes was not sufficient to produce an adverse effect on collections.

35. In 1963, only 5 per cent of Ontario municipalities sent out tax notices during the first four months of the year. A full 67 per cent sent no notices until the second half of the year. Indeed, 30 per cent withheld their billings until December. Against that background, our statistician reported that the date of the first notice was not a very significant factor in tax collections. In fact, mailing notices later in the year was associated with somewhat improved collection ratios, whatever the reason. The point that at once occurred to us was the position of farmers. It may well be that late tax billing is necessary to obtain their full co-operation on property tax collections. It might be, too, that municipalities that have experienced difficulties with collections have resorted to mailing notices earlier in the year in the hope of overcoming their problem.

36. The most valuable result of our statistical analysis was that it seemed to establish a clear relationship between the number of instalments in which taxes were billed and the level of current collections. Our findings supported the belief that the introduction or extension of an instalment system can be expected to lead to an improvement in the collections ratio, although requiring some increase in collection costs. For the rest, our data-processing operation merely confirmed the

kind of relationships that had already been apparent from a visible scanning of the tax collections records of Ontario municipalities.

TAX PAYMENT BY INSTALMENTS

THE PRESENT SITUATION

37. The Assessment Act makes provision for by-laws to be passed to allow the payment of taxes by instalments. A study of municipal returns for 1963 indicated that of the 930 governments for which the information was available, 399 used instalments. Table 14:4 shows municipalities grouped according to the number of annual payments, and indicates the tax yield as a percentage of current levy.

TABLE 14:4

DISTRIBUTION OF ONTARIO MUNICIPALITIES COLLECTING TAXES BY INSTALMENTS AND COLLECTION EXPERIENCE, 1963

Number of instalments	*Number of municipalities*	*Average of collections as percentage of current levy*
1	531	80.68
2	255	85.27
3	90	88.40
4	36	86.97
5	3	93.28
6	11	89.26
7	2	81.43
8	1	88.81
9	—	—
10	1	89.96

The position indicated by the above figures is not conclusive. If, however, account is taken of the number of municipalities in each bracket, it may perhaps be regarded as affording some added support to the case for instalment tax billing. The figures also raise a new question. What is the minimum number of payments that can be classed as constituting an instalment system? Looking at the Table, one might comment that fewer than 150 municipalities provided for enough payments to be called an instalment plan.

38. Further information on present instalment billing came from our tax collections questionnaire. Among the forty-one municipalities replying, twenty-seven divided the tax levy into two or more instalments. Accompanying instalment billing, however, they provided a variety of devices to draw in the tax revenues. Two-thirds of the municipalities offered some financial incentive for payment earlier than the instalment due dates. While the rates varied considerably, these reductions were for the most part made available at considerable cost to the municipality. Some places required interim payments before the rate was struck. A few operated tax pre-payment certificate plans. All levied penalties on current instalments not paid by the due dates.

39. Where the tax levy is payable in one amount, it is for many people the largest single annual payment that they must make. Income taxes, mortgage payments and even alimony are all typically payable in relatively fixed and manageable amounts at regular intervals. Large capital items, such as cars, are frequently—perhaps usually—bought on time. There is even a growing tendency to finance travel in this manner. Against this background, the property tax stands out as a stubborn anachronism.

40. Mortgage financing of new houses has given many local taxpayers the equivalent of an instalment tax-billing system. Under the purchase agreement, the mortgagor assumes the immediate tax responsibility and recovers his outlay by collecting the cost as part of the monthly payments from the mortgages. Notably this arrangement extends to all C.M.H.C. house purchases. The effect is two-fold: a considerable demand for instalment tax plans is thus met, but the introduction of instalment tax billing is discouraged. The mortgage lenders have no wish to complicate their operations by paying the taxes in instalments.

ADVANTAGES OF INSTALMENTS

41. The inconvenience of large, infrequent demands for local taxes has not escaped the notice of other inquiries into municipal finance. The Byrne Commission in New Brunswick recommended monthly billing,[7] and the Belanger Commission called for the Quebec Government to do what it could to urge local authorities to use instalments for property tax collections.[8] In Manitoba, the Michener Commission suggested that the municipalities have regard for the convenience of their residents and enact by-laws in keeping with the permissive legislation dealing with instalments.[9] In Britain, too, the subject has received attention, a recent committee commenting that ". . . if local authorities continue to insist on half-yearly or yearly payments, they have only themselves to blame if rates are paid in anger."[10] With this general consensus we completely agree; we have no doubt that regular, smaller instalments would do much to reduce the subjective burden of the tax and go far toward easing what must now be a serious payment problem for many families.

42. Two other points deserve mention in connection with instalments. First, an instalment billing system has the effect of exposing problems of tax delinquency before they reach serious proportions. Second, to the extent that municipalities delay in sending out tax notices they will be forced to finance current operations through borrowings. The mechanics of and restraints on this type of financing are discussed in our chapter on municipal debt. Necessarily, such borrowing will involve expenditures on interest that would not be necessary if tax revenues were spread evenly over the year to keep pace with spending. The later that taxes are

[7]Royal Commission on Finance and Municipal Taxation in New Brunswick, *Report*, Fredericton, 1963, p. 249.
[8]Province of Quebec, Royal Commission on Taxation, *Report*, Quebec, 1965, p. 293.
[9]Manitoba, Royal Commission on Local Government Organization and Finance, *Report*, Winnipeg, 1964, p. 109.
[10]Committee of Inquiry into the Impact of Rates on Households, *Report*, Cmnd. 2582, London, H.M.S.O., 1965, para. 251.

collected, the greater will be this cost. In this connection, we present in Table 14:5 our analysis of the times of first tax billings, a subject to which we have already made reference. To evaluate the position, we numbered the months in which tax notices were sent out for 1963, giving January the number 1, February 2, and so on. The results were then averaged. The positions of the classes of municipalities in the Table indicate that smaller and rural municipalities tend to collect their taxes later in the year than do larger and urban ones. The effect on temporary borrowing or necessary working capital requirements must be obvious.

TABLE 14:5

AVERAGE TIMING OF FIRST TAX NOTICE BY CLASS OF MUNICIPALITY, 1963

Class of municipality	*Average month of first tax notice*
Metropolitan Toronto area	4.4
Remaining cities	4.7
Towns* and villages, 5,000 and over, in counties	4.9
Towns and villages, 5,000 and over, in districts	5.6
Improvement districts	6.0
Towns* and villages under 5,000, in counties	7.3
Towns and villages under 5,000, in districts	7.4
Townships 5,000 and over, in counties	8.6
Townships 5,000 and over, in districts	8.1
Townships under 5,000, in counties	10.3
Townships under 5,000, in districts	8.6

*Including separated towns.

43. All the foregoing reasons have led us to conclude that it is to the mutual advantage of taxpayers and municipalities to introduce a system of frequent, balanced instalments for property tax collections at dates that remain constant year after year. Like most things, however, instalments are not an entirely unmixed blessing, and the following two reservations should be noted. First, partial payments spread throughout the year, while appropriate for those whose incomes are similarly spread, will be less convenient, and may even be difficult for those who receive most of their annual incomes at one period of the year. This is true for those farmers whose receipts are concentrated in the fall when they sell their crops. Undoubtedly this explains why so many rural municipalities have but a single tax collection date, and that late in the year. We are aware also that December 31 is the first due date for the first instalment of the farmer's personal income tax, when he is expected to pay two-thirds of his year's tax. Of course, even under an instalment system, those who strongly prefer a yearly billing or who simply cannot budget for monthly payments can doubtless arrange to pay their year's taxes in one lump sum. The second point concerns the cost of preparing and sending out several sets of tax notices, and receiving and accounting for the receipts of instalment payments. No doubt for many smaller municipalities the cost of the additional clerical work would seem excessive, particularly where the number of taxpayers is so small as to make

mechanization of the process impractical. It is, of course, possible to accomplish instalment billing in one operation by mailing a bill containing several perforated portions each with its own due date. Some municipalities now follow this practice. The possible objection to it is the onus it places on the taxpayer to store and return the form for each instalment as it becomes due. The practicality of instalment tax billing would also be affected by a change in the structure of local government, creating much larger units of administration, such as we suggest in Chapter 23. With such a change, the advantages of automated billing and accounting would become fully available to all municipalities, and instalment billing would become administratively much easier for all.

44. Some years must elapse before local government within all parts of Ontario could be brought within a regional government network. When that time comes, taxes could easily be collected in monthly instalments. Along with our recommendations for the introduction of larger units, we illustrate the sort of instalment tax plan that might emerge. Meanwhile, should all action on instalment tax billing be withheld? We think not.

45. The first point is that the separation into school and municipal billings will itself produce a two- or three-instalment plan if the respective bills are sent out at suitable intervals. But to devise an arrangement that will satisfy all circumstances is not easy. If each local authority in an area were to bill only once, the first to bill would have much less need for temporary borrowing than the second or third. More frequent billings would of course greatly reduce that problem. Likewise, the timing of particular provincial grant payments would affect the desirable timing of tax billing. Finally, school and municipal authorities have overlapping boundaries that are certain to create some tax scheduling problems.

46. We are inclined to think that, for the time being, the provincial departments concerned should encourage instalment billing on an *ad hoc* basis rather than attempt to press local practice into one or more prescribed moulds. It is possible, on the other hand, that the use of instalment tax billing would be fostered by setting statutory due dates for local taxes as, for example, the fifteenth of any month. In the same vein, each local authority might be required to mail its first tax notice a full fortnight before its first tax due date. Maximum standardization of dates and procedures would bring us closer to our ultimate objective—a fully uniform instalment billing system on a province-wide basis. It would help the prudent person to make provision in advance to meet his municipal and school tax obligations as each came due.

47. In its eventual province-wide form, a proper instalment tax plan should produce a steady flow of income to both municipal and school corporations. When coupled with revenues from other sources, including well-timed provincial grants, the effect should be to eliminate most of the present need for temporary borrowing. As we have conceived it, the flow of local tax revenues would not begin, however, until the fiscal year is perhaps six weeks old. That gap could be filled in part at least by the Province's undertaking to pay instalments on major grants early in

April. The periodic receipt of further grant contributions and tax instalments should keep revenues and expenditures very nearly in balance throughout the remainder of the fiscal year. *We therefore recommend that:*

The Province encourage expanded use of instalment tax billing with a view to the eventual establishment of a mandatory province-wide instalment system. **14:3**

PREPAYMENTS

48. Under The Assessment Act municipalities are given the authority to pass by-laws making provision for discounts or interest to be allowed with respect to taxes paid before the due date. The discount or interest is limited to a maximum of 6 per cent per annum. Results of the questionnaire we distributed to selected municipalities show that, of the forty-one replying, twenty-eight gave a discount or interest on some form of advance payments of taxes. It is perhaps significant, however, that ten of the thirteen municipalities that offered no discount for prepayment of taxes are urban municipalities including four that are very large. One large city, Sudbury, had recently ceased offering discounts.

49. The argument in favour of giving an inducement for early payment of taxes is quite simple. To the extent that this money is available, it will not be necessary for the municipality to borrow for current expenditures. As long as the discount for prepayment is less than the municipality's cost of borrowing money, and as long as receipts from instalments are insufficient to meet expenditures, it will be to the municipality's advantage to avoid current borrowing by offering incentives for prepayment of taxes. It is interesting to note that relatively few of the municipalities answering our questionnaire offered as much at the time as 6 per cent per annum, indicating that on the money advanced by taxpayers most were paying less than the maximum bank lending rate that then prevailed.

50. Those who oppose the use of discounts argue that the benefit is available only to those in good financial circumstances; the poor and the hard-pressed cannot avail themselves of this advantage. Since discount and interest reduce the total tax yield, the over-all level of taxes must be higher to compensate. This argument, however, strikes us as entirely irrelevant. So long as the discount or interest is less than the expense the municipality would incur by borrowing needed working funds or less than the yield from the short-term investment of any surplus funds that could arise, the practice is fully justifiable. We might go further. The old adage about "a bird in the hand" has its application to tax collection practices.

51. Two courses of action will help reduce the need for current borrowing and, hence, the need for inducements for prepayment of taxes. The first, the institution of appropriate instalment systems, has already been discussed. The second device is the accumulation of working funds. Of the municipalities that replied to our questionnaire most had established reserves in some amount for this purpose. Of those with such reserves, one commented that it had "practically eliminated" the need for current borrowing, another said it had reduced such borrowing by 75 per cent. There was general agreement about the usefulness of these reserves:

indeed, the most common comment was a lament that they were not bigger. One town, answering that it had no working capital reserve, went on to say "If we had one it would be fine." We agree, and have more to say on this subject in our chapter on municipal debt.

52. Once a municipality has instituted a satisfactory instalment system, and has built up working funds sufficient to minimize the remaining short-term borrowing requirements for current operations, the need for giving inducements for early payment of taxes is largely eliminated. Nevertheless, we think it would be inappropriate for the Province to remove the right of municipalities to offer discounts in respect of prepaid taxes. The advantages of such schemes will always be dependent upon the particular circumstances of individual municipalities, and the local councillors should have the right to decide on the course of action that appears to them best to serve the needs of the local community. Furthermore, if local school boards are to be made responsible for collecting their own taxes, they should also be given the privilege of granting discounts for early payment of taxes.

53. One minor change would improve the form of the existing legislation. At present a municipality may offer either a discount or an interest payment on taxes paid before the due date. The two are not precisely equivalent. If, for example, the taxpayer is offered a 6 per cent discount on $1,000 in taxes paid six months in advance, he will pay $970. If he can earn 6 per cent interest by prepayment he will have to pay $970.87. The difference in amount is not significant, but the option under the legislation can be confusing. With a change to pre-fiscal-year budgeting, the amount due would be known before any prepayment takes place, and so it would be sufficient if the statute were to permit only a discount.

OVERDUE TAXES

PENALTIES

54. Municipal wrath against taxpayers who are tardy in meeting their obligations to the treasury may take several forms. A municipality may provide that where an instalment is not paid on time, the subsequent instalment or instalments become due immediately. It may levy a penalty of up to 1 per cent on the first day of default and 1 per cent on the first day of each subsequent month of default. As an alternative, a municipality may charge a penalty not exceeding 4 per cent on all current taxes remaining unpaid on the first day of default after September 15. All of these penalty provisions pertain to taxes of the current year and are imposed by municipal by-law at the discretion of the local council. Unpaid taxes of prior years are treated somewhat differently. The Assessment Act requires that simple interest at a minimum rate of 0.5 per cent per month or part month be added to taxes due but unpaid after December 31. By by-law, a council may increase this interest rate to as much as ⅔ of 1 per cent per month. Interest and penalties calculated under these provisions are added to the taxes due, and for purposes of collection become part of the taxes.

55. An examination of the replies to our questionnaire showed that all but one of the forty-one respondent municipalities imposed a penalty on overdue taxes of

the current year. The most common penalty was 0.5 per cent per month, although nearly as many imposed the maximum allowed—1 per cent per month. About one-third of the municipalities imposed either different rates varying with the tardiness of collection or a set rate on all payments overdue after a fixed time. Nearly all replied that the provisions were sufficiently severe to deter most people from neglecting their tax obligations as a means of obtaining the equivalent of a loan from the municipality.

56. In regard to taxes due from previous years (designated as arrears), nineteen of the forty-one municipalities levied interest at the maximum rate of ⅔ of 1 per cent per month; the remainder used 0.5 per cent per month. It is interesting to note that nine of the fifteen cities and towns replying used the higher rate. Although many municipalities thought the rates they used were adequate to reimburse them for the expenses involved as well as to encourage payment, slightly over half thought that a higher rate would be useful. Several of the respondents pointed out that many businesses are quite pleased to be able to postpone payment at a cost of only 6 per cent per annum, and that even the maximum 8 per cent (⅔ of 1 per cent per month) is attractive to a number. It was even suggested by some that a higher interest rate should be used for business tax arrears than for arrears on farm or residential properties. Other replies mentioned that taxpayers sometimes fall into arrears because of genuine financial difficulty, and that a higher interest rate would only serve to add to the plight of these taxpayers.

57. In our view, the amount of interest charged on tax arrears, whether in the current year or in respect of prior years, should be a matter for the local authorities to decide for themselves. Such interest should always be sufficient to reimburse the local treasury for the costs of borrowing made necessary by tardy tax payments. Thus the present statutory *minimum* of the equivalent of 6 per cent per annum should be retained for arrears for prior years, and should be made applicable to overdue taxes of the current year. A municipality or school board should also have the authority to set rates as high as it considers necessary to minimize the attraction of tax delinquency as a means of temporary financing. We propose therefore that the maximum interest rate on overdue taxes be left completely to local discretion. We must emphasize that any rate charged on arrears should apply to all classes of taxpayer, and should be set by the council or school board subject to a minimum defined by statute.

58. Currently the statute prohibits the compounding of interest and penalties on unpaid taxes. This has the effect of imposing an additional burden of interest costs on a municipality in respect of funds that it is forced to borrow because of unpaid taxes, if the delinquency is of a long duration. We can see no reason why tardy taxpayers should not be required to reimburse the municipality for all the costs to which their delinquency gives rise. Hence interest on overdue taxes should be compounded at normal intervals. Accordingly, we recommend that:

> ***Councils and school boards be authorized to fix interest on overdue taxes in respect of the current or previous years at a rate not less than 6 per cent per annum compounded semi-annually.*** **14:4**

METHODS OF ENFORCING COLLECTION: SUIT, LIEN AND DISTRESS

59. The Assessment Act gives municipalities the right to sue for overdue taxes payable by anyone who was originally assessed, whether owner or tenant. This provision can be used in respect of both property tax and business tax, which is as it should be. Another provision of the Act makes overdue property taxes a lien against the land assessed that takes priority over the claims of every other person except the Crown. This useful device is not available for business tax, which is levied against the person as tenant or occupant, and not as owner of the land. Where taxes are such as to constitute a lien on land, and have remained unpaid for fourteen days after demand, the municipality may take steps to seize chattels belonging to the owner or tenant of the land liable for taxes, as long as the chattels are located on the property taxed. This procedure may be used whether the name of the current owner appears on the collector's roll or not. For overdue taxes that do not constitute a lien, that is, business taxes, the right of seizure of chattels is restricted to those belonging to the person originally liable for payment and to goods remaining on the premises that at the time of making the assessment were the property of the person taxed. Goods seized under the distraining procedure are subject to sale by public auction in full or in part, with any proceeds in excess of the outstanding taxes and costs returnable to the person who held the goods at the time of seizure.

60. In their answers to our questionnaire, ten of the forty-one municipalities said that some use was made of the power to bring suit for unpaid taxes. No difficulties were reported in this regard. In respect of the lien provision, however, a number of municipalities noted the limitations on its effectiveness. As already indicated, the major source of difficulty seems to lie in the collection of business tax. Of the twenty-six municipalities supplying information about the taxes that were written off, eighteen reported that uncollectible business tax was a major, or the sole, reason for write-offs. The answers to our questionnaire pointed out that not only are the proprietors of some businesses impossible to locate by the time taxes are overdue, but also that when they can be found, the assets, if any, have been removed from the premises so that distraining is impossible.

RESPONSIBILITY FOR BUSINESS TAX

61. We are impressed by the difficulties municipalities face in collecting business tax, particularly when contrasted to their powerful position in relation to property taxes. Unfortunately, as we have said, tax arrears are not reported separately for the two forms of tax. But we can assert that an undesirably high proportion of business tax is never collected.

62. The present structure of the business tax makes it quite impractical to levy the tax against the owner of the business property. The problem is most acute for, and hence best illustrated by, office buildings that have a large number of tenants. The rate of business assessment in respect of the various tenants may vary widely depending upon the nature of their enterprises. Thus the rate of tax on part of a building can vary with each change of tenant and alter the total business

liability for all the tenants of the building taken together. If the owner were liable, the complications involved would be unduly onerous if not impossible. More important, unless the taxes could be fully recoverable from tenants, the owner of each office building might well be engaged in a contest to fill his space with tenants subject to the minimum rate. Once a single rate of business tax for all kinds of enterprise is enacted, however, the administrative difficulties would be sharply reduced. For the municipality the collecting of the tax from one person, the owner, would be considerably easier than billing each individual tenant. Recovery of the tax by the owner could be accomplished along with his rents.

63. Under the adjustments we propose in the relative weights of property and business tax, it is clear that as a class landlords would bear a lighter load than at present, and that business tenants would bear a greater one. Thus it becomes even more important that municipalities be armed with such powers as are necessary to ensure effective collection of the business tax. It also follows that with a reduction in the amount of tax they would have to bear, landlords should have little cause for complaint if their responsibilities in the process of tax collection were increased. After considering several alternative courses of action, we have concluded that the most effective and least disruptive way of ensuring collection of business tax is to make landlords the collectors on behalf of the municipalities. If school boards become taxing bodies, the landlord would assume their collection responsibilities also. To avoid difficulties a detailed procedure for implementation must be followed, which we now describe.

64. In proposing a new procedure for collection of the business tax, we should not, of course, lose sight of the purpose of the change. Local governments are heavily dependent upon realty and business taxes as a revenue source and must remain so. It is highly desirable, therefore, to eliminate losses in business tax revenues. Municipalities have described such losses as their chief collection problem. The only sure way of avoiding heavy losses that we can see is to place the business tax on the same footing as the ordinary property tax by making unpaid business taxes a lien on land. To accomplish this, the property owner must be made liable for unpaid taxes. Our proposal is that landlord and tenant be made jointly and severally liable for business taxes and that the landlord be made the tax collector on behalf of the local authority. If the landlord is to be placed in this position, he should be accorded the same rights for collection of business tax as for his rents under The Landlord and Tenant Act.[11]

65. We wish to emphasize that, in the changes we are recommending, the business occupant would remain primarily liable for business taxes. The business assessment upon each property or part property occupied for business purposes would continue to be made upon the business occupant. Notice of the business assessment, however, would be furnished both owner and occupant. Each would have rights of appeal. Appeals to establish the applicable rate of business assessment and tax would, of course, no longer be necessary. Under our proposal the municipality would deal with business occupants in making the assessment, but

[11]R.S.O., 1960, c. 206.

would deliver the tax bills to the landlord through whom the tax collection would be affected.

66. The municipality should benefit from improved collections and reduced tax write-offs. Collection by the landlord as agent for the municipality would also reduce the work load of the tax collector, and might make unnecessary the whole system of distress for recovery of taxes.

67. *We therefore recommend that:*

The owner of a business property be made responsible for the collection and remittance of municipal and school taxes levied in respect of business assessments on his tenants, and be made liable for such taxes that he fails to collect; and the business property be subject to lien for any such taxes that are not paid. **14:5**

ROLE OF THE COUNTY IN COLLECTIONS

68. The Assessment Act gives county treasurers and wardens certain duties in respect of the collection of tax arrears for the constituent villages and townships. Where county officials are used, the local treasurer of the village or township sends to the county treasurer, within thirty days of the return of the collector's roll, a statement of all the taxes that remain outstanding. It then becomes the responsibility of the county treasurer to try to collect the amounts due and, in the last resort, to sell the lands for taxes in the manner described in the next section of this chapter. The Act specifically excludes certain named municipalities from this collection arrangement. It further provides that a county by-law may be passed to remove other villages or townships from the purview of the county treasurer and make them fully responsible for all actions respecting their own overdue taxes.

69. Apparently the county is no longer widely used to collect back taxes and conduct tax sales on behalf of its villages and townships. Twenty-one municipalities that replied to our questionnaire were eligible for county collection services on back taxes, yet none indicated that it was using the county for this purpose. This discovery has led us to give particular consideration to the county treasurer's role in tax collections.

70. On the side of using the county treasurer's services, we recognize that such an officer ought to be more capable of pursuing unpaid taxes than a number of village or township tax collectors. He will be a full-time official with an office that is staffed and equipped. The local collector may be part-time and without supporting staff or facilities. For the local man, the tax collection operation may amount to an obligation to press friends and neighbours to make payments, perhaps under difficult circumstances. The county treasurer is in a position to approach his assignment more impersonally, although he too may know many of the people involved.

71. If the county treasurer takes over the responsibility for unpaid local taxes, the tax collection function is thereby divided. For that reason alone, the system

must be recognized as defective. Will the local collector bend his back to maximize the receipt of taxes within the current year? What incentive is there for the county treasurer to press for the payment of overdue taxes? Of the two, the local collector probably has the stronger motivation. Yet neither can be expected to have the same sense of purpose as an official responsible for the whole collection operation. For the county treasurer, the collection of overdue taxes is at best an unpleasant undertaking that will be performed out of a sense of duty. The tax sale function is perhaps better performed as a consolidated county-wide operation than as a series of local sales, some of which may take place concurrently. Since, however, we question the whole tax sale arrangement, that service does not weigh heavily in our assessment of the role the county should play in tax collections.

72. In the tax collection process, we have no objection to a local municipality contracting with a county for office services. Such an arrangement can be coupled with the use of the local municipality's billheads and letterheads and the signature of tax demands by or on behalf of the local collector. If the local municipality is not large enough to assume the collector's responsibility with that amount of assistance, one may question whether it is large enough to warrant continuing as a unit of local government. *We therefore recommend that:*

> ***The present provisions for collection of overdue taxes by county treasurers be replaced by new arrangements under which local municipalities or school boards may contract with the county for the use of its office services in collection of their current and past due taxes.*** **14:6**

THE LAST RESORT

73. There are two different procedures used in Ontario when, after taxes have not been paid for a number of years, it becomes apparent that the lien rights of the municipality will have to be enforced. In short, the land must be taken for taxes. We describe each procedure separately.

SALE OF PROPERTIES FOR TAXES

74. The county or local treasurer, as the case may be, is required to prepare a list each year by February 1 of the properties in respect of which taxes have been outstanding for the preceding three years. When the list is delivered to the appropriate municipal clerk or assessment commissioner, the properties become liable to be sold for arrears of taxes. Municipalities have the power to direct by by-law that the three-year period be extended and also that no property be put up for sale unless the taxes exceed a stated sum.

75. A warrant is prepared by the treasurer listing the properties intended for sale. This list must be published in *The Ontario Gazette* not later than ninety-one days before the proposed date of sale. In addition, a notice must be inserted each week for thirteen weeks in a local newspaper, and a copy of the list of the properties posted in an appropriate public place for three weeks preceding the sale. At any time before the sale the owner or other person with an interest in the land may pay the taxes, together with penalties, interest and costs, and thereby remove the property from the list of properties proposed for sale. If this is not

done, the treasurer may sell the lands, at least in part, by public auction. Upon selling land for taxes, the treasurer issues a certificate to the purchaser, which in effect gives him title to the property but subject to the right of redemption of the owner or encumbrancer. After sale, the owner or any encumbrancer may redeem the land within one year of the date of purchase by paying 110 per cent of the taxes and expenses of sale, plus other costs and taxes levied subsequent to sale. Evidently the treasurer is at all times to act in the best interests of the owner, for the Act says that only such part of the property as is necessary to discharge the taxes is to be sold, and in offering land for sale the treasurer is to sell ". . . in preference such part as he may consider best for the owner to sell first . . .".

76. If no bidders appear for the property offered for sale, the treasurer may adjourn the sale from time to time, allowing time for a buyer to be found. If at the initial sale it becomes evident that land cannot be sold for the amount of taxes and costs outstanding, the sale may be adjourned for not less than one week, or more than three months. At the adjourned sale, properties may be sold for whatever they will fetch. The same rights of redemption apply in such a situation: the owner or encumbrancer must pay all the outstanding taxes, penalties, interests and costs as well as any further taxes levied subsequently. If at an adjourned sale the price offered is less than the full amount of taxes, charges and costs, then the municipality, instead of selling to the highest bidder, may, provided an appropriation had been made by council therefor, acquire the property itself, subject to redemption as before. In addition, the owner or other person with an interest in the property has a right of redemption extending indefinitely into the future if the municipality has not declared its need for the property, and if the Department of Municipal Affairs concurs in its reconveyance. This right may be terminated at the end of ten years by appropriate notice from the municipal treasurer.

77. The treasurer may, at his discretion, decide not to sell a part of a parcel, but rather sell the whole, notwithstanding that sale of only part would yield the amounts outstanding. In such a case, the excess proceeds are to go to the owner or such other person as may be entitled to the excess. The same right of redemption applies.

78. Proper notice that land has been sold under these various provisions must be given to the registered owner and to all encumbrancers within ninety days of sale. The notice is also to be registered against the property. Any encumbrancer may pay the amount required to redeem the property and add the amount paid to his debt; the owner, of course, may redeem the property himself. On the redemption by the owner or other authorized person, the purchaser of the property is entitled to recover the amount he paid, plus 10 per cent. Upon the expiration of the redemption period, if the redemption has not taken place, a tax deed confirming title to the property is issued to the purchaser.

TAX ARREARS CERTIFICATE REGISTRATIONS

79. An alternative to the cumbersome tax sale procedures of The Assessment Act just described exists under the provisions of The Department of Municipal

Affairs Act: the registration of tax arrears certificates. This alternative is in use where municipalities have been in default, in the improvement districts, all of which come under supervision by the Department of Municipal Affairs, and in a number of counties and districts where the local municipalities have requested its introduction. As Table 14:6 shows, the tax arrears registrations system now applies throughout a total of 391 municipalities large and small with a combined population in 1966 of 2,560,000. It is used widely in both northern and southern Ontario.

80. Under this system, title to property is transferred to the municipality upon registration by the treasurer of a tax arrears certificate, provided approval of the Department has been obtained and subject to a defined right of redemption. Such a certificate can be registered with respect to vacant land, if taxes remain unpaid after December 31 in the year next following the year of levy, and with respect

TABLE 14:6

ONTARIO MUNICIPALITIES THAT USE THE TAX ARREARS REGISTRATIONS SYSTEM AS AT APRIL 1, 1967

All local municipalities within the following counties and territorial districts

Counties	*Number of municipalities*	*Districts§*	*Number of municipalities*	*Other local municipalities*
Bruce	31	Cochrane	17	Alliston
Dufferin	9	Muskoka	25	Beverly Township
Elgin*	17	Nipissing	18	Bradford
Haliburton	10	Parry Sound	27	Colborne Township
Halton	7	Rainy River	15	Frankford
Lanark*	18	Sudbury	30	Renfrew
Northumberland and Durham	24	Timiskaming	27	St. Clair Beach
Oxford†	16			Saltfleet Township
Peel	10			Thurlow Township
Prescott and Russell	19			Waterloo
Stormont, Dundas and Glengarry	21			
Wellington†	21			
York‡	19			
Totals	222		159	10

	1966 population
Complete counties	2,075,641
Complete districts	406,213
Other local municipalities	78,079
	2,559,933

Source: Department of Municipal Affairs.
*Including cities and separated towns.
†Excluding cities and separated towns.
‡Including the metropolitan boroughs but not the City of Toronto.
§Including school boards in unorganized territory except within Nipissing.

to improved land (land with buildings thereon, or land used for farming, with or without buildings) if taxes remain unpaid after January 1 in the third year following the year of levy.

81. The municipality's title is in fee simple, clear and free from any encumbrance, except for the right of redemption, which is similar to that under The Assessment Act. One difference is that the right extends for a period of one year from the date of registration, instead of from the date of notice of sale as under the tax sale system. It provides that the owner or any other person having an interest in a property against which a tax arrears certificate has been registered may redeem the property upon payment of all taxes and costs outstanding, including taxes that would have been levied subsequent to the registration of the certificate. As with the procedures under The Assessment Act, an interested person may here have a further opportunity to redeem the property extending indefinitely into the future if the municipality has neither sold the property nor declared need for it and if the Department concurs; finally, the municipality is able to terminate this right if it chooses at the end of ten years.

82. The tax arrears certificate method of dealing with delinquent taxpayers appears to be a simpler and less costly procedure than the tax sale procedures of The Assessment Act. Such was the viewpoint of the Beckett Committee[12] in 1963 when it recommended the extension of the registrations system to all Ontario municipalities. That it has been voluntarily adopted by a large and growing number of municipalities attests to the attractiveness of this system from the point of view of local administration. The registrations system now applies to almost two-fifths of the Province's population. That it is the required system in municipalities under supervision by the Department and has been allowed to be extended to so many more places further demonstrates its desirability in the eyes of the Province. It should be made applicable to all Ontario municipalities. Accordingly, *we recommend that:*

> ***The tax sale procedures of The Assessment Act be abolished and replaced for all municipalities by the tax arrears certificate registration system now provided in The Department of Municipal Affairs Act.*** **14:7**

83. Preferable though this tax certificate registration procedure may be, it is not perfect. The major flaw, which is common to both tax sale and tax registration procedures, is the uncertainty as to title that results from the twelve months definite and, frequently, a further indefinite redemption period. As long as the right of redemption exists the title is subject to a very significant encumbrance, and the property cannot be dealt with in the same assured manner as it could if the title were absolute. Nevertheless, upon registration, the municipality receives a form of title to the property and must therefore assume an owner's responsibility with respect to it. This defect can, we believe, be overcome simply by altering the

[12]Select Committee on The Municipal Act and Related Acts, *Second Interim Report*, March 1963, p. 78.

terms of the tax arrears registration to provide that title passes one year from the date of registration unless redeemed within the period. At the end of the year all rights of recovery would cease and the title of the municipality would become absolute. During the interval, the municipality should be given the right to require the owner to insure the building or, if he fails to comply, to put on insurance itself if such action is deemed desirable to protect the municipality's financial interest. The cost of the insurance would then be added to the taxes, penalties and other recoverable costs. Further, if the change is made in the registration procedure, it would be advisable to review and revise the registration fees and to provide also for a charge for withdrawal of a tax arrears registration. Finally, if the taxpayer withholds payment until the eleventh hour, he might be permitted to deliver the evidence of payment to the registry or land titles office directly, pay them their fee, and thereby forestall the change in title. *We recommend that:*

Transfer of title to a municipality under a tax arrears certificate take effect and be made final one year from the date of registration. **14:8**

SOME ADMINISTRATIVE CONSIDERATIONS

COMPETING CLAIMS

84. It is our hope that, before long, school boards will be levying their own taxes and that, in the course of time, regional and metropolitan units of local government will do the same. When that day comes, three if not four local authorities will be taxing the one property. Which will have the prior right to press for the payment of taxes by means of suit, seizure or chattels or registration for arrears? We think that all might be free to enter suit for taxes but that one local authority should exercise the more drastic powers of seizure and registration. Today that authority should be the local municipality. If regional governments are created with the right to tax, they will be the obvious ones to undertake seizure or registration. The local authority exercising the right of seizure of chattels would be expected to act for and share on a proportionate basis the proceeds with the other taxing bodies. Similarly, the senior local authority would launch registration proceedings and, if title passed to the municipality, would compensate the other local authorities concerned. If these arrangements are clearly established in the first instance no difficulties should develop.

AGREEMENT FOR PAYMENT OF ARREARS

85. The purpose of making overdue taxes a lien upon the property is to ensure the payment of taxes wherever possible. Consequently, the municipal council should have the right to extend the date for the registration of a certificate and the right, when arrears amount to less than a specified sum, to withhold action. These are similar to the powers now given to council under the present procedures for the sale of properties for tax arrears. We would suggest one change, however: a report should be made to the Department of Municipal Affairs of each instance of the exercise of such powers. The objective of the tax collector should be to work out with the delinquent taxpayer an orderly plan leading to the discharge of all taxes and penalties.

TAXES WRITTEN OFF

86. Under The Assessment Act there is provision for writing off taxes that are uncollectible. The treasurer may recommend write-offs to the court of revision, the court then recommends to council, and the council may direct the treasurer to strike such taxes off the roll. Moreover, the treasurer may strike from the roll any taxes that are uncollectible by reason of a decision by a judge of any court or that are to be cancelled, reduced or refunded by the court of revision.[13] There will always be need for a provision to write off some taxes, but there must be adequate safeguards against the abuse of this procedure. The extent of such transactions can and should be reviewed after the event by the Department of Municipal Affairs from the details that are shown in the audited financial statements of the municipality. The appropriate resolution of a council or school board to write off uncollectible taxes should, we feel, be given readings at two regular meetings with at least a fortnight intervening. This will ensure that the elected representatives have an opportunity to be informed of, and to decide responsibly on, such matters. Accordingly, we recommend that:

> ***By-laws cancelling any taxes as uncollectible be given readings at two regular meetings at least 14 days apart.*** **14:9**

CONCLUSION

87. There will probably never come a time when people will actually enjoy paying taxes, and we can suggest no policies that would achieve such a remarkable result. But with or without a smile and a nod, taxes must be paid. We have found clear evidence that some municipalities in Ontario do not enjoy the same support from their taxpayers that others do. This chapter contains a number of recommendations intended to improve collections throughout the province. We must draw attention also to the fact that the tax collection sections of The Assessment Act are far from clear and are by no means well ordered. We hope this weakness will be eliminated when the other changes are made. The opportunity should be taken to clarify the duties of the collector.

88. Streamlined procedures and easy instalments will not alone produce fully effective collection services. A positive and active collection program must be adopted. With the amounts of money involved, it is not sufficient for a municipality to assume the attitude of willing receiver of taxes. The tax collector must collect, even though such a course may not be popular with delinquent taxpayers. He must maintain regular follow-ups, using fully planned procedures. Each demand for payment should combine the right blend of politeness and firmness. Toward this end, advice and assistance should come from the Department of Municipal Affairs, which should also issue general directives or regulations setting out the required procedures. Like any creditor, the municipality has a right to be paid what is owing to it, and there is no reason why the majority of residents who meet their obligations promptly should be put at a relative disadvantage because of a

[13]The Assessment Act, R.S.O. 1960, c. 23, s. 131.

reluctance or other form of inadequacy on the part of council or officials in demanding payment from those who have fallen behind.

89. The use of larger administrative units for billing and collection will make possible a more modern and efficient method of handling municipal taxes than is now available to a large number of local governments in the province. Giving this responsibility to larger units will in no way erode the authority of local municipalities, since the transfer will be one of administration, not policy. The local authority responsible for the tax demand can and should be identified at every stage. The advantages of modern technology must be made available in this sphere to the residents of Ontario. Accordingly, *we recommend that:*

> ***Any large units of local government that may be formed in the future be given the responsibility for administration of billing and collection of its own taxes and those of the municipalities and school boards within their territories.*** **14:10**

Chapter 15

Special Capital Levies and Developer Charges

INTRODUCTION

1. The cost of constructing such capital works as sewers, roads and sidewalks may be financed by a municipality in various ways. When the money is raised by the issue of debentures—the commonest method of municipal financing—the annual cost of interest charges and repayment of principal may be recovered by a levy on all taxable real property within the municipality or municipalities concerned. On the other hand, for any particular project, the cost may be levied in whole or in part against only those properties which are thought to receive some special benefit from the work, including properties that are exempt from general-purpose or school taxation.

2. As an alternative, all or part of the cost of capital projects may be assigned to specially benefiting property owners through the conclusion of an agreement between a municipality and a subdivision developer. Under The Planning Act, any municipality may require a subdivision agreement as a condition for the approval of a plan of subdivision. Under the same Act, the Minister of Municipal Affairs may make the subdivision agreement, including the provision of certain municipal services, a condition of his assent to the subdivision plan. In this way, the

municipality may persuade developers of land within its boundaries to undertake to install or pay for all or some of the capital works that form part of the subdivision or that support its development. A developer who accepts these obligations does so with the expectation of recovering the costs thus imposed upon him in the sale price of the lots when serviced or built upon.

3. This chapter discusses the manner in which all or part of the cost of certain municipal capital works may be levied against a selected group of municipal taxpayers either through a special capital levy or as a result of a developer agreement. We deal first with the growth and implications of special levies, and second with developer charges.

SPECIAL CAPITAL LEVIES

4. In Ontario, the practice of charging some part of the cost of capital improvements against those properties directly served by or deemed to benefit from the improvement is an old one. The Local Improvement Act provides the oldest statutory basis for such charges, although similar levies are now authorized in several other statutes. In consequence, the term "local improvement charges" is sometimes employed to describe all such levies despite a more restricted use of the term in the statutes. We think it preferable, in the circumstances, to use the expression "special capital levies" when referring to all levies of this sort and to reserve the words "local improvement" for those levies so designated by statute. Ontario statutes authorizing special capital levies include The Local Improvement Act, The Municipal Act, The Ontario Water Resources Commission Act, The Tile Drainage Act, The Drainage Act, The Telephone Act, The Public Utilities Act, and The Police Act. Each of these statutes prescribes its own procedures.

REVENUE FROM SPECIAL CAPITAL LEVIES

5. The value and growth of municipal revenues obtained from the major form of special capital levies, the local improvement levies, are shown in Table 15:1 for

TABLE 15:1

REVENUE FROM LOCAL IMPROVEMENT LEVIES SELECTED YEARS 1957-1964

(Property owner's share)

	Cities		*Towns/Villages*		*Twnsps./Imp. Distrs.*		*Total*	
	Amount	*Per cap.*	*Amount*	*Per cap.*	*Amount*	*Per cap.*	*Amount*	*Per cap.*
	(*thousands of dollars*)	(*dollars*)	(*thousands of dollars*)	(*dollars*)	(*thousands of dollars*)	(*dollars*)	(*thousands of dollars*)	(*dollars*)
1957	5,868	2.75	1,800	1.85	4,660	2.11	12,328	2.32
1959	6,900	3.08	2,226	2.13	5,475	2.28	14,601	2.57
1962	9,600	3.86	2,456	2.18	5,872	2.41	17,928	2,96
1964	10,387	3.97	2,879	2.49	6,595	2.57	19,861	3.13
percentage increase 1957-1964	77.01%	44.36%	59.94%	34.60%	41.52%	21.80%	61.10%	34.91%

SOURCE: Department of Municipal Affairs, Annual Reports of Municipal Statistics.

the selected years 1957, 1959, 1962 and 1964, classified by type of municipality. The information has been obtained from the Annual Report of Municipal Statistics of the Department of Municipal Affairs, which excludes other special assessments not designated as local improvements. Between 1957 and 1964 revenue increased by $7.53 million or 61.1 per cent and in per-capita terms by $0.81 or 34.9 per cent. With a per-capita figure of $3.97, cities obtained the largest revenues from local improvement levies in 1964, followed by townships and improvement districts with $2.57 per capita, and towns and villages close behind with $2.49.

6. Increases in the yield of local improvement levies have roughly kept pace with the rise in municipal tax revenue, as indicated in Table 15:2. As a proportion of municipal tax revenue, these levies are small, ranging by class of municipality from 3.25 per cent in townships in 1957 to 2.24 per cent in towns in 1964. It is apparent from the Table that in percentage terms local improvement levies have been particularly stable in cities, and relatively stable in the other classes of municipalities.

TABLE 15:2

REVENUE FROM LOCAL IMPROVEMENT LEVIES AS PERCENTAGE OF TOTAL TAX REVENUE

Year	*Cities*	*Towns/Villages*	*Townships Improvement Districts*	*All Municipalities*
1957	2.65%	2.72%	3.25%	2.86%
1959	2.61	2.76	3.04	2.78
1962	2.75	2.24	2.54	2.60
1964	2.58	2.29	2.38	2.47

SOURCE: Department of Municipal Affairs, Annual Reports of Municipal Statistics.

CAPITAL WORKS FINANCED BY SPECIAL CAPITAL LEVIES

7. Our analysis of the records of the Ontario Municipal Board for the years 1957, 1959 and 1962 indicates that sewers are the most important capital project constructed and paid for by special levies, followed by pavement works and waterworks. Over the period studied, the value of sewer projects increased from 38 to 59 per cent of all such works, pavement works declined from 27 to 11 per cent, waterworks remained almost constant, ranging from 12 per cent in 1957 to 11 per cent in 1962, and the value of all other works declined from 23 per cent in 1957 to 19 per cent in 1962.

8. Table 15:3 shows the value of capital works approved by the Ontario Municipal Board for construction and financing by special levies. The figures were again compiled from an analysis of Ontario Municipal Board records that cover 1957, 1959 and 1962. Over the period, the total value of capital works increased by 64 per cent from $40 milion in 1957 to $66 million in 1962. On a per-capita basis the value rose from $7.57 to $10.90. Cities experienced the greatest increase, amounting to 84 per cent, or $5.86 per capita, rising from $21.5 million or $10.06 per capita in 1957 to $40 million or $15.92 per capita in 1962. Corresponding

increases in townships and improvement districts were 44 per cent or $2 per capita and in towns and villages 29 per cent or 50¢ per capita.

TABLE 15:3

VALUE OF WORKS APPROVED FOR FINANCING BY SPECIAL ASSESSMENTS SELECTED YEARS 1957-1962

	Cities		*Towns/Villages*		*Twnsps./Imp. Distrs.*		*Total*	
Year	*Amount*	*Per cap.*	*Amount*	*Per cap.*	*Amount*	*Per cap.*	*Amount*	*Per cap.*
	(thousands of dollars)	*(dollars)*	*(thousands of dollars)*	*(dollars)*	*(thousands of dollars)*	*(dollars)*	*(thousands of dollars)*	*(dollars)*
1957	21,484	10.06	4,319	4.45	14,455	6.53	40,258	7.57
1959	20,629	9.20	5,130	4.91	19,367	8.08	45,126	7.94
1962	39,603	15.92	5,576	4.95	20,758	8.53	65,937	10.90
percentage increase 1957-1962	84%	58%	29%	11%	44%	31%	64%	44%

SOURCE: Compiled from records of the Ontario Municipal Board.

9. Table 15:4 compares capital expenditure on special capital levy works approved in the years 1957, 1959 and 1962, with the sum of all new debenture debt contracted and capital expenditures from current revenue. The proportion represented by works financed through special capital levies appears to be increasing. In 1957, 21 per cent of total approved capital expenditure was for special assessment works. By 1962 this proportion had risen to 30 per cent.

TABLE 15:4

CAPITAL BORROWING UNDERTAKEN FOR SPECIAL LEVY WORKS COMPARED WITH TOTAL CAPITAL EXPENDITURE

Year	(1) *Total new debt contracted and capital expenditure from current revenue*	(2) *New debt contracted for special levy works*	(2) *as a percentage of* (1)
	(thousands of dollars)		
1957	195,525	40,258	21%
1959	208,026	45,126	22
1962	220,835	65,937	30

SOURCES: Ontario Municipal Board; Department of Municipal Affairs, Annual Reports of Municipal Statistics.

INITIATING WORKS FINANCED BY SPECIAL CAPITAL LEVY

10. Different works that are to be financed by special capital levies are initiated under a somewhat bewildering variety of procedures. We shall now undertake a discussion of these several procedures, sorting them out in relation to each of the statutes under which special capital levy works may be undertaken.

The Local Improvement Act

11. Works that may be undertaken as local improvements under The Local Improvement Act include the construction and improvement of streets, sewers and

watermains; extensions of public utilities; construction and maintenance of boulevards; the planting and maintenance of trees, shrubs and plants on a street; and the capital cost of providing public parks or squares of not more than two acres.

12. In addition to the above works, the council of a township or village may undertake as a local improvement the construction, renewal or replacement of waterworks, the construction of sewage treatment works, and the provision of street lighting. Adoption of a local improvement system under The Local Improvement Act requires the assent of the municipal electors and, once an enabling by-law has been passed, it may be replaced only with the assent of the electors.

13. Under The Local Improvement Act a municipal council may undertake a work as a local improvement either with or without petition from property owners. If the work is requested by petition, a council may pass a by-law to undertake the work as a local improvement if the petition is signed by at least two-thirds of the owners representing at least one-half of the value of lots to be specially assessed for the work. It should be emphasized that presentation of a petition does not compel a municipality to act on the request of the petitioners.

14. If a special capital levy work is not initiated by petition, it may be commenced in any one of the following ways:

(1) on the initiative of the municipal council (known as the initiative plan except when the project is a park, square or public drive);

(2) on sanitary grounds, and

(3) when the work involves the construction of utility connections from the main to the street line or other work as approved by the Ontario Municipal Board.

Before any work may be undertaken for which debentures are to be issued, the approval of the Municipal Board must be obtained.

15. Under the initiative plan councils must give notice of their intention to undertake the work by publication of the notice and by serving it upon the owners of the lots to be specially assessed. If, within one month of publication of the notice, council receives a petition objecting to the work from a majority of owners representing at least one-half of the value of the lots to be specially assessed, the work may not be undertaken as a local improvement under the initiative plan for at least two years. However, council may proceed on the initiative plan despite the petition if the new work is less expensive or of a different kind or description from that originally proposed. Moreover, the petition will not prevent council from proceeding under the provisions of Section 8 of The Local Improvement Act, which requires a two-thirds favourable vote of council and the approval of the Municipal Board.

16. Section 8 provides that when, by resolution or by-law, two-thirds of council declare it desirable to construct a project as a local improvement, the work may proceed on approval of the Ontario Municipal Board with no right of petition against the work as provided under the initiative plan. However, council must

publish notice of intention or it may mail a copy to every owner affected. Any owner may then file his objections with the municipal clerk for referral to the Municipal Board within twenty-one days after publication or mailing of the notice.

17. If the Minister of Health or a local board of health determines that sewer or watermain construction, enlargement or extension is in the public interest on sanitary grounds, council by a two-thirds vote of its members may undertake the work without petition from the property owners affected. Council must, however, publish a notice of its intention. Owners of the lots to be specially assessed under this latter provision of The Local Improvement Act do not have the right to petition council against the by-law, but a majority representing at least one-half of the value of the lots to be specially assessed may petition the Ontario Municipal Board for relief within twenty-one days of publication of the notice.

18. Without receiving a petition, but with a two-thirds vote of its members, a council may install connections to the street line from a main sewer, watermain or gas main. The owners of the property to be specially assessed for the cost of such work have no right of petition to council against construction of the project. For sewer and water connections to the street line the approval of the Ontario Municipal Board is first required but approval by the Board for gas connections is not mentioned in the legislation.

19. In addition, when a special capital levy work involves the opening, widening, or extension of a street or the construction of a bridge the estimated cost of which exceeds $50,000, any person whose land is to be specially assessed may object to council within ten days after being notified of the intention of council to undertake the work. The only ground for such objection is that the work is for the general benefit of the municipality or of a section or district. If an objection is filed, the approval of the Ontario Municipal Board must be obtained before the work can be undertaken.

The Municipal Act

20. The Municipal Act authorizes councils to make capital expenditures for all types of municipal services. For some services the Act follows the principles of The Local Improvement Act by permitting the cost to be levied against property that, in the opinion of council, derives special benefit from the project. Examples are the construction of drains, sewers and sewage disposal works, the acquisition of land for parks, the provision of municipal parking lots, and capital expenditures on public utility undertakings.

21. Most of the works mentioned in The Municipal Act are also covered in The Local Improvement Act. At least one exception, however, is the provision of municipal parking lots, for which the enabling by-law requires approval of the Municipal Board. Notice must be given to the assessed owner of each parcel of land in the defined area and the Board must reject the by-law if a petition against it, signed by at least two-thirds of the assessed owners representing at least one-half of the assessed value of the land in the area, is filed with the Board at or prior to the hearing of the application.

22. In The Municipal Act the term "public utility undertakings" covers a wider range than the utilities listed in The Local Improvement Act by the inclusion of transportation systems, and refers to municipalities operating any such undertaking under authority of a special Act. Before capital expenditures can be made on public utility undertakings under the provisions of The Municipal Act, the by-law must be approved by the Municipal Board and passed by a vote of three-fourths of all the members of council, but assent of the electors is not required.

23. In no instance under The Municipal Act may a special assessment work be initiated on petition by local property owners. All are initiated by council and are subject to approval of the Ontario Municipal Board rather than assent of the electors. Also, The Municipal Act makes no provision for notifying interested owners of council's intention to initiate a work except for parking lot projects, and there is no provision for petitioning against any special assessment works constructed under the Act.

24. The objectives to be served through special capital levies under The Municipal Act range much more widely than those covered under The Local Improvement Act. The authority of The Municipal Act can be used to construct a short lateral sewer line along a residential block and to recover the cost of debenturing through a frontage charge. The same legislation can be the basis for installing a complete sewage collection system and disposal plant to serve an entire municipality. The same is true of other types of expenditures authorized under The Municipal Act. Furthermore, the Act envisages special capital levies throughout defined areas both to recover the cost of capital assets financed through borrowing and to pay for current expenditures on specified services on an area charge basis. Some of The Municipal Act provisions give specific recognition to certain capital requirements within a municipality which may appropriately be undertaken on behalf of specially benefiting property owners and paid for by levies against these property owners. Others are concerned with both the capital and current costs of particular services to be furnished throughout defined areas including the probable use of debentures to meet capital requirements. Thus the use of area charges which has become common in mixed urban and rural municipalities has served to blur the traditionally wide differentiation between local improvement levies and levies upon the general taxpayer.

25. The financing of water and sewage works under The Municipal Act contrasts in a number of respects with the arrangements contemplated under the terms of The Local Improvement Act. This section introduces the concept of a deferred benefit for which some immediate charge may be made. Once the immediate benefit is derived or derivable from the work, the property owner who was subject to a deferred-benefit rate will be expected to pay at the higher immediate-benefit rate until his total obligation has been fulfilled. The rate arrangements are subject to prior approval by the Municipal Board.

The Ontario Water Resources Commission Act

26. Reliance upon The Municipal Act for the financing of water and sewer installations has been extended as a consequence of a provision contained in The

Ontario Water Resources Commission Act. This provision authorizes the special levies for capital purposes contemplated under The Municipal Act to be used for repayment by annual instalments of obligations to the Ontario Water Resources Commission for capital projects which the Commission has financed.

The Drainage Act and The Tile Drainage Act

27. The Drainage Act authorizes a municipality to construct drainage works and to charge the cost to benefiting landowners. A majority of landowners in an area requiring drainage must petition council who, subject to the usual borrowing restrictions, may proceed upon receipt of an engineer's report justifying the work. An individual owner requiring drainage works up to a maximum cost of $2,500 may also petition council.

28. The Tile Drainage Act permits a council to loan a landowner, on petition, up to 75 per cent of the total cost of the work involved in draining his land. Such a loan is granted at council's discretion and is recouped by the levy of a special rate to cover the cost of interest charges and principal repayment.

29. Neither The Tile Drainage Act nor The Drainage Act provides for initiation of the work by council. The value of works authorized under the two statutes was $3.2 million in 1957, $2.8 million in 1959 and again in 1962.

The Telephone Act

30. Under the provisions of The Telephone Act any municipality may establish and carry on a telephone system. If a telephone system is initiated by petition, this must be signed by no fewer than ten assessed landowners. Subscribers to a municipal telephone system may undertake to repay the cost of the project through a special rate levied by the municipality on their properties.

31. While the value of works approved under The Telephone Act is small, it more than doubled between 1959 and 1962, rising from $100,000 to $212,000. This was accomplished despite a steady decline in the number of municipal telephone systems, which stood at 121 at the time of writing. Municipal telephone systems in Ontario are dominated by those of Port Arthur and Fort William, whose activities have steadily expanded. These two systems account in large part for the fact that, despite the decline in the over-all number of municipal telephone systems, the number of customers served by these systems has remained steady at approximately 180,000.

The Public Utilities Act

32. To assist with the payment of interest and repayment of principal on debentures issued for waterworks purposes, a municipality may levy a special tax during the term of the debentures not exceeding 4 mills. The tax is levied on the assessed value of land abutting on any public roadway along which a main is laid, and on land up to 300 feet from the roadway which enjoys use of the water for fire protection purposes. Any owner or occupant who already pays for use of the water, however, may receive a rebate of the special tax up to the amount of his payments. The Act also provides that, if no local improvement charges have been

levied on owners or occupiers benefiting from a watermain, a special rate or rent may be imposed in respect of the capital cost of the main. The provisions of The Public Utilities Act involve internal administrative decisions, which may be made at discretion of council. Since levies under the Act need not be reported for statistical purposes, we have been unable to determine the value of capital works financed under its provisions.

The Police Act

33. The Police Act enables a township to recover the cost of policing within the township by a rate levied on an area or areas defined by the council. Authority is thus provided for recovering capital costs through a special annual levy for this and perhaps other purposes against the particular area or areas where services are made available. Parallel provisions for fire protection services are found in The Municipal Act. With respect to this Act, specific reference is made to the capital costs to be incurred and the possibility of paying for them through the issue of debentures. The Police Act omits any such detail. The special assessments both for police and fire areas represent an approach to municipal financing much different from the local improvement levies authorized under The Local Improvement Act.

The Trend towards Council Initiation

34. The most strongly perceptible trend that emerges from the maze of initiating procedures just discussed is one in the direction of initiation by municipal council rather than by taxpayer petition. From our study of Ontario Municipal Board records, we have calculated that in 1962, 83 per cent of the value of all projects had been initiated by council in contrast to 67 per cent in 1959 and only 58 per cent in 1957. Our detailed analysis of the records also indicated that the shift to council initiation over the six-year period was primarily due to the increasing volume of local improvements instituted under provisions of The Municipal Act, which permits councils to initiate special assessment works without petition and without the assent of the electors. While in 1959 the value of works authorized under The Municipal Act was $7.6 million, it was $36.7 million in 1962. Meanwhile, the value of works approved under The Local Improvement Act had declined from $34.6 million in 1959 to $24.8 million in 1962.

35. The trend away from initiation by property owners is evident for most types of special capital levy projects, but the extent of the trend varies considerably for different classifications of work. Table 15:5 shows that 94 per cent of all sewer works, on the basis of value, were initiated by councils in 1962 compared with 63 per cent in 1957. Projects affecting waterworks, sidewalks, pavement, curbs or gutters and street lighting all showed increases ranging from 2 percentage points for pavement to 26 percentage points for water and curbs or gutters. On the other hand, council initiation for road construction or road improvements decreased from 69 per cent in 1957 to 58 per cent in 1962. By class of municipality, the trend to council initiation is strongest in cities with an increase over the period from 54 to 89 per cent. Towns and villages showed an increase from

60 to 83 per cent while townships and improvement districts rose from 61 to 71 per cent.

TABLE 15:5

PERCENTAGE OF SPECIAL ASSESSMENT WORKS LAUNCHED BY COUNCIL INITIATIVE

		1957	*1962*
I	*By Type of Work*		
	sewer	63%	94%
	water	55	81
	sidewalk	51	75
	road construction	69	58
	pavement	69	71
	curb and gutter	40	66
	street lighting	52	77
II	*By Class of Municipality*		
	cities	54	89
	towns and villages	60	83
	townships and improvement districts	61	71

SOURCE: Compiled from records of the Ontario Municipal Board.

APPORTIONING THE COST OF SPECIAL CAPITAL LEVY PROJECTS

36. As a general proposition, the cost of providing local improvement works under the provisions of the principal statutes, The Local Improvement Act and The Municipal Act, is divided between the municipality as a whole and those owners of property who receive direct or indirect benefit from the projects. But there is little guidance in these statutes or in regulations on the method by which the division should be made. Our information indicates that on the average, perhaps 45 per cent of the debt incurred on behalf of special capital levy projects represents an obligation of the municipality as a whole; the rest is borne by the benefited property owners.

The Municipal Share

37. The Local Improvement Act stipulates that the following charges must be borne by the municipality:

(1) the share of charges attributable to properties exempt from local improvement levies under any special or general acts;

(2) at least one-third of the cost of a sewer having a sectional area of more than four feet;

(3) the entire cost of fire hydrants and all works provided for surface drainage such as culverts and catch basins;

(4) the cost of work incurred at street intersections;

(5) so much of the cost as is incurred in widening the pavement on a street to a width greater than that which existed previously; and

(6) the amount of any reduction made for corner and irregularly shaped lots.

In addition, the municipal corporation may assume a larger share of any works provided three-fourths of council members vote in favour of the additional support, and the Ontario Municipal Board gives its approval.

38. In contrast to The Local Improvement Act, The Municipal Act makes virtually no attempt to lay down guidelines as to what cost the municipality may bear. The sole exception is that of sewer and waterworks rates which, under Section 380 of the Act, shall be established with respect to "differentiating relevant matters to ensure that rates are imposed upon a basis that is equitable and just". For the rest, the municipal contribution, if any, to special capital levy works is left to the discretion of council.

The Owner's Share

39. The owner's share of special capital levies may be levied against defined areas of a municipality, against abutting properties, and against properties which, while not abutting, receive some benefit from the work. Works constructed under The Local Improvement Act are normally assessed against abutting owners on an equal rate per foot frontage while the general rule under The Municipal Act is to assess against defined areas according to the assessed value of the property involved. But there are exceptions under each statute both with respect to who may be assessed and to the basis of assessment. Under The Local Improvement Act the cost of any work undertaken may be levied on all property in a defined area on the basis of assessed property value, and land not abutting directly on the work but benefiting to some extent may be charged. Under The Municipal Act highway widening may be carried out under the terms and conditions of The Local Improvement Act, and sewer and water rates may be imposed only on those lands receiving an immediate or deferred benefit by levying a foot-frontage rate, an acreage rate or a mill rate.

40. Apportioning the owner's share of the cost of local improvements presents little difficulty when the assessed value of property in a defined area is the basis employed, as it usually is under The Municipal Act and as is permissible under The Local Improvement Act. Difficulties and consequent inequities arise, however, when foot-frontage rates are applied to abutting or other benefiting lands. The Local Improvement Act provides for adjustments to be made in the special assessments of corner lots and those of triangular or irregular shape to provide a fair and equitable assessment. Although the legislation mentions various factors that are to be considered, the precise determination of allowances is at the discretion of the individual local authority, which may be the council or one of its boards or commissions. One of the submissions made to us contained a documented reference to the wide variations in practice among Ontario municipalities in the determination of local improvement flankage rates.

Exemptions

41. In general, properties that are exempt from taxation under The Assessment Act are also exempt from local improvement levies imposed under any Act. There are two exceptions to this rule under general legislation, however, one narrowing

and the other broadening the exemptions categories. The Local Improvement Act narrows the exemptions by making liable for local improvement charges the lands of churches, universities and seminaries of learning except for schools supported in whole or in part from legislative grants or school taxes. The Assessment Act broadens its own list of tax-exempt property by exempting transmission pipe lines from local improvement charges. In addition, special legislation may relieve certain public and private organizations from liability for local improvement charges. The Niagara Parks Act, which exempts the Niagara Parks Commission from such charges, and The Ontario–St. Lawrence Development Commission Act, which similarly exempts the Development Commission, are examples.

42. In the domain of partial exemptions, provision is made in The Local Improvement Act for a council to reduce the share of certain works falling on abutting lands if it would be inequitable for such lands to bear their full share. Two submissions by interested parties drew our attention to the unduly limited use being made of this provision. For its part, The Municipal Act provides for the exemption or partial exemption from water and sewer works rates of lands at the junction or intersection of highways, triangular or irregular shaped lots, agricultural lands of more than 100-foot frontage, and, in respect of sewer rates only, lands that because of terrain or elevation do not derive as much benefit from the sewer as other lands.

Appealing Special Capital Levies

43. Appeals on special capital levies are complicated by the multiplicity of statutory provisions dealing with the subject. Only under The Local Improvement Act is the appeals procedure on special levies the same as for general local revenue sources. For the rest, differences in procedure abound. Appeals against some charges are minimized because of the procedures that must be followed prior to the approval of a special capital levy project. Thus, for example, extension of public utilities constructed under The Municipal Act requires prior approval of the Ontario Municipal Board, to which affected property owners may make representations.

44. To the extent that procedures in special capital levy appeals are similar to those in ordinary assessment appeals, they suffer from the same serious deficiencies we have discussed elsewhere in this Report. In our opinion, the rationalized assessment appeals procedures that we recommend in the chapter devoted to the subject should be made applicable to special capital levy appeals, with only such modifications as particular circumstances may warrant.

RATIONALIZING SPECIAL CAPITAL LEVIES

45. The use of special capital levies is increasing. While our evidence would indicate a greater upsurge in this means of payment within cities than elsewhere, special capital levy works are of growing importance to all classes of Ontario municipalities. Nearly one-third of the dollar value of municipal debentures issued today is for projects financed in whole or in part by special capital levies. The trend to greater use of special capital levies is not surprising in light of the urban

growth rate, the increasing use of area charges in urbanizing municipalities, and the competing demands upon the property tax.

46. In terms of total municipal revenue, special capital levies are, and will probably remain, relatively small. As we noted earlier, levies under The Local Improvement Act constituted just under 2.5 per cent of total tax revenue in 1964. Yet for the individual who must pay them, special capital levies can mean a heavy additional burden to his ordinary property taxes.

47. Compared to general property taxes, special capital levies reflect a greater emphasis upon the benefits-received approach to capital financing. How closely such assessments conform to the benefits-received basis depends, however, upon the particular method used to apportion all or part of the cost among the individual property owners who are deemed to benefit from the work. While the newer forms of special assessment have enlarged the application of the benefits principle, the methods of apportioning cost among owners have tended not to adhere strictly to it. For example, one of the briefs submitted to us referred to the plight of the woodlot owner who may be forced to pay for a drainage work that harms the growth of his trees although admittedly for other purposes the market value of his lot may be increased.

48. Present legislation leaves to the municipality a broad range of choice in the calculation of special capital levies. For sewer rates, to take one instance, The Municipal Act lays down four alternative methods of calculation, and provides for further differentiation where appropriate between immediate-benefit and deferred-benefit rates. Levies can be determined on the basis of foot frontage, acreage, assessed value, or water rates, the last of which are in turn subject to a considerable variety of calculations.

49. If special capital levies are to continue playing an important part in the financing of municipal undertakings, there is need to develop a clear and consistent policy governing their use. The present multiplicity of procedures by which special levy projects may be initiated under several different statutes is illogical and confusing. Likewise, numerous anomalies are found among the legislative provisions dealing with objections and appeals, total and partial exemptions, and the allocation of costs.

50. We are not suggesting that a single uniform procedure can be evolved to fit all the circumstances under which special capital levies should be required or permitted as the means of paying for specified municipal projects. We do believe, however, that the number of alternatives can and should be reduced, and that all genuine anomalies should be eliminated. As a necessary step in this direction, *we recommend that*:

> ***The legislative authority for financing capital works through special levies be consolidated in a single statute, and the procedures be simplified and made as uniform as possible.*** **15:1**

51. Today we expect to find such amenities as paved streets, sanitary sewers and street lighting in a large proportion of our urban residential areas from the very beginning, and not as a matter of neighbourhood option. The changing situation reflects the growth in the number and extent of areas of intensive urban development, a very large increase in the use of motor vehicles, and the expectation of higher standards of public health, safety and convenience. It is a by-product also of the growth pattern that has produced large-scale urbanization within formerly rural municipalities and led to the enlargement of urban municipal boundaries to embrace substantial blocks of open space for future growth. In this setting area charges have flourished as a means of differentiating between urban and rural land use within the same municipality not only for capital projects, but for current services as well.

52. Under these circumstances, the trend whereby property owners have largely lost to municipal councils the initiative for undertaking special levy works can be readily understood. Consequently, a realistic present-day approach should include a ready opportunity for council initiation of all special capital levy works. In the increasingly less common instances where such works may still be regarded as a matter of neighbourhood option because they represent an extra amenity with wholly localized benefits, adequate provision should be made for property owners to petition for the work on their own initiative. In addition, property owners should be able to petition against a council-initiated proposal. This is particularly important because, when council initiates a work, it may mistake the support of a small and vocal minority for the approbation of a majority of affected property owners, whereas a majority may in fact oppose it. As we see it, if objection to a council-initiated work is taken by property owners representing at least half the number of owners and at least half the specially assessed cost, then the council might be required to review its proposal and reapprove it by, say, a two-thirds majority before proceeding. As a guide to more precise legislative provisions on this subject, *we recommend that*:

> ***Both the municipal council and the taxpayers concerned be given the right of initiative for all kinds of capital levy projects.*** **15:2**

We further recommend that:

> ***Whenever a council initiates a special capital levy project, a sufficient opportunity be provided for the affected taxpayers to petition against the work and the council be required to reconsider the project if a petition meeting statutory requirements has been lodged against it.*** **15:3**

53. Under existing statutes, the types of properties exempt from special capital levies are fewer than those exempt from general property taxes. This meets our approval in that special capital levy projects have a strong benefits relation. On this ground it is our considered opinion that special capital levies should apply to an even broader group of properties than those that will be subject to general

property tax if the narrowed tax exemptions that we have recommended elsewhere are accepted. The one exception to the blanket application of special capital levies that we countenance is made up of such special assessment properties as pipe lines, railway lines, and telephone and telegraph lines. Such properties generally do not benefit from special levy projects, and we would therefore consider them exempt from levies unless a clear case could be established to the effect that a project is of benefit to them. Accordingly, *we recommend that*:

> ***Of all classes of property, only transportation and communications properties, such as pipe lines, railway lines, and telephone and telegraph lines, be exempt from a special capital levy, but such exemption not apply to those particular properties that will be benefited by the project for which the levy is to be made.*** **15:4**

54. The basis on which a special capital levy should be apportioned against liable properties poses, as we have pointed out, a vexing question. The breadth of choice that existing legislation provides in setting the basis of special capital levies may have appeal on grounds of local autonomy, but we have rather severe reservations as to its worth. Special capital levies can be much more closely grounded on benefits received than can general property taxes. While different special levy projects do of course call for different methods of apportioning the cost, in any given instance one particular formula must surely be more equitable than any other. To leave decisions that rest upon an understanding of a complex body of tax and economic theory to individual municipalities not frequently faced by them strikes us as an inappropriate division of jurisdiction between the Province and its local authorities. These decisions should be taken as a matter of the Province's statutory responsibility for local government.

55. If provincial legislation is to elaborate the form that each special capital levy should take in order to give best expression to the benefits principle, and to provide appropriate bases upon which to divide the cost among affected property holders, the statute will have to deal in detail with the entire range of municipal capital undertakings suitable for special capital levy financing. Such works will have to be classified in the statute by purpose, and the permitted form or forms of levies set down for each. To demonstrate what we have in mind, we have prepared an illustration showing the kinds of provisions that might be included in new legislation on special assessments. This illustration, appearing in Table 15:6, attempts to apply the benefits principle in a manner that takes account of the fact that special capital levies can relate more closely to benefits received than can the general property tax, while recognizing that these levies have an increasingly appropriate role in financing projects whose benefits are not necessarily localized in the narrow context of an immediate neighbourhood.

56. To be sure, provincial legislation would have to go into greater detail than our admittedly sketchy illustration. It would have to differentiate, for

TABLE 15:6

ILLUSTRATION OF PROPOSED LEGISLATION TO GOVERN THE COMPUTATION OF SPECIAL ASSESSMENTS

Nature of Work		*Form and Apportionment of Levy*	*Application*
Type	*Purpose*		
construction or capital improvement of local streets, curbs and gutters, sidewalks, street lighting, boulevards, street planting	functional and/or ornamental improvement of access to property	assessed value of land only, chargeable only on frontage works	residential properties
		frontage and flankage; full per-foot rate on frontage; half per-foot rate on flankage	business properties
local water and sanitary sewer mains	to provide service to abutting properties	according to foot frontage, chargeable when service available even if from flankage	all properties
provision of water for fire protection	to serve land and buildings within a defined area	assessed value	all properties
storm drainage works	to improve a definable area of land	assessed value of land only	all properties
development of off-street parking facilities	to serve a defined commercial area	assessed value—weighted, where appropriate, according to convenience of access	all business properties
development of public square or ornamental park space	to serve a defined local area	assessed value—weighted, where appropriate, according to degree of proximity	all properties
capital works needed in support of one or more urban services (other than revenue-earning utilities)	to serve a defined urban service area, large or small	assessed value	all properties
capital requirements of revenue-earning utilities (other than local water and sewer mains)	to serve a defined urban service area, large or small	charge as a portion of the utility rate	all customers of the utility

example, between works conferring an immediate and a deferred benefit upon properties. Preparation of a suitable statute will have to draw upon municipal experience with existing legislation which can be culled from the records of the Ontario Municipal Board and the Department of Municipal Affairs. If necessary, the proposed legislation should be made the subject of special study by the Department of Municipal Affairs. Our illustration is merely designed to show that a

blueprint for rationalized special capital levies is feasible, and on this ground *we recommend that*:

> ***Provincial legislation classify the municipal capital works eligible for financing by special capital levies and specify the form of levy for each category that will achieve the most equitable apportionment of the cost.*** **15:5**

57. Once a proper basis for apportioning special capital levies has been laid down by provincial statute, it will remain quite reasonable for the local municipality to decide itself when to use the levies and how to divide the financing of capital projects as between special levies on the one hand and the general property tax on the other. But it is important in our view that municipalities formulate their broad policy on special capital levies not in an *ad hoc* manner but rather as a framework that will provide a ready guide for future action. For this reason *we recommend that*:

> ***Provincial legislation require each municipality proposing to use special capital levies to pass a special assessment by-law which defines both the intended use to be made of the levies and the proportion of the total cost of each category of works that is to be financed by them.*** **15:6**

CAPITAL FINANCING BY DEVELOPERS

58. Municipalities have long had a direct role in land development, and have been particularly active in the last two decades. Since the War, more use has been made of the municipality's right to acquire and develop industrial sites, including the necessary service installations. Replacement of The Industrial Sites Act in 1950 by new provisions in The Municipal Act was indicative both of greater local activity in this field and of the desire of the Department of Municipal Affairs to oversee and to facilitate such transactions. Municipalities have also become involved in land assembly for housing, including public rental housing at either economic or subsidized rentals, for general occupancy or for older people. While the extent of participation by Ontario municipalities in the partnership arrangements encouraged by the National Housing Act and the provincial Housing Development and Planning Acts may have been disappointing to some, these none the less wrought a substantial amount of new municipal activity in the land development field, although the Ontario Housing Corporation has recently taken the initiative on housing away from the municipalities and from local housing authorities. Two changes in The Municipal Act are also indicative of the municipality's greater direct concern with urban expansion. In 1952, Ontario counties were given authority to service land that they own in order to assist in its disposal for building purposes, subject to the consent of the local municipality in which the land is situated. In 1956, improvement districts were authorized to acquire land for development purposes and to debenture the cost of purchasing and servicing the land.

59. But for all this activity, the direct role of municipalities in land development has been dwarfed by that of private developers. Where in an earlier period large-scale subdivision projects were the exception, they have in recent times become the rule for most fast-growing Ontario municipalities. Along with this change, municipal sponsorship of needed service extensions has been largely replaced by arrangements under which the developer is expected to provide or pay for a high proportion of service amenities both within and without the subdivision.

THE GROWTH AND NATURE OF SUBDIVISION AGREEMENTS

60. Responsibility for providing or paying for municipal service installations has been placed upon land developers through subdivision agreements which, from the beginning, have been made a necessary condition to municipal co-operation for registering a subdivision plan. More recently, not only has the requirement of an agreement been accorded official status by the Province, but it has also become a prerequisite to ministerial approval of the subdivision plan.

61. Subdivision agreements enable the financing of municipal capital works to take place through private borrowing. Accordingly, a municipality's borrowing capacity is not affected. The developer, in accepting the obligations which the agreements impose upon him, does so in the expectation of recovering the costs imposed upon him as part of the sale price of his lots. Whether he is in fact successful in shifting the entire burden to his purchasers depends, of course, on prevailing conditions of supply and demand, and the likelihood of his success is directly related to the buoyancy of demand.

62. The early development of direct financing of municipal service installations has not been well documented. But it is clear that the practice of requiring developers to agree to take responsibility for providing certain services or meeting certain costs which would otherwise fall upon the municipality first gained importance in the years immediately following World War II.[1] Among the earliest municipalities to impose such conditions were the three major recipients of Toronto's metropolitan expansion—the large townships of Etobicoke, North York and Scarborough. Initially, the legality of subdivision agreements requiring the land developer to install services or pay for them was in doubt. These agreements none the less multiplied in a setting where, given the pace of urban growth and the demand for housing, neither developers nor municipalities were overly concerned with legal refinements.

63. Even today, long after the legality of subdivision agreements has been firmly established, the number of such agreements and the extent of the municipal service responsibilities that they involve has yet to be estimated. The information that follows draws extensively on a study of developer agreements by the Citizens Research Institute, already cited, and on the 1964 report of the Fifth Annual Workshop of the City Engineers' Association on the same subject.[2] In addition,

[1]See "Subdivisions Story", *Citizens Research Institute of Canada Bulletin*, June 1960.

[2]City Engineers' Association, *Control of Subdivision Development*, Fifth Annual Workshop, 1964.

it relies upon the returns of a questionnaire which we ourselves circulated to 272 municipalities, of which 183 replied.

64. While the replies to our questionnaire do not provide a precise picture, they do enable us to sketch the comparative prevalence of developer financing of municipal expansion in 1953 and 1963. The following trends emerge:

(1) Over the period the use of subdivision agreements to transfer municipal service costs to developers came into much more general use.

(2) Where at the beginning of the period, subdivision agreements had been relatively common among the large urban and suburban municipalities, their use spread increasingly to smaller municipalities in the course of the decade.

(3) The introduction of subdivision agreements among smaller municipalities paralleled a considerable growth in the number of registered subdivision plans processed by these municipalities.

(4) Between 1953 and 1963, the responsibilities placed upon the developer for municipal services were appreciably broadened, and an increasing number of developers were expected to make cash payments in addition to providing or paying for specific municipal services.

65. Further evidence on the growth of developer responsibility for municipal services is obtainable by comparing the results of the questionnaires of the Citizens Research Institute and the City Engineers' Association, circulated five years apart. The Citizens Research Institute study indicated that in 1959 approximately three-quarters of the fifty-seven municipalities whose replies could be tabulated placed the full cost of basic street construction, water and sewer installations, and storm drainage works upon the developer, whether he was expected to carry out the work or not. In about half the responding municipalities, the developer was also expected to assume full responsibility for curbs and gutters, sidewalks and sodding of boulevards plus some limited extent of services outside the subdivision.

66. The City Engineers' Association questionnaire, circulated in 1964, brought replies from 43 municipalities. The Engineers' survey showed that 95 per cent of the municipalities replying required the residential developer to install or pay for sanitary sewers, 90 per cent required watermains, 88 per cent paved roads and storm sewers, 72 per cent curbs and gutters, 60 per cent concrete sidewalks, 47 per cent street signs, 44 per cent street lighting and 42 per cent boulevard sodding. About 40 per cent also required that hydro distribution cables be installed either above or below ground, with some 70 per cent of this number demanding underground installation. Lot sodding and tree planting were required by about 25 per cent of the municipalities replying. Thus is it apparent that the imposition of developer responsibility for municipal services has grown considerably in recent years.

67. All three questionnaires obtained information on the subject of what are called cash imposts. These are lump-sum contributions that developers are

expected to make as part of many subdivision agreements in addition to providing or paying for the installation of specified municipal services. Cash imposts may be earmarked for designated purposes and therefore stand in lieu of responsibility for service installations; they may be obtained on grounds of another stated municipal need such as school construction; or they may be imposed for an unspecified purpose. In 1959, about one-quarter of the municipalities responding to the Citizens Research questionnaire required what might be classified as cash imposts to supplement other defined responsibilities placed upon subdividers for municipal service installations. Most cash imposts were on a lot basis and ranged from a low of $50 per lot to a high of $400. Five years later 22 out of 41 municipalities answering the Engineers' question "Does your municipality require a lump contribution for each lot in a subdivision?" replied in the affirmative. The cash payment could be demanded in the form of per-lot, per-acre or per-foot-front contributions. The highest amount reported in the survey was $600 per lot in Oakville; generally the contribution was in the neighbourhood of $200 to $400. Our own questionnaire generally confirmed the trend toward greater use of cash imposts.

68. While cash imposts are frequently the means of requiring the developer to share the cost of supporting services outside the subdivision, a high proportion of municipalities expect him to participate directly in these outlays. The Citizens Research Institute found the practice to be widespread, and its growing popularity was confirmed by the City Engineers' Association. According to the latter, more than half the surveyed municipalities expected financial assistance toward trunk sanitary sewer installations outside the subdivision. Somewhat fewer than half took a similar position on external trunk watermains and sewers, and about one-quarter looked for help in providing access roads.

69. The above information discloses a large part of the financial obligations placed upon developers by subdivision agreements. But it does not tell quite the full story. Developers may be required to assign up to 5 per cent of their land for public purposes in addition to what they must set aside as road allowances, or make equivalent cash payments. It would appear that in practice the maximum land donation is almost always required. Again, engineering supervision and inspection services can add considerably to the developer's cost. Performance or guaranteed maintenance bonds required from developers impose a further and far from negligible expense. Finally, developers commonly must commute outstanding local improvement obligations to cash in amounts sufficient to cover both the municipality's and the owner's share of local improvement outlays for the benefit of land that under the plan of subdivision is no longer subject to local improvement charges.

70. It is not uncommon for municipalities to become concerned about the adverse effect on their financial position of new residential development not accompanied by corresponding industrial or commercial development. On the average, urban residential properties generate more in service requirements than they yield in tax revenues, and this is only accentuated by the split mill rate that prevails in Ontario. Several municipalities are known to require that commercial

and industrial development supplement residential development, or to limit residential development to properties with a value sufficiently above average to offset the lack of new industrial and commercial establishments. We refer in this connection to, among others in a list that could be greatly extended, Aurora, Brampton, Chinguacousy Township (Bramalea), Georgetown, Newmarket and Whitby. Where such restrictions are imposed upon developers, they are inevitably in addition to, not in place of, the usual expectations of the subdivision agreement.

THE POSITION OF THE DEPARTMENT OF MUNICIPAL AFFAIRS

71. Until the enactment of the present Planning Act in 1946, subdivision plans and the provision of local services were regarded as quite separate matters. The Planning and Development Act which had existed since 1917 had nothing to say on the subject, and municipal servicing arrangements were not a prerequisite to provincial approval of plans of subdivision. The Act of 1946, however, acknowledged a relationship, and in so doing recognized the new growth conditions and the increasing strains generated by urbanization upon water, sewer and other basic services.

72. When subdivision agreements became common, the Province sought to develop suitable legislation to control their content. For this purpose, discussions were held and correspondence was conducted with municipal associations. After much patient negotiation, however, it became very clear that the municipalities were firm in resisting any restrictions on their autonomy in this sphere. This attitude has played a key role in shaping the form of legislation that the Province has adopted.

73. The first reference to subdivision agreements was placed in The Municipal Act in 1958. It dealt with the most fluid element in the subdivision agreement, cash imposts for unspecified purposes. The relevant provision, which remains in the Act without amendment, requires that cash imposts be placed in reserve funds, that they be subject to the same controls as other reserve funds, and that the money be used to meet expenses incurred by the municipality for work of benefit to present or future occupants of the subdivision. Diversion of the money to other purposes must have departmental approval.

74. Direct recognition of subdivision agreements and a measure of control over their content was incorporated into The Planning Act in 1959. As already noted, this legislation acknowledges the right of municipalities to enter into subdivision agreements with land developers and gives the responsible Minister authority to require a municipality seeking approval of subdivision plan to have executed a subdivision agreement with the owner of the land dealing, among other things, with the provision of municipal services. Thus the Minister can require subdivision agreements, although his ability to restrict the severity of their terms is perhaps less clear.

75. Despite the legislative references to subdivision agreements in 1958 and again in 1959, the legality of such agreements was not indisputably established until

two years later. In February 1957 the Township of North York contested the position taken by Beaver Valley Developments Limited that it was not required to pay for trunk sewers to serve the subdivision since the subdivision agreement under which the payment was expected was not legally enforceable. From the lower court, the case went to the Ontario Court of Appeal and then on to the Supreme Court of Canada. The Supreme Court decision, brought down on April 25, 1961, upheld the power of the Township to enter into the subdivision agreement.[3]

76. Following recognition of subdivision agreements in The Planning Act, the provincial Community Planning Branch began circulating a sample subdivision agreement "for purposes of information only". It used for this purpose the subdivision agreement of the Township of North York. At the time, North York's form of agreement was being used to impose comparatively severe conditions upon developers, evident from the subdivision agreement form in blank. Even today, the indicated provisions would be regarded as quite demanding. Admittedly, the subdivision agreement, as circulated, carried this further covering note: "While this agreement may serve as a guide, it should be modified before use in each instance to conform with the requirements of the municipality and the specific conditions applicable to the subdivision." Yet it is hard to dispute that the Department in choosing North York's form was prepared to encourage municipalities to recoup from developers a goodly portion of both the direct and indirect costs of supplying new subdivisions with municipal services.

77. When a draft plan of subdivision is approved by the Minister, a standard form is attached to the letter of approval setting out conditions which must be observed by the owner of the land. One such provision is: "That the owner agrees in writing to satisfy all the requirements, financial and otherwise of the (name of municipality) re surfacing of roads, installation of services and drainage." Another condition requires the municipality to advise the Minister before he certifies the final plan of subdivision that the requirements with respect to the stated municipal services have been carried out to its satisfaction.

78. Taken together, the form of the legislation and the method of administering it suggest that the Minister does not concern himself with subdivision agreements officially beyond recognizing that they exist and that they should contain certain terms satisfactory to the municipality concerned. Ministerial discretion, therefore, rather than constituting a means of detailed provincial supervision, has meant that municipalities can enter into a broad range of agreements at their discretion with the full legal support of the Province.

79. The Planning Act permits appeals to the Municipal Board from the decisions of the Minister with respect to his approval of subdivision plans either by the municipality or the owner of the land in question. It might be thought that this right of appeal will serve as a protection to the landowner against unduly severe requirements under a subdivision agreement that the Minister has allowed to stand. But surely a developer who attempted to mitigate the terms of his agree-

[3] *Beaver Valley Developments Limited v. Township of North York and Dominion Insurance Corporation*, (1961) 28 D.L.R. (2d) 76.

ment by an appeal to the Board would greatly prejudice his chances of doing further business with the municipality concerned or, for that matter, with other municipalities throughout Ontario. Here again, then, it would seem that the Department of Municipal Affairs has refrained from any positive participation towards determining the municipality's relationship with the subdivider.

THE DEVELOPER'S ROLE IN FINANCING MUNICIPAL EXPANSION

80. In the immediate post-war years, the rapidly growing urban municipalities found it necessary to increase their long-term debt burden at an alarming rate. New school construction alone was imposing heavy and expanding borrowing requirements. Where in an earlier day gravel roads were adequate for new subdivisions, most people were now looking for paved streets, grading and sodding of boulevards, modern street lighting and other such amenities. The municipal tax base was being stretched to meet expanded requirements for on-going services to which new capital commitments would add more in annual debt charges. With a buoyant demand for new housing, stimulated by C.M.H.C. financing, land developers were prepared to put up more capital in return for prompt municipal approval of substantial new subdivisions. In such an atmosphere, the transfer of a large and increasing burden of capital outlays from the municipal corporation to the developer with repayment as part of the purchase price of a home instead of an addition to taxes, special capital levies or both, was a natural development.

81. In some ways, developer charges, supplemented in due course by cash imposts, constituted a most attractive solution to a pressing post-war problem. Where demand for new housing was particularly strong, the municipality could entirely eliminate the capital costs of providing service amenities and, in addition, obtain contributions toward the capital cost of new schools and for other purposes. Offsetting this advantage was a higher price for the home purchaser—though his taxes were somewhat lower—and a relatively higher price for new homes than for old. Normally, the carrying charge for the debt is heavier when borne by the home-owner through a mortgage because mortgage interest rates are traditionally higher than municipal debenture rates. Also, the debt resulting from service installations is probably spread over a longer time period since mortgages tend to have longer terms than municipal debentures.

82. The use of developer agreements served to lighten the debt charges of the very municipalities whose current budgets were under greatest pressure. But admittedly, the elimination through agreements of burdensome capital outlays and annual debt charges led municipalities in some instances to approve subdivision developments which, under different conditions, would have been recognized as a financial embarrassment to the municipality. Sometimes the ready availability of developer financing has created the mistaken impression that inadequate taxable capacity can be overcome simply by shifting to private hands the burden of capital costs. Before long, however, new growth will be felt in the form of increased operating requirements for schools and other municipal services. And after some further lapse of time, the capital installations themselves will require maintenance

or renewal. Even the more far-sighted municipalities that have sought to maintain a balance in new assessment between residential and business properties have not necessarily avoided all the problems. Arrangements with developers that proved too severe to be realistic have had to be relaxed in order to avoid disruption of new development and loss of anticipated assessment. Mistakes have been made on both sides and negotiations have sometimes become unduly complex and protracted.

83. Developer agreements have reduced the amount of subsidy for which the local community would otherwise have been eligible. Under The Highway Improvement Act, local streets constructed in new subdivisions would not have been eligible for subsidy in any event. But the main streets within or giving access to the subdivisions have not qualified for provincial road subsidies if developers have installed or paid for them in whole or in part. An amendment to The Highway Improvement Act in 1964 altered this situation by making the municipality's portion of such road outlays eligible for subsidy consideration and, with the Minister's consent, the developer's share of the cost as well. But the present state of the legislation, while representing an improvement, does not eliminate the problem entirely and introduces an element of ministerial discretion which on the face of it is undesirable.

84. A further disadvantage of developer financing has been that a municipality has sometimes demanded more extensive or elaborate services than were actually warranted and certainly more than the municipality would have paid for itself. As a result, the cost of new homes has been unnecessarily increased. It is a fact that residential and other forms of large-scale development require extensive negotiation between the municipality and the prospective developer in order to protect the public interest. But in transferring responsibility for service installations or financing to developers, municipalities have sometimes been more demanding than they would have been on their own account. In some cases performance requirements have been excessive and inspection unduly harassing.

85. Finally, a telling criticism of developer agreements is that they have tended to set time limits for performance which are not related to the rate at which properties are completed and occupied. This kind of condition has two main effects. First, the developer may rush installations of roads and utilities, resulting in damage from poor compaction of fill in service trenches or freshly graded areas, which in turn leads to unnecessarily heavy maintenance costs in later years. Second, in the event of a slow-down in housing demand, insistence on completion of all municipal services by a set date has been known to place a developer in a position of financial hardship.

FUTURE POLICY

86. As a tax committee, our concern with subdivision agreements is to appraise their suitability to supplement the tax and revenue system as a means of financing the physical extension of urban communities. From our point of view, the transfer of municipal service costs to the developer is little different in its effect from special capital levies which are used to recover certain costs from a particular group of

tax or ratepayers. To the extent that services are designated for developer financing, the ensuing burden is removed from the general taxpayer and will normally revert to the home purchaser, who then assumes a burden similar to that borne by a home-owner who must meet a special capital levy.

87. The appropriateness of developer financing hinges on two important questions. First, is the practice firmly grounded in each instance in the benefits-received method of cost recovery? Second, is the ensuing addition to land prices an equitable form of cost recovery? These questions are far too broad to be dealt with adequately by one or several recommendations from our Committee. We can point the way to sound policy formulation but must leave it to others to accomplish it in full.

88. The course we favour is for the Province to establish the kind of detailed surveillance of subdivision agreements that it sought to develop but withdrew from under municipal pressure some years ago. Fortunately in the interval the Province has made progress toward a more adequate framework for the financing of municipal operations. We are hopeful, in addition, that our own recommendations may make a contribution in this direction. In particular, we anticipate that greater emphasis upon larger units of administration will enable municipalities to accept responsibility for new developments without the same extent of guarantees thought necessary even a few years ago.

89. We suggest that provincial legislation should directly control the content of subdivision agreements. The Province should prescribe guidelines within which the municipality would delineate the developer's responsibility to install or pay for designated services, set performance guarantees, and establish standards. The Province should also set out the limits within which a developer could be held responsible for external services or for the oversizing of services within the subdivision. Again, provincial legislation should ensure that every agreement control the timing of the work, arrange the receipt of contributions, and elaborate all municipal responsibilities. The legislation should also authorize the placing in subdivision agreements of such further requirements on the developer as:

(1) the assignment of specified amounts of land in defined locations for specified public purposes, or cash payments in lieu of such land donations;

(2) the commutation of any local improvement debt against land that would no longer be subject to local improvement charges under the proposed development plan; and

(3) the assumption of financial responsibility for any necessary relocation of existing municipal services.

We would submit as a final suggestion that in fixing the statutory limits for developer contributions toward municipal service installations, some method should be devised that will ensure that the services demanded are neither more elaborate nor more extensive than is warranted in relation to the value of the land and the potential value of the housing or other development upon the land.

90. As we see it, considerable similarity exists between building code requirements throughout Ontario and needed municipal service installations in new subdivisions. Both call for variations from place to place in recognition of differences in climate, soil conditions, topography and availability of construction materials. In both fields, provision can and should be made for inter-municipal flexibility within a broad framework of province-wide control. Within the context of the preceding discussion, *we recommend that*:

> ***Provincial legislation set precise limits within which the terms of subdivision agreements may be drawn, and require the filing of such agreements with each proposed plan of subdivision so that the Province may satisfy itself that the terms of each agreement are within the law.*** **15:7**

91. We deem it unreasonable to finance through developers services beyond the physical installations needed to open up subdivisions and the land required for public purposes by each subdivision. Specifically, we fail to see that cash imposts are warranted except as permitted contributions toward the cost of physical service installations. *We therefore recommend that*:

> ***Cash imposts on developers for unspecified purposes, or for purposes other than the recovery of the cost of allowable municipal service installations or extensions, be prohibited.*** **15:8**

92. In the course of our studies, we have become acutely conscious of the pressures that reliance on the property tax generates upon municipalities to achieve assessment balance in the face of shifting patterns of residential, employment and service land use that ignore municipal boundaries. However successfully we ourselves may be able to attack this problem, the use of subdivision agreements to corral new development in financially attractive packages does not strike us as being an appropriate part of a constructive approach. Accordingly, *we recommend that*:

> ***The imposition by a municipality of conditions for land development relating to the per-capita assessed value of subdivision property and proportions of residential, commercial and industrial assessment, other than those provided in its planning, zoning and similar land-use by-laws, be prohibited.*** **15:9**

Chapter 16

The Poll Tax

INTRODUCTION

1. The Statute Labour Act authorizes Ontario municipalities to levy an annual poll tax on male inhabitants from twenty-one to sixty years of age who are not otherwise taxed locally or whose local property or business taxes are less than the amount of poll tax. The tax was originally considered a supplement to the pioneer responsibility of the male inhabitants to provide statute labour; hence the levy is still confined to men in the age group liable for such work. The rate of tax is a flat amount that may range from $1 to $10. Exemption is provided for military personnel, firemen, students and those who pay taxes or perform statute labour in another municipality. In certain cases, the collector may require employers to deduct the tax from the wages of an employee who is liable for the levy. Anyone who becomes liable because his property taxes are less than the poll tax pays the amount of poll tax only.

GENERAL BACKGROUND

2. The poll tax is one of the oldest forms of taxation known to man, and can be traced back to Ancient Egypt and Rome. While it was a fixture on the Continent throughout the Middle Ages, it did not appear in England until 1377. From

England the poll tax was carried to North America where, as one of the first direct taxes to be levied in the colonies, it became one of the most important sources of revenue. The tax was peculiarly suited to the conditions of North American settlement. The method of assessment was simple, and as public expenditures were small the burden of the tax was slight.

3. The extent to which the poll tax is now used by Canadian municipalities varies considerably throughout the country. While the tax has an insignificant role in general municipal finance, it is an important revenue source for the relatively few municipalities—most of them in the Maritimes—that make use of it. Table 16:1 offers a summary of municipal revenue from the poll tax by province for 1962, with percentage figures showing the importance of this source in relation to local tax and gross current revenue. West of Ontario, the poll tax appears in but a handful of Saskatchewan municipalities where its yield is negligible. Only in the Atlantic provinces, among which New Brunswick and Nova Scotia alone possess fully developed municipal systems, has the poll tax any import. The tax was levied by provincial compulsion in all but one of the New Brunswick municipalities, and produced approximately 6 per cent of current local revenue at rates that varied between $3 and $60. In Nova Scotia the tax was again compulsory for all local governments save for the three cities of Halifax, Dartmouth and Sydney, which none the less levied poll taxes as a matter of local option. Despite widespread use, the Nova Scotia yield is considerably below that in New Brunswick, this because in Nova Scotia municipal councils may exempt property taxpayers from the poll tax.

4. In Ontario the poll tax is neither important nor widely used. Some figures supplied to us by the Department of Municipal Affairs indicate that seventy-nine

TABLE 16:1
POLL TAX REVENUES OF CANADIAN MUNICIPALITIES BY PROVINCE, 1962

	Amount (thousands of dollars)	*as per cent of 1962*	
		Taxation revenue %	*Gross current revenue %*
Newfoundland	184	3.63	2.36
Prince Edward Island	134	4.38	3.50
Nova Scotia	1,419	3.29	2.58
New Brunswick	2,895	8.60	6.01
Quebec	*	*	*
ONTARIO	95	.01	.01
Manitoba	—	—	—
Saskatchewan	714	.80	.60
Alberta	—	—	—
British Columbia	—	—	—
Ten provinces	5,441	.33	.26

* Figures not available, although some Quebec municipalities are known to obtain small revenues from this source.

Source: Dominion Bureau of Statistics, *Financial Statistics of Municipal Governments*, 1962.

municipalities imposed a poll tax in 1963—fewer than one in twelve. For these few, the tax did not provide a significant proportion of local revenue. Leaving aside improvement districts for the moment, fourteen cities, twenty-five towns, twelve villages and twenty-three townships levied a poll tax in 1963. The municipality in which this revenue source was most important was a village where the poll tax accounted for 0.37 per cent of total revenue. The highest per-capita yield from the tax, received by one city and one township, was 26¢. Among the improvement districts, five had a poll tax; one of these districts managed to collect an amount equal to $1.05 per capita, constituting 2.46 per cent of its total revenue. But with this single exception, the Ontario scene with respect to the poll tax was one in which the relatively few municipalities that imposed the tax derived negligible revenue from it.

RECENT TRENDS

5. Depending on the province, the poll tax has taken rather different directions in recent years. It has followed the route to oblivion in British Columbia, which abolished poll taxes in 1957, and in Alberta, which followed suit a year later. In Manitoba, where no municipality has levied the tax for some years, the provincial Royal Commission on Local Government Organization and Finance recently recommended the repeal of permissive legislation.[1] A recommendation likewise calling for abolition emanated in 1963 from the New Brunswick Royal Commission on Finance and Municipal Taxation, despite the fact that the tax had enjoyed greater importance in New Brunswick than in any other Canadian province.[2] This recommendation was implemented along with other reforms, effective January 1, 1967. Meantime, the poll tax lingers on in Saskatchewan, Quebec and Ontario under conditions of dwindling popularity. Thus only eight Ontario cities reported use of the tax in 1964 in contrast to fourteen the previous year, and city poll tax revenue had shrunk to less than $50,000 from about $90,000 in 1963. Finally, in Nova Scotia and Prince Edward Island, the poll tax has been rejuvenated and expanded. Here it is now commonly payable by females as well as males, although in some instances at a reduced rate. The weight of the tax has generally been increased, and in Halifax, the largest urban centre in the Maritimes, the poll tax is used to raise revenue from persons who commute to work from outside the city's boundaries. A 1964 study of provincial and municipal taxation in Nova Scotia recommends retention of the poll tax as an optional local levy.[3]

6. Given these divergent trends, it is apparent that Ontario confronts three alternatives in this domain of taxation. First, steps might be taken to rejuvenate the tax by extending its coverage to females, raising its rates, and perhaps using it in larger centres as a device to raise revenue from commuters. Second, the poll tax might be left in its present form as an optional local source of revenue in the

[1]Manitoba, Royal Commission on Local Government Organization and Finance, *Report*, Winnipeg, 1964, p. 174.
[2]New Brunswick, Royal Commission on Finance and Municipal Taxation, *Report*, Fredericton, 1963, pp. 265-6.
[3]Nova Scotia, *Provincial and Municipal Taxation Study*, Montreal: Touche, Ross, Bailey & Smart, 1964, p. 152.

full expectation that it will remain relatively unpopular and will be used by ever fewer municipalities. Third, and finally, the poll tax might be abolished rather than be allowed to suffer a lingering death.

ECONOMIC CONSIDERATIONS

7. For the poll tax, more than for almost any other levy, there exists a remarkable degree of consensus about the burden of the tax and its economic effects. A general capitation tax is probably borne by those who pay it in the first instance. Clearly, extensive evasion is common, but for those on whom it is levied there is unlikely to be much opportunity for shifting. Because the rate of tax is nearly always low—as in Ontario—it is unlikely to have any significant economic side-effects. An annual tax of ten dollars or less will certainly not be a determining factor in where a person chooses to reside.

8. The poll tax, like the property tax, is often credited with particular stability of yield. But we are suspicious of this viewpoint for two reasons. First, a large proportion of workers subject to the tax are transients whose number in a particular community will fluctuate from time to time and thereby undermine the tax base. Second, evasion, which has proved to be a great problem even in times of prosperity, would no doubt tend to increase during times of adversity, once again weakening revenue stability.

THE PROBLEM OF JUSTIFICATION

9. The poll tax is sometimes defended on the grounds that it conforms to the benefits-received principle of taxation. Inasmuch as the cost of a number of municipal services varies directly with population, a per-capita levy against the adult members of the community is justified. But this argument is easily pressed too far. In the first place, most services whose cost varies directly with population are designed to meet the needs of particular categories of people such as the aged or the poor. Moreover, in relation to the nature of the services furnished by municipalities, the case for extending the benefit principle of taxation beyond the partial application of that principle through substantial dependence upon property taxes is debatable. There is also the fact that a significant proportion of municipal revenues is in the form of grants from senior levels of government, especially the province. The source of these funds, largely income and sales taxes, serves to broaden the group of taxpayers who are contributing directly or indirectly to the support of local government. In brief, then, the suitability of a flat-rate levy will be governed not only by the nature of services offered but also by the total blend of revenues used to pay for them. The property tax itself is open to criticism as weighing heavily on the lower income groups, and the addition of the poll tax would not improve that situation. Finally, it should be remembered that a head tax to swell the general revenues must be sharply distinguished from a flat charge to support some particular service like hospital care.

10. A point clearly in favour of the poll tax is that it is a visible tax, paid and borne directly by those who are subject to the levy in the first instance. Such

a direct tax evidently serves to make people aware of the cost of government and of their responsibility to share in meeting that cost. In this context, the poll tax has particular merit in that it reaches down to persons whose earnings are small and who have not established any fixed stake in a particular community. But even this commendable feature of the poll tax cannot be presented without qualification. While the poll tax may make the taxpayer conscious of the cost of government, it will scarcely make him aware of fluctuations in the expenditure load. The amount of poll tax customarily remains fixed over long periods of time notwithstanding repeated increases which may be required in the levels of other forms of taxation. A report prepared eighteen years ago for the Government of Nova Scotia advocated a fluctuating poll tax,[4] but this proposal has not been adopted either there or elsewhere, doubtless because it is awkward to make annual changes in the poll tax whose rates do not readily lend themselves to fine gradations.

11. A related qualification is that the poll tax, while visible, must be recognized as involving a substantial element of unfair discrimination inasmuch as poll taxpayers may be expected also to incur shelter costs. In the long run, the owner of a rented dwelling unit may be expected under most circumstances to shift much of the property tax burden to the tenant, boarder or lodger through rental charges. We note that in recognition of this indirect responsibility of tenants for taxes, The Assessment Act requires that tenants be furnished with assessment notices indicating the base upon which the coming year's taxes will be levied against the owner. Furthermore, tenants have long been given the vote in municipal elections, presumably on the ground that they are part of the community of property holders who receive and pay for municipal services. There is therefore no validity to the proposition that it is necessary to levy a poll tax in order to ensure a contribution from a broader group of citizens for municipal services. As to the use of a poll tax as a device for taxing commuters who otherwise make no direct contribution to the municipality in which they work, we suggest that more equitable and rational remedies, for example boundary changes, are preferable.

12. Yet another claim for the poll tax is that it might be made the instrument through which the election franchise could properly be extended to non-property holders. There are weaknesses in this proposal as it is commonly expressed. Why should the privilege of voting in municipal elections be confined to property owners and tenants when other adult citizens are in large majority indirect property taxpayers and direct payers of other non-property taxes which go in part to the support of municipal government? If a voting fee is warranted what other grounds are there for it except as a charge for compiling voters' lists? On this basis, the amount would be small. But, in the interests of representative government, is even a token charge for this service desirable?

OTHER RECOGNIZED SHORTCOMINGS

13. Still other inadequacies of the poll tax are widely recognized. So long as the tax is confined to males, as it is in Ontario, it will be inequitable. Again, as

[4]Nova Scotia Municipal Bureau, *The Reorganization of Provincial-Municipal Relations in Nova Scotia*, Halifax, 1949, p. 134.

long as the municipal electorate is defined so as to exclude some of the persons who are subject to poll tax, the levy is objectionable as taxation without representation.

14. The poll tax is plainly regressive. Its flat rate means that all people subject to the tax pay the same amount regardless of income. The exclusion of property owners from the base will accentuate the regressive nature of the tax to the extent that home ownership is more common among higher income groups. While in some jurisdictions, individuals with incomes below a fixed level are exempt from tax, the income levels which are set for this purpose are normally so low that many welfare recipients are still subject to the tax. If the latter were exempt, poll tax revenues would shrink still further.

15. Despite payroll deduction the collection of the poll tax presents innumerable problems. Persons who neither own nor rent self-contained accommodation move frequently within and between municipalities. It is extremely difficult to compile a list of those subject to tax, since the right to exemption of those under twenty-one or over sixty, and of military personnel, firemen, and students, together with those who have paid taxes or performed statute labour in another municipality must be checked. In general, to quote the New Brunswick Royal Commission on Finance and Municipal Taxation:

> The difficulty of achieving a high rate of collection arises from the circumstance that there is no point of contact between those subject to the tax and the tax collector. There is no passageway, so to speak, through which the taxpayer must pass and where he may be apprehended by the tax gatherer. For sales tax there is the taxable transaction; for income taxes, deduction at the source; for property taxes an asset which may be possessed. But many persons liable for poll tax are not property owners or income earners; and they cannot be identified when making purchases.[5]

To this we need add only that when poll-tax deduction by employers is attempted, taxpayer resentment can run high because of the many casual labourers and self-employed persons who will continue to get off free.

16. The problems of poll-tax collection are well documented in a statement on the subject prepared for the Board of Control of the City of Hamilton in December 1958.[6] Among other points, the Report notes that collections in 1957 amounted to only 62 per cent of the levy. The estimated cost of collecting a mere $31,300 was $9,500—more than 30 per cent of revenue. As far as we can gather, the Hamilton experience is fairly representative of the situation among the Ontario municipalities that make use of the poll tax. If the tax rate were increased, collection costs would appear less monstrous in that they would represent a smaller percentage of receipts. But this kind of change would only compound the inequities of the tax. And while more aggressive collection procedures might be instituted, the basic inequity of the tax would doubtless compound resentment and attempted evasion.

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[5]New Brunswick, Royal Commission on Finance and Municipal Taxation, *Report*, p. 265.

[6]City of Hamilton, *Report by the Treasurer and Commissioner of Finance*, December 22, 1958.

CONCLUSION

17. The City of Hamilton Report recommended that the poll tax be abandoned because "this tax is discriminatory, difficult to administer fairly and equitably, difficult and costly to collect, is not a significant revenue, results in the distrust and misunderstanding of the staff of the Corporation and, therefore, of the Corporation itself, and results in a 'hidden' population."[7] The recommendation was accepted, and as a consequence no Ontario municipality whose population exceeds 100,000 now uses the poll tax.

18. We ourselves conclude that the poll tax has no place in a sound tax and revenue system. It is unfair, regressive, costly to administer, and widely evaded, in brief, an anachronism in modern society. We believe that the province should abolish the poll tax as a local revenue source effective at the beginning of the municipal fiscal year that immediately follows repeal. In short, *we recommend that*:

> ***The right of Ontario municipalities to levy poll tax be repealed.*** **16:1**

[7]City of Hamilton, *Report by the Treasurer and Commissioner of Finance*, p. 2.

Chapter 17

Local Non-Tax Revenues

INTRODUCTION

1. For the purposes of this chapter, we define local non-tax revenues as encompassing licences and permits, user fees and charges, and income from revenue-earning enterprises. We have dealt elsewhere with such other non-tax revenues as fines, special capital levies, and developer charges.[1] All the revenues that concern us in this chapter have one characteristic in common: each represents payment for a direct benefit conferred by a particular municipal agency. This common element aside, non-tax revenues are a study in contrasts. A licence or permit conveying a benefit will generally be issued only to a person who can comply with certain conditions over and above the payment of the required fee. On the other hand, the services of revenue-earning enterprises are made generally available to all who want or have need of them and who are willing and able to pay the price. For their part, user fees or charges are not easily defined. Some involve restrictive screening and regulation comparable to the conditions that surround the issuance of a licence or permit. Others represent payments for goods or services supplied generally by a municipality as a subsidiary part of a broader function. In our present discussion, we shall deal first with revenues from licences and permits, next with user fees and charges, and last with revenue-earning enterprises.

MUNICIPAL LICENCE AND PERMIT REVENUES

2. Municipal licence and permit fees can be distinguished from taxes in a number of respects. As a general rule, licences and permits will affect a more selective group of persons, whether individual or corporate, than most if not all types of taxation. A tax is a compulsory levy upon either the whole community or some economic or other cross-section of the community—the poll tax, for instance. Most municipal fees, on the other hand, are charged to people who choose to avail themselves of some relatively specific right or service or to engage in some particular activity upon which regulation is imposed in the public interest. Thus, for example, we might take it for granted that all retailers in a given municipality will be subject to the business tax. But we would expect municipal business licences to be confined to those selected retail outlets which are thought to require particular oversight in the interests of public health or safety, the control of nuisances and the like.

3. Municipal licence and permit fees, in theory, can be expected to bear a fairly close resemblance to taxes which rely upon a benefits-received justification. In both instances the amount collected should be based on the average cost of providing a service, conveying a right or maintaining a desired degree of regulation and control. Actually, because licence and permit fees are charged directly to those who avail themselves of a readily identifiable privilege or service, they are more readily amenable than taxes to being set at levels that closely approximate average cost. Admittedly, the level of licence and permit fees can in practice depart from the theoretically justifiable level. Frequently the amount of a municipal fee is set high with the deliberate objective of producing a sizeable, continuing surplus for the treasury. The fee has then become a supplement to taxation for general revenue purposes rather than a levy strictly related to benefits received.

4. When cost recovery is not used to calculate the size of a fee, the amounts are set arbitrarily at levels thought to be practical in political or other terms. They may be either higher or lower than the amounts that would be dictated by cost recovery alone. A fee may be below cost as a result of reluctance—either as a matter of public policy or because of inertia—to effect the periodic increases needed to offset the shrinking value of the dollar. The marriage licence, which is issued by municipalities but whose fee level is set by the Province, provides a striking example. Where a municipal fee is producing a significant surplus over cost recovery, the level chosen may be the upper limit fixed by provincial statute or, in the absence of such a limit, the largest amount that the traffic will bear within the realm of practical politics. The point can be illustrated from the response to a questionnaire we circulated to Ontario municipalities. Fruit and garden produce dealers in 21 municipalities were licensed at fees ranging from $1 to the statutory limit of $250. Among 41 municipalities, the licence required by auctioneers, which has no statutory ceiling, ranged from a low of $5 to a high of $200.

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[1]For our treatment of special capital levies and developer charges, see Chapter 15. Fines are considered in the broader context of the provincial-municipal division of responsibility with respect to the administration of justice in Chapter 9.

DISTINCTIONS BETWEEN TYPES OF FEE REVENUES

5. Neither the dictionaries nor the provincial statutes reveal any substantive differences between licences and permits, treating the two terms as interchangeable. At the municipal level, however, there is at least some tendency to draw a distinction.[2] What are called licences are most often employed to grant some continuing authority or status for an extended period of time. Certainly municipal business licences have this character, and they are ordinarily issued on a yearly basis. A municipal permit is more often used to authorize a particular operation or to pay for a one-time municipal service. The municipal building permits, which probably constitute the largest source of permit revenues, would meet this definition. Yet the distinction is not sufficiently clear-cut or essential to warrant our adopting it. For our purposes, licences and permits can be treated jointly.

6. Where a formal licence or permit is issued, the municipality's prime objective is to control some operation or activity with the objective of prohibiting unwanted practices and setting and maintaining acceptable community standards. Municipal licences and permits are designed to safeguard the health and ensure the safety of the inhabitants. They are employed to buttress standards of morality, to curb nuisances and even to support aesthetic objectives. Frequently some single licence or permit enactment is designed to support several of these goals.

IMPORTANCE AS A REVENUE SOURCE

7. Licence and permit fees are but a small portion of municipal revenue. Figures for the ten provinces presented in Table 17:1 indicate that nowhere in Canada did fees amount to more than 3.23 per cent of gross current municipal

TABLE 17:1

MUNICIPAL REVENUE DERIVED FROM PERMITS AND LICENCES EXPRESSED AS A PERCENTAGE OF TOTAL GROSS CURRENT REVENUES OF MUNICIPALITIES IN EACH PROVINCE, 1962

	%
Newfoundland	2.42
Prince Edward Island	1.15
Nova Scotia	.80
New Brunswick	.63
Quebec	1.38
Ontario	.85
Manitoba	1.58
Saskatchewan	2.08
Alberta	1.57
British Columbia	3.23
Ten provinces	1.38

Source: Dominion Bureau of Statistics, *Financial Statistics of Municipal Governments, 1962: Revenue and Expenditure.*

[2]K. G. Crawford, *Canadian Municipal Government*, Toronto: University of Toronto Press, 1954, pp. 253-5; and L. G. Macpherson and W. G. Leonard, *Municipal Accounting in Ontario*, Toronto: Ryerson Press, 1961, p. 29.

revenues in 1962. The proportion would have been smaller still except for the practice prevalent in certain other provinces of employing business licences in place of municipal business taxes in whole or in part. The use of this expedient considerably inflates the totals for British Columbia, Saskatchewan and Newfoundland.

8. Within Ontario licence and permit fees have never produced more than a negligible portion of municipal revenue. As the Table indicates, Ontario municipalities derived only 0.85 per cent of their gross revenue, including grants, from licence and permit fees. Even when taken as a percentage of the revenue derived from local sources only, the proportion is negligible, amounting to but 1.04 per cent in 1964.

THE USE MADE OF LICENSING AND PERMIT-GRANTING POWERS

9. As might be expected, various municipalities make rather different use of licensing and permit-granting powers. The proportion of locally-derived revenues obtained from licence and permit fees differs from one class of municipality to another with some tendency to be greater in the more populous places. The percentages for Ontario by class of municipality for the year 1964 are shown in Table 17:2, and range from a low of 0.61 per cent to a high of 1.62 per cent, with cities at almost exactly 1 per cent.

TABLE 17:2

LICENCE AND PERMIT FEES AS A PERCENTAGE OF LOCALLY-DERIVED REVENUES IN ONTARIO, 1964

Class of Municipality	%
Metropolitan Toronto	1.03
Cities	1.05
Separated towns (7 only)	1.49
Other towns — population 5,000 or more	1.13
— population under 5,000	.97
Villages — population 5,000 or more (one only)	1.62
— population under 5,000	.61
Townships — population 5,000 or more	1.19
— population under 5,000	.83
Improvement districts	1.35
All classes	1.04

Source: Department of Municipal Affairs, *Annual Report of Municipal Statistics, 1964.*

10. Differences in licence and permit revenues between classes of municipalities, modest for the most part, conceal a much wider divergence between individual municipalities. Replies to the questionnaire we circulated to a large selection of Ontario municipalities disclose the basic picture. Among other inquiries, we sought information on the special types of licences and permits each municipality issued and the charges related to each. A summary of the returns is appended to this chapter.

11. Reference to the appendix reveals, first of all, a very wide spread in the amount of the fee prescribed for any one purpose within any given class of municipality as well as among the different classes of municipality. In a few instances, a municipality has itself developed a range of fees for a particular occupation or activity which it licenses or authorizes by permit. In general, however, a municipality has a single fee for any given licence or permit, and the range in fees shown in the appendix reflects inter-municipal differences.

12. How widely the level of fees can vary is pointed up by drawing attention to some of the differences between the lowest and highest fee levels in the appendix. Based on our limited sample, the fee charged for the first billiard table in a billiard parlour runs all the way from $2 to $150. The butcher's business licence may cost him anywhere from $1 to $50. An electrical contractor may pay from $5 to $300 in licence fees, and a plumbing contractor from $8 to $100. The maximum fee authorized by provincial statute for an exhibition or midway is $500. The actual amount charged ranged in the selected municipalities from a top figure of $300 a day down to $1. Hawkers and pedlars were liable to a fee of as little as $1 or as much as $300 for the right to sell their wares. Lunch-wagon licences ran from $1 to $150, public hall licences from $1 to $100, and taxi licences from as little as $2 for the first car to as much as $300 per car. Detailed perusal of the appendix will reveal numerous other instances of equally wide fee variations.

13. Considerable differences among local authorities exist as well on the necessity or desirability of licence or permit control over particular occupations, activities or facilities. The reported figures have to be interpreted carefully since a narrow classification adopted in one municipality can be included within a broader classification in another. More important, some municipalities do not contain within their boundaries the particular operation that is performed under licence somewhere else. Yet, from the appendix, the difference in the prevalence of licensing is clear. Among the urban centres with a population of over 10,000 in 1964, provision had been made for some 109 types of licences, while in villages with populations under 10,000, the corresponding figure was 49. The towns under 10,000 reported the use of 67 kinds of licences and permits.

14. The significant differences in the use of licence and permit powers can perhaps best be illustrated by referring to the licence and permit coverage of selected activities or occupations among the 38 urban municipalities over 10,000 population that were included in our sample. The vast majority of such places saw fit to license billiard parlours and bowling alleys. A considerably smaller proportion licensed barber shops and hairdressing establishments. Only three out of five municipalities in this category issued bicycle licences. A mere three municipalities licensed their news vendors. Restaurants were almost universally subject to licence as were second-hand shops, but few of the municipalities chose to license shoe repair or shoe shine shops. Most municipalities licensed taxi-cabs and drivers, while less than a third of our sample licensed nursing homes.

THE APPROPRIATE USE OF LICENCE AND PERMIT POWERS

15. Licence and permit fees can properly be justified when there is a reason for exercising some community control and when there is some expense involved in doing so which ought properly to be recovered from the person or establishment granted the licence or permit. Thus no business should be subjected to a business licence merely because some people on council do not like what the business stands for or think it an easy mark for money. In the absence of some form of desirable supervision, inspection or like services, the money paid for a licence is being obtained under false pretences. If, for example, a municipal council sees no need for and intends no particular oversight of shoe stores, such stores should not be required to hold and pay for a licence.

16. As the law now stands, municipalities' use of licensing and permit powers is confined to stated trades, callings and activities. But the allowable coverage is broad enough to embrace a number of items where the need for local control is not generally accepted. When licences are required where no need for control exists, the businesses so licensed are being discriminated against, whether as a means of obtaining revenue or for other reasons. It would be unfortunate if the problem of finding enough municipal revenues through legitimate means encouraged an increasing proportion of municipalities to resort to unnecessary licensing or licensing that produces no service in return. We see the need, therefore, for a form of provincial regulation or supervision that will hold the use of municipal licensing and permit powers within reasonable bounds. A useful part of such regulation would be to require municipalities to report the operations which they have placed under licence or permit and the reasons therefor. Accordingly, *we recommend that:*

> ***The Department of Municipal Affairs review the legislation enabling municipalities to license or issue permits for a fee with the object of ensuring that the purpose of the licensing is regulatory rather than the raising of revenue.*** **17:1**

SHIFTING AND INCIDENCE

17. Where a licence or permit is issued to a consumer it is reasonable to assume that he will bear the full burden of the fee imposed. For business operations, the incidence is harder to determine. Certainly businesses will try to pass on to their customers the full cost of all required licences or permits just as they seek to pass on taxes and other business expenses. Circumstances may prevent them from doing this, however. Thus, businesses in competitive situations selling products for which there is a highly elastic demand will probably be unable to shift these charges in the short run if they are sizeable. Where the fees charged are small, businesses may not seek to identify and pass them on as such. Over a period of time, however, successful businesses should be able to achieve a satisfactory profit position after meeting all licence, permit and other costs.

18. It is only where a particularly high fee is charged that a municipal business licence or permit will impose any serious hardship upon the business concerns

subject to it. One example may be the high fees levied against transient business operators. A transient photographer, for example, may decide it is just not worth his while to seek to do business in a municipality that sets a licence fee of $150 when other municipalities will allow him to come in for a far lower fee. Operators of milk trucks, hawkers and pedlars, and other peripatetic salesmen may find their business territory similarly restricted.

THE JUSTIFIED LEVEL OF LICENCE AND PERMIT FEES

19. Whether the person paying a licence or permit fee is able to pass on the cost to others or not, the level of fee should be the same. We are of the opinion that the cost of processing applications, of issuing licences or permits and of carrying out inspection, regulation and other forms of supervision or intervention which flow from the decision to institute a control should be paid in the first instance by the persons brought under that control. We also believe that even where the community at large obtains some advantage from a municipal licensing or permit arrangement, as it does from building permits, the persons seeking the right to perform the operation should be the ones to pay. Where these persons are in business, it is reasonable for them to seek to recover their costs from the customers who in turn can generally be said to obtain a benefit through the existence of the control.

20. It is important that the total amount charged for a licence or permit be dictated by a clear understanding of all the elements of cost recovery. Besides the immediate time of those concerned with issuing licences or permits and carrying out the necessary investigations beforehand and supervision afterwards, the added use of office space, equipment, motor vehicles, stationery, and telephone services which accrue from the work ought likewise to be charged. In other words, the cost of putting something under licence or permit should be understood to include both all direct expenditures and a full share of the attributable overhead costs.

21. In setting fees on a cost-recovery basis, two obstacles will militate against an exact equation of costs and fees. First, while it is theoretically possible to alter the level of fees with each minor change in related costs, annual revisions of small amounts would prove both difficult and unnecessarily troublesome. Second, the scarcity of municipal cost data and the fact that most municipal accounting systems cannot disclose regulatory and other costs readily and precisely must be recognized. Much can be done, as we point out elsewhere, to overcome the latter obstacle. But recognizing that exact cost recovery is not within the realm of the administratively practicable, we would deem it reasonable to allow an appropriate margin, say 20 per cent above and below cost, within which fee levels might be permitted to vary from the amounts dictated by precise cost recovery. We wish to stress, however, that any such variation must operate within a policy framework that embraces the cost-recovery principle, save with respect to those instances, dealt with later in this chapter, where there may be valid ground for restricting the number of business entrants. Accordingly, *we recommend that:*

The provisions relating to licence and permit fees in The Municipal Act and other acts be amended to provide that the **17:2**

amount of the fee must not exceed the estimated amount required for full cost recovery by more than approximately 20 per cent or drop below the amount required to produce approximately 80 per cent of full cost recovery.

NON-RESIDENTS

22. The fees that municipalities charge businesses that lack a fixed location within their boundaries tend to be higher than those charged businesses with a local base. Some differential may in fact be warranted, for it is obviously more difficult to regulate or supervise transient businesses which cannot be contacted readily. Supervision must be immediate or the bird may have flown. Having acknowledged the problem, however, we reiterate the opinion that licence and permit fees should produce nothing more than the recovery of the municipal costs of authorizing and supervising the non-resident operator's business locally. It does not seem reasonable to extract something further, for example, in lieu of a realty business tax, from a merchant who has not the advantage which a permanent location in town affords. *We therefore recommend that:*

Differences in the fees charged residents and non-residents for business licences be no more than is warranted by actual differences in the costs of regulation and supervision. **17:3**

CONTROLLING THE NUMBER OF BUSINESS ENTRANTS

23. Sometimes municipal licences or permits are issued to a limited number of applicants only, thereby restricting participation in the activity concerned. An example of restricted licensing that comes most readily to mind is the taxi business. Whether it is in the public interest to curtail the number of taxi operators or the number engaged in any other legitimate trade or calling is, we suggest, debatable. While the matter is marginal to our assignment, the subject would appear to warrant review by the Province in its role of overseer of municipal government.

24. Restricting the number of licensed operators tends to replace normal competition with what economists call monopolistic competition. Under conditions of monopolistic competition, the returns to an operator will tend to be higher, enhancing his profit position. Here there is a strong case for setting the licence or permit fee at a level sufficiently high to return to the public treasury, as closely as can be estimated, monopolistic profits created by a municipal policy of limiting entry. Not least among the reasons supporting such action is the fact that if monopolistic profits are left with the operators, it becomes difficult to prevent favouritism in the granting of licences and, unless licences can effectively be made non-transferable, trafficking in licences. We would accordingly be disposed to depart from the principle of cost recovery where licensing restricts the number of operators and creates monopolistic profits. But in taking this stand, we are of the opinion that there should be a thorough review of the reasons for restricting the number of operators in any given activity, on the ground that normal competition is generally to be preferred unless there exist valid policy reasons to the contrary. Accordingly, *we recommend that:*

Municipal licensing that is designed to limit the number of participants in particular businesses be prohibited except where the provincial government considers it to be justifiable, in which event 17:4

(a) it be brought under close provincial supervision, and

(b) the fees be set at levels that will return a significant portion of any monopolistic profits to the local public treasury.

USER FEES AND CHARGES

DESCRIPTION

25. User fees and charges could be said to include the rates, fares, rents and related charges of local revenue-bearing enterprises, but we prefer to treat these under a subsequent heading. The user fees to which we refer are the relatively less important revenues accruing to a municipality or its associated local boards from activities that do not lend themselves to being structured in the form of self-contained enterprises. So defined, such user fees and charges normally exhibit one or a combination of the following three characteristics. First, they may arise from a service furnished on a casual or non-recurring basis. Second, they normally yield but a small amount of revenue. Third, they may constitute a charge for something that is subsidiary to a broader public service supported primarily from tax revenues. As we have defined them, user fees and charges may frequently bear a resemblance to licences and permits in that a degree of regulation attaches to them. An example would be the charge made for weighing products on a public weigh scale. This activity combines regulation for the protection of the prospective buyer with a municipal service to the vendor.

26. A few examples will serve to illustrate the bewildering variety of user fees and charges currently levied by municipalities and their associated local boards. A municipality may rent surplus space that becomes available from time to time among its properties. Here the objective is to keep the property in use and to eliminate unnecessary expense rather than to engage in the business of a commercial landlord on a continuing basis. Alternatively, a municipality may grant concessions for news stands as a matter of public convenience, and charge for the privilege. Again, a municipality may grant a franchise for the operation of a bus service or of a parking lot on municipal property, requiring payment only once a year or in a few instalments. Commonly, also, municipalities may agree to provide certain public works services on private property or for the special benefit of particular property owners who request work done for them. When a plugged drain is cleared, the home-owner is ordinarily expected to pay. Where the responsibility for removing snow from sidewalks lies with the householder, the municipality may be prepared to carry out and make a charge for the snow-removal service. A resident may want a tree pruned which is on his own property and the parks maintenance crew may do the work for a fee. A municipality may make a charge for assessment and tax collection information when this necessitates considerable staff time. On occasion,

a municipality may sell a pamphlet or some other small item. A number of the welfare services provided by municipalities are available without charge to the needy but for a fee to those able to pay. Indeed, a graded fee scale is frequently established. Finally, many municipalities charge for the use of certain public recreational facilities. Where these operations are substantial, they may be separated out from other local recreational undertakings which are free. When they are more limited in extent, they may remain as subsidiary elements in a parks and recreation program.

27. Accurate information on the revenue yielded by user fees and charges is not readily available for Ontario or for any other Canadian province. At times such revenues are deducted from expenditures before arriving at the net amount reported. Where the revenue is shown as such, it is likely to be included in a miscellaneous category with other kinds of revenue. Lack of segregated treatment applies not only to the municipal financial statistics published by the Province but also to the audit reports received by the Department of Municipal Affairs from individual municipalities and their associated local boards. Without undertaking elaborate calculations, the most that can be said therefore is that user fees probably amount in the aggregate to not more than 2 per cent of the locally derived revenues of Ontario municipalities.

THE JUSTIFIABLE LEVEL OF USER FEES AND CHARGES

28. The application and level of user fees differ widely from municipality to municipality. Some municipalities, for example, levy a charge for the use of public skating rinks, tennis courts and other sports facilities whose capacity is limited. Others impose a more or less nominal charge designed to carry a portion of the operating expenses but not the full cost. Still others, of which the City of Toronto is a notable example, make sports facilities available free. Whether to charge and, if so, what proportion of cost recovery to seek, are policy questions on which opinion is legitimately divided. A municipality may quite legitimately want to limit its employment of user charges in order to encourage the use of such community facilities as public libraries, parks and athletic grounds.

29. There may be instances in which it is appropriate for a municipality to recover somewhat more than the actual cost of providing a service. This might be done to keep the price competitive with similar services provided by other bodies, either public or private. While such cases will be rare, dance pavilions in municipal parks provide an example. We suspect, however, that in most instances a municipal council which is concerned with charging above cost to avoid entering into unfair competition with private enterprise might resolve its problem by asking itself whether it should engage in the activity in the first place.

30. Our position respecting user fees may be summarized as follows. Where a user fee is charged, it is important that the full cost of providing the service be carefully estimated. Such an estimate is a necessary part of the full information on which a policy decision to charge less than full cost should properly be based, and it is of course indispensable if the fee is to be set at a cost-recovery level. There

is little virtue in recovering less than full cost through simple failure to determine costs accurately and to review charges at appropriate intervals. In this connection, we note that the revenue from user charges has grown more in recent years both in the United States and England than in Canada. Some of our municipalities may be missing an opportunity for added revenue from lack of cost information rather than from a legitimate policy decision to charge less than cost. We recognize, of course, that it may be difficult to determine precisely the cost of the goods or services to which user fees apply, particularly where the activity which produces user revenues forms part of a broader municipal undertaking. Here provincial assistance appears to us both necessary and desirable. Accordingly, *we recommend that:*

> ***The Department of Municipal Affairs assist municipalities in organizing their accounts so as to establish the cost of goods and services to which user charges apply, and in developing appropriate cost recovery policies.*** **17:5**

We further recommend that:

> ***The Department of Municipal Affairs amend the form of municipal audited financial statements and its Annual Report of Municipal Statistics so that revenues from user charges are reported as revenues rather than as undisclosed deductions from related expenditures.*** **17:6**

INCOME FROM REVENUE-EARNING ENTERPRISES

DESCRIPTION AND IMPORTANCE

31. Ontario municipalities are involved in a multiplicity of revenue-earning enterprises which in total derive very substantial sums from rates, fares, rents and other forms of earnings. We have found no comprehensive tabulation of the revenues from this far-reaching source. But it is evident from the partial data reasonably accessible to us that the amount undoubtedly exceeds half a billion dollars. This compares with revenues from municipal taxation for the year 1964 amounting to little more than $800 million. Thus the importance of direct cost recoveries by local enterprises from a wide variety of community services is very great and, we suspect, insufficiently recognized.

32. The revenue-earning enterprises that are part of local government can be classified in various ways. Most such groupings would give first recognition to public utilities and would include in this category such services as water supply, electricity, public transportation and municipally-owned telephone systems. The Dominion Bureau of Statistics extends this category to include airports, housing authorities and parking authorities. Ontario's Municipal Act adds a further service when it defines sanitary sewage collection and disposal as a utility operation. A second major category of revenue-earning enterprises might be called community service facilities. These would include civic hospitals, cemeteries, markets and

perhaps port facilities. A third classification would include certain major self-contained recreational services for which users are charged. Among these might be found arenas, golf courses, and multi-purpose community centres.

33. As already indicated, "revenue-earning enterprises" is the name given to services of a commercial type where all or a substantial part of the cost is recovered by requiring payment from those who obtain the service. These commercial-type enterprises are customarily operated separately from other municipal services, thereby emphasizing their commercial character and the importance of balancing revenues and expenditures. In addition to their separated accounting, revenue-earning enterprises are commonly directed and administered at arm's length from other municipal services. Immediate policy responsibility normally rests with a commission or authority specifically elected or appointed for the purpose. Some revenue-earning enterprises are intentionally subsidized—low-rental housing is frequently in this position. Others appear incapable of providing the desired service while paying their way; some municipal bus lines find themselves in this dilemma. For the most part, however, revenue-earning enterprises are expected to be fully self-sustaining from their own rates, fares, rents or other like income.

34. In Ontario, certain revenue-earning enterprises are required by statute to come under the management of special-purpose bodies while others are permitted to do so. The electric utilities serving cities under 60,000 population and all towns must come under elected commissions. In the remaining municipalities they may do so, except in police villages where the board of trustees constitutes the electric commission. More commonly, where a special-purpose body is charged with operating a revenue-earning enterprise its members are appointed, although a utility commission that combines responsibility for electricity and one or more other services is likely to be elected. We hasten to add that a separate structural position under a special-purpose body is a far from essential feature of a revenue-earning enterprise. According to a recent survey, less than 43 per cent of Ontario municipalities over 1,000 population have commission control of their waterworks, including those utilities where water is combined with electric services.[3] Furthermore, it happens that the Select Committee on The Municipal Act and Related Acts recently recommended that the members of non-elected local boards and commissions overseeing revenue-earning enterprises be subjected to recall by municipal councils.[4] Such a change would not upset the enterprise concept. What is important to maintain is separate fund accounting for each revenue-earning enterprise, whether it is organized within the immediate departmental structure of a municipal corporation or is distinct from it. Our definition of a municipal revenue-earning enterprise would also require that an operation of a commercial type and of some significant proportions was being carried out on a continuing basis under some local government body.

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[3]Southam Business Publications Limited, "Waterworks Manual and Directory", *Water and Pollution Control, 1965-66*, Toronto.

[4]Ontario, *Fourth and Final Report of Select Committee on The Municipal Act and Related Acts*, March 1965, p. 163.

35. A fuller understanding of the breadth and significance of revenue-earning enterprises can be derived from a brief description of some of the more important municipal revenue-earning enterprises in Ontario. In 1964, municipal electrical utilities existed in 357 Ontario municipalities. The number included all the more heavily-populated places and a number of quite small centres. In that year, municipal electrical utilities realized almost $248 million from the sale of electrical energy out of total operating revenues of slightly under $254 million.[5] Again taking 1964 figures, municipal waterworks systems were in operation in 361 municipalities. Their total operating revenues amounted to the smaller but still impressive total of $68.3 million based mainly on the sale of water.[6] Another large income producer is the public transit utility. While we have not assembled complete information, we do know that municipal public transportation utilities are far less common than hydro or water utilities. They exist in Metro Toronto, in fourteen cities outside Metro and in a mere handful of other municipalities. In other places not so served public transportation services are provided under a franchise arrangement or are non-existent. The one big public transit operation, dwarfing all others, is Metro's Toronto Transit Commission. In 1964, its passenger revenues approximated $46.3 million out of a total of just under $48 million in operating revenues.

36. Some years ago, municipal telephone systems serviced a large proportion of the smaller communities. Gradually these independent telephone companies have been absorbed by the Bell Telephone Company. The transition has been speeded up by the spread of increasingly sophisticated switching equipment and by the introduction of direct distance dialling. At latest report, only two cities, Fort William and Port Arthur, and fifty-five other places, all rural or minor municipalities, maintained their own telephone systems. Municipal airports constitute another utility operation which some local authorities have been relinquishing. In this category, the federal Department of Transport has been taking over the service. Yet eighteen municipalities still operate their own airports, including ten Ontario cities.

37. Parking authorities are about as common as municipal airports but their number is on the increase. Three municipalities within Metro Toronto operate parking authorities—the City of Toronto and two of the five boroughs. Outside Metro Toronto, eleven cities have parking authorities. In addition, a goodly number of municipalities have meter parking on their streets and some of them have developed some off-street parking for which a charge is made. It is not possible to ascertain readily the extent of municipal parking operations in Ontario since they do not loom large in most of the municipalities concerned and are ordinarily not segregated in municipal audit statements. With total operating revenues of $2,527,454 in 1964, the Parking Authority of Toronto was classed as a self-sustaining operation by the Royal Commission on Metropolitan Toronto whereas the suburban authorities were said not to be in that category.[7]

[5]The Hydro-Electric Power Commission of Ontario, *1964 Annual Report,* Toronto.
[6]Ontario, Department of Municipal Affairs, *Annual Report of Municipal Statistics, 1964.*
[7]Royal Commission on Metropolitan Toronto, *Report,* Toronto: Queen's Printer, 1965, p. 50.

38. At latest report, local housing authorities existed in forty-one Ontario municipalities, accounting for the bulk of the total across Canada. It is debatable whether Ontario's local housing authorities can be described strictly as local authorities since they are management corporations appointed by the Lieutenant Governor in Council. They receive and dispense rental revenues under the close supervision of the Ontario Housing Corporation, a provincial agency that also operates housing projects directly for those municipalities that had not formed local housing authorities prior to the Corporation's establishment and for Metropolitan Toronto whose housing authority the Corporation absorbed.

39. The activities described so far can all be classified as utility operations. Two others may somewhat debatably be included in this category. We refer to sanitary sewage collection and disposal, and to the collection and disposal of garbage and refuse. Expenditures on these services are reported as a combined item in the required audit form of the revenue and expenditure statement, except where a municipality segregates the operation in its own fund accounting thereby paralleling the treatment of other utility operations. When the expenditure is reported in the general expenditure statement, offsetting revenue is sometimes included with taxation revenues, and sometimes with service charges or miscellaneous revenue. Only in some instances will the financial statements of individual municipalities reveal the nature and extent of sanitation and waste-removal revenues. We know, for example, that the City of Sarnia obtained $152,555 from its sewer service charges in 1965. From another source[8], we have determined that some 250 Ontario municipalities have community sewerage systems. We have no knowledge, however, of the proportion of municipalities that have taken advantage of the authority given them in 1957 to employ a sewage service rate to recoup the cost of maintaining and operating their community sewerage systems.[9] Similarly, we know of no record of the number of municipalities that take advantage of the much older right[10] to pass by-laws providing for the recovery of the cost of garbage collection and disposal either by a special tax rate or a monthly charge.

40. Turning to the second major category of revenue-earning enterprises, community service facilities, the extent of municipal involvement is again varied. Almost 200 municipalities own and operate cemeteries; a much smaller number operate public hospitals. While throughout the four western provinces civic hospitals are virtually the rule, in Ontario there are only twenty such institutions. These do include twelve sizeable city hospitals, one of which serves the twin cities of Kitchener and Waterloo. In addition, the Municipality of Metropolitan Toronto has taken over and greatly enlarged the City of Toronto's old Riverdale Isolation Hospital. This hospital now contains 813 beds and is used for chronically ill and convalescent patients. In a related aspect of the health care field, the cities, separated towns and counties of southern Ontario are each required to operate or share in the operation of a home for the aged. While similar requirements are not

[8]Southam Business Publications Limited: "Pollution Control Manual and Directory", *Canadian Municipal Utilities, 1965-66*, Toronto.

[9]The Municipal Act, R.S.O. 1960, c. 249, s. 380(15).

[10]*Ibid,* s. 379(1), paragraphs 77 and 78.

fully mandatory for northern Ontario, the form of legislation has resulted in the establishment of a network of homes serving groups of municipalities within districts and covering the bulk of the organized municipalities. Whether homes for the aged ought to be described as revenue-earning enterprises is probably debatable. They are a means of providing care for elderly persons who turn to their municipality for a place to live whether or not they are able to pay all or part of the cost. But in practice, the availability to most older persons of a national old age pension, an old age assistance allowance or some other form of state support means that homes for the aged do have substantial revenues from their occupants. In addition, they frequently own land and engage in agricultural pursuits which buttress their income.

41. Among further community service facilities is the municipal produce market. This kind of revenue-earning enterprise is confined almost entirely to cities and other sizeable urban municipalities. There are civic markets in such places as Hamilton, Kitchener, Guelph and Toronto. No consolidated information on their financial operations is available. Finally, some municipalities operate harbour facilities which are not under the ownership of the National Harbours Board, but operate under special federal legislation. The City of Toronto is in this position; the Toronto Harbour Commissioners reported current revenues in 1964 of $3,702,872. One could go on to list such diverse community service facilities as auditoriums, tourist camps or the public baths that the City of Toronto has operated for many years. It would be difficult to compile a truly exhaustive list.

42. As to our third and final category—municipal recreational enterprises—the period since World War II has been marked by substantial expansion. Arenas and community centres have been encouraged as memorial projects. The Province of Ontario has been providing capital grant assistance to municipalities for community centres. There are now almost three hundred municipalities graced with community centres, and a substantial number of municipalities, notably the more populous townships, maintain more than one centre. Swimming pools constitute another growing municipal enterprise. Some are located in school buildings and others in community centres or other forms of municipal accommodation. Currently, also, municipal golf courses are multiplying and the total number is becoming significant.

DESIRABLE REVENUE POLICIES

43. From our necessarily limited consideration of the subject it is abundantly clear that the first requirement for the development of appropriate policies for the financing of revenue-earning enterprises is the accumulation of comprehensive information on their affairs on a uniform basis by a central provincial source. We note that the Department of Municipal Affairs is now expanding its interest in this field and wish to urge the Department to accumulate full and publishable records of the number, nature and extent of municipal revenue-earning enterprises, together with precise and comparable information on their methods of revenue raising and their cost-revenue relationships. It is only from such a base of published data that

comprehensive and consistent policy proposals for the financing of revenue-earning enterprises can be developed. *We therefore recommend that:*

> ***The Department of Municipal Affairs collect and publish comprehensive financial data relating to all municipal revenue-earning enterprises.*** **17:7**

44. A second prerequisite to the proper consideration of revenue-earning enterprises is to define in some precise way those municipal services which might reasonably be so classified. To a degree, the definition of revenue-earning enterprises must be an arbitrary one. To begin with, the term might be reserved for commercial-type operations where more than half the direct and overhead costs are recovered from the enterprise's immediate earnings through the sale of its goods or services. By definition, also, casual or temporary transactions should be excluded, as should those that are clearly subsidiary to the service objectives of a function that is financed from taxation. We deem it most important that the provincial government undertake the task of clarifying the status of revenue-earning enterprises, and that it require all such enterprises to account openly for their operations. Accordingly, *we recommend that:*

> ***The Department of Municipal Affairs define "municipal revenue-earning enterprises" and require separate fund accounting of their operations whether or not they come under the immediate control of some special-purpose body.*** **17:8**

45. In making this recommendation for improving the accounting and reporting procedures of municipal revenue-earning enterprises generally, we are mindful that in certain instances comprehensive information is already available under provincial supervision and assistance. For example, in the case of municipal electric utilities, a uniform classification of accounts is in use and audits are performed under statutory authority given to Ontario Hydro. The financial results of these utilities are published along with Hydro's own results in its annual report. While we have no quarrel with this practice, we believe that it is desirable to assign over-all responsibility to the Department of Municipal Affairs if comprehensive information on all revenue-earning enterprises is to be assembled on a uniform basis.

46. It is a cardinal point of our philosophy of taxation that revenue-earning enterprises ought to observe the parallel with private business in the payment of property taxes in full, including applicable business taxes. They should likewise charge for all the services they render their parent municipalities. A municipal waterworks, for example, should charge the municipal corporation in full if it operates the system of water hydrants and supplies water to the system. Similarly, an electrical utility should be paid on a commercial basis for the power supplied for street lighting and for any street lighting maintenance it is expected to provide. *We therefore recommend that:*

> ***Necessary legislative action be taken to ensure that all municipal revenue-earning enterprises pay full taxes, including*** **17:9**

business taxes, and that they charge for all services provided by them including services supplied to parent municipalities.

47. A thorny problem with respect to revenue-earning enterprises is that it is not always easy to devise a system of charges that spreads the cost of the service among the users on a benefits-received basis. Sewage service rates afford an illustration of the difficulty which may exist. With respect to the sewage service rate that municipalities are authorized to impose by by-law, the statute states:

> in establishing the rate structure, the council shall have regard to differentiating between classes of users, nature, volume and frequency of use and all other relevant matters to ensure that sewage services rates are imposed upon a basis this is equitable and just.[11]

The object sought by the legislation is clear enough, but the means of realizing it is far from simple. The starting point for the determination of a sewage service rate is water consumption. But how is that information to be differentiated by classes of users? Short of metering and analysing sewage effluent, how can a count be taken of the nature, volume and frequency of use of the sewerage system? Even if the service were to be metered, how could information on peak periods of use be obtained?

48. The sewage service rate has become one of the most appealing proposals for supplementing the existing revenues of hard-pressed local governments. It is, at the same time, the one utility rate where calculation of charges on a benefits-received basis is the most difficult. We should be greatly surprised if, upon analysis, the methods devised by Ontario municipalities to comply with the statutory terms for the use of sewage service rates produce results that are indisputably "equitable and just".

49. The problem of achieving equity in the rate structures of revenue-earning enterprises is not, of course, confined to sewer service charges. Water rates themselves present as a prime issue whether or not to meter residential services. Eleven of Ontario's cities do not do so and the number includes Toronto, Hamilton, Niagara Falls, Peterborough and Fort William, to name the largest ones. Among other cities, two-thirds of Windsor's and four-fifths of Sault Ste. Marie's services are unmetered. In the realm of transportation, to take another illustration, how big should a municipality be before it considers the thorny question of establishing zone fares for its transit services? And what should zone differentials, if any, amount to?

50. Another important policy question on the financing of revenue-earning enterprises is this: Should rates be set to provide surpluses on a continuing basis to the municipal treasury? In practical terms, Ontario's revenue-earning enterprises would seem to have answered that question in the negative. This answer finds strong support in principle, for to derive general revenue from a municipal enterprise is basically to levy a tax on the services of that enterprise, a tax that falls

[11]The Municipal Act, R.S.O. 1960, c. 249, s. 380(16).

short of the accepted canons of taxation in that, at the very least, it lacks visibility and may have a capricious and regressive burden. While on occasion substantial surpluses do in fact arise from the current operations of a revenue-earning enterprise, such surplus earnings have usually been ploughed back into the development of the undertaking itself. Only the most modest amounts have been taken into general revenue. The combined experiences of all Ontario municipalities for the years 1954 to 1964 are presented in Table 17:3. By comparison with total revenue requirements, the amounts contributed to the general treasury by municipal utilities and enterprises have been insignificant in amount and have tended to decline on a percentage basis—witness the drop from 0.43 per cent in 1954 to 0.15 per cent in 1964. Furthermore, the over-all experience for Ontario contrasts sharply with that of other provinces. In the year 1962, the latest for which interprovincial comparisons are available, Ontario municipalities obtained on an equivalent basis 0.21 per cent of their revenues from the surpluses turned over by revenue-earning enterprises. The Ontario percentage was lower than that in any other province by a substantial margin. In the two highest provinces, Alberta and Saskatchewan, the respective percentages worked out to 5.00 and 4.00 per cent.

TABLE 17:3

EARNINGS OF ONTARIO MUNICIPAL UTILITIES AND ENTERPRISES TURNED OVER TO MUNICIPALITIES

Year	*Amount* (thousands of dollars)	*Percentage of Municipal Net General Revenue* %
1964	1,706	.15
1963	1,741	.17
1962	2,079	.21
1961	1,350	.15
1960	1,303	.16
1959	946	.13
1958	800	.12
1957	1,570	.26
1956	2,190	.41
1955	1,767	.37
1954	1,804	.43

Source: Department of Municipal Affairs, Annual Reports of Municipal Statistics.

51. Although very little has been turned over to municipalities in Ontario, the actual surpluses produced by municipal revenue-earning enterprises have been quite substantial. Table 17:4 shows in dollar terms and as a percentage of operating revenues the combined operating surpluses realized by municipal electric utilities in Ontario, again for the years 1954 to 1964. While the percentages of operating revenues have been slowly declining, reaching 7.54 per cent in 1964, the dollar amounts of annual surplus remain quite steady at around $19 million. Much the same picture obtains for waterworks which, also in 1964, produced a surplus of about $5 million, or 7.2 per cent of operating revenue. Surpluses from

electrical and water utilities alone were more than fourteen times the totals actually turned over by all municipal utilities and enterprises to their respective treasuries.

TABLE 17:4

COMBINED NET OPERATING SURPLUSES OF MUNICIPAL ELECTRICAL UTILITIES IN ONTARIO

Year	*Amount*	*Percentage of Operating Revenues*
1964	19,162	7.54
1963	19,175	8.14
1962	21,106	9.56
1961	17,197	8.38
1960	13,897	7.34
1959	17,506	9.83
1958	18,748	11.54
1957	19,781	12.89
1956	19,401	13.46
1955	17,500	13.33
1954	14,081	11.65

Source: The Hydro-Electric Power Commission of Ontario, Annual Reports.

52. The retention of surpluses on this major scale has enabled most municipal electric and water utilities to finance their capital expenditures from current operations to a much greater degree than the major power supplier, Ontario Hydro. This is illustrated in Table 17:5 which shows that the municipal electric utilities have financed practically all of their fixed capital needs from surplus retention rather than debt, and that waterworks have financed more than half, while Ontario Hydro has financed only about one-quarter. When we look more closely at the individual municipal utilities, some rather surprising situations appear. Of the 357 electric utilities, 178 have no long-term debt whatsoever and have paid for their capital assets in full. Of the 361 waterworks, fifty-three have no outstanding debt. To select an outstanding example, the Kitchener electric utility is not only debt free but has $300,000 in current asset investments and produced in 1964 a surplus from current operations equal to 7.3 per cent of total revenue. In such a case, when surpluses are produced in advance of spending on capital assets, it is readily apparent that a measure of burden shifting to present users of a service for the benefit of future users does, in fact, take place. Although Kitchener illustrates an unusual case, the future users are benefited at the expense of present users whenever capital assets are acquired out of current revenues, whether by utilities or governments.

53. Despite the fact that the practice places on present users a burden of providing for future generations, we are quite prepared to accept the charging of rates which permit the ploughing back of surpluses provided that the amounts concerned are moderate in size or that if they are substantial, the municipal council that determines how much capital financing out of current revenue is to take place elsewhere also determines the financial policy of its municipal revenue-earning enterprises. Despite the fact that day-to-day management of local enter-

TABLE 17:5

COMPARISON OF DEGREE OF FINANCING BY FUNDED DEBT IN ONTARIO BETWEEN MUNICIPAL UTILITIES AND ONTARIO HYDRO, DECEMBER 31, 1964

	Municipal Utilities		*Ontario Hydro*
	Electric	*Water*	
Gross fixed assets	$564,408,772	$410,738,201	$2,762,234,756
Funded debt (net of debt recoverable and sinking-fund investments)	$ 87,951,607	$179,464,000	$1,948,103,571
Percentage of gross fixed assets financed by funded debt	15.6%	43.7%	70.5%
Number of municipal utilities without funded debt	178	53	
Total number of municipal utilities	357	361	

Source: *1964 Annual Summary of Municipal Statistics Report*; and The Hydro-Electric Power Commission of Ontario, *Annual Report*, 1964.

prises is separated from municipal councils, we should not lose sight of the fact that it is the municipalities on whose behalf the utilities are operated that must stand any losses incurred, and they should therefore be able to determine whether or not surpluses are to be created and how such surpluses should be handled. It is quite clear that many municipalities have not been determining the policies to be followed in this respect. For example, while Ontario Hydro has long been fulfilling its statutory responsibility for approving rates as well as capital expenditures of municipal electric utilities, no formal expression of policy by a municipal council is required in the process. Difficulties may well be expected in changing to a system that permits the municipal council to determine policy on subsidies or surpluses. But where rate making affects the municipality by involving substantial subsidy, surplus retention or surplus transfer, we suggest that authorization by the municipal council through by-law is appropriate. As an illustration of how this might be accomplished, a municipal enterprise that had already retained surpluses in excess of funded debt might be required to obtain by-law approval if it intended to retain more than a nominal 3 per cent of operating revenues calculated on a three-year moving average. Other enterprises not so endowed with accumulated surplus would require by-law approval if they intended to retain over, say, 10 per cent of operating revenues calculated on the same moving-average base. Likewise, where a municipality undertook to subsidize its revenue-earning enterprise, the amount of proposed subsidy might be required to be authorized by by-law in any year in which it exceeded 10 per cent of the total expenditure of the enterprise concerned. Accordingly, *we recommend that:*

Any substantial subsidization of municipal revenue-earning enterprises from the municipal treasury, and retention by or transfer to the municipal treasuries of substantial surpluses earned by municipal revenue-earning enterprises, require annual authorization by by-law. **17:10**

54. The suggestions we have advanced with respect to the operation of revenue-earning enterprises cannot be expected to produce important additional revenues for municipalities. But we hope that they will help to accomplish a more precise understanding of the implications of municipal operation of revenue-earning enterprises, and a closer approach to equity in the treatment of users of their services. To this end, we believe that more thorough studies than we have been able to undertake should be carried out under provincial auspices. *We therefore recommend that*:

The Department of Municipal Affairs undertake comprehensive studies designed to evolve precise and constructive policies to guide the operation of local revenue-earning enterprises with particular reference to the form and extent of their revenues. **17:11**

Appendix to Chapter 17

TABULATION OF ANSWERS TO QUESTIONNAIRE RE LICENCE AND PERMIT FEES

TABLE 17:6

LICENCE AND PERMIT FEES, CITIES, TOWNS AND VILLAGES WITH POPULATION OF 10,000 AND OVER

Sample of 38

DESCRIPTION	Municipalities reporting		Lowest fee	Highest fee	Arithmetic average	Most common
	Number	%	$	$	$	$
Ambulance	14	37	5.00	25.00	11.93	10.00
Auctioneer	28	74	5.00	200.00	43.87	50.00
Auto Wrecker	11	29	10.00	50.00	21.25	20.00
Baker	19	50	1.00	2.00	1.11	1.00
Barber Shop	21	55	1.00	10.00	3.38	5.00
First Chair	7	18	1.00	5.00	3.57	5.00
Additional Chairs	7	18	1.00	2.00	1.57	2.00
Bathing House	1	3	N/A*	N/A	N/A	N/A
Bicycle	23	61	.25	1.00	.73	.50
Bill Distributor	9	24	1.00	35.00	12.00	5.00
Bill Poster and Sign Distributor	15	39	2.00	100.00	25.54	25.00
Billiards: First Table	33	87	2.00	100.00	28.34	25.00
Second Table	29	76	5.00	35.00	12.59	10.00
Additional Tables	29	76	3.00	15.00	11.04	10.00
Boat Livery	1	3	N/A	N/A	N/A	N/A
Bowling Alley: First Alley	32	84	2.00	40.00	16.31	20.00
Second Alley	28	74	5.00	20.00	9.11	10.00
Additional Alleys	28	74	5.00	15.00	8.39	10.00
Building Permit	27	71	N/A	N/A	N/A	N/A
Bus	7	18	10.00	50.00	22.50	15.00
Butcher	23	61	1.00	50.00	9.64	1.00
Camp Grounds	nil	—	—	—	—	—
Catering Establishment	7	18	1.00	25.00	13.29	20.00
Cigarette Vendor	27	71	5.00	25.00	13.93	10.00
Dance Hall	16	42	5.00	100.00	36.76	50.00
Dog Licence: Male	34	89	2.00	5.00	2.89	3.00
Female	34	89	3.00	10.00	5.58	5.00
Drain Contractor: Permit	2	5	3.00	5.00	4.00	N/A
Other	7	18	5.00	25.00	12.14	10.00
Driving School: Instructor	9	24	5.00	25.00	10.56	10.00
Vehicle	1	3	N/A	N/A	N/A	N/A
Other	11	29	10.00	75.00	35.45	25.00 50.00
Dry Cleaner: Agent	5	13	1.00	10.00	7.20	10.00
Plant	18	47	3.00	50.00	17.94	25.00
Electrician: Contractor	14	37	5.00	300.00	39.29	25.00
Master	13	34	5.00	50.00	19.54	20.00
Journeyman	14	37	2.00	10.00	3.43	2.00
Other	1	3	N/A	N/A	N/A	N/A
Employment Agency	2	5	10.00	10.00	10.00	10.00
Exhibition	10	26	1.00	200.00 (daily)	N/A	N/A
Explosives	3	8	5.00	20.00	8.75	5.00
Fruit and Garden Produce	10	26	1.00	250.00	122.89	N/A
Fuel Dealer	15	39	2.00	10.00	5.12	5.00
Gasoline Outlet	15	39	1.00	20.00	7.91	10.00
Hairdressing Shop	23	61	1.00	10.00	3.39	5.00
First Dryer	4	11	2.00	5.00	4.25	5.00
Additional Dryers	3	8	1.00	2.00	1.67	2.00
Hawkers and Pedlars—Motor	6	16	15.00	100.00	50.00	50.00
Foot	7	18	2.00	50.00	18.37	10.00
Other	27	71	2.00	300.00	59.97	50.00
Heating Equipment—						
Domestic	6	16	2.00	5.00	3.50	5.00
Commercial	5	13	2.50	5.00	4.50	5.00
Contractor	7	18	2.00	25.00	13.14	10.00
Master	2	5	20.00	50.00	35.00	N/A
Journeyman	4	11	2.00	10.00	4.75	2.00
Ice Cream and Soft Drinks	12	32	1.00	25.00	7.50	5.00
Insulation Installer	5	13	5.00	150.00	45.00	10.00

TABLE 17:6 (continued)

DESCRIPTION	Municipalities reporting		Lowest fee	Highest fee	Arithmetic average	Most common
	Number	%				
			$	$	$	$
Jewelry, Old Gold, Silver	8	21	1.00	40.00	19.56	20.00
Laundry—Agent	3	8	5.00	5.00	5.00	5.00
Plant	23	61	1.00	50.00	16.22	10.00
Library	1	3	N/A	N/A	N/A	N/A
Lodging House	12	32	1.00	25.00	9.67	5.00
Lunch Wagon—First	24	63	1.00	150.00	72.42	100.00
Additional	9	24	1.00	150.00	45.11	N/A
Masseur/Masseuse	6	16	5.00	10.00	9.17	10.00
Midway (Daily)	14	37	1.00	300.00	74.29	100.00
Milk Shop	20	53	1.00	50.00	6.95	1.00
Vehicle	8	21	1.00	100.00	13.55	5.00
Miniature Golf	12	32	5.00	100.00	30.42	25.00
Motel	3	8	N/A	N/A	N/A	N/A
Motor Vehicle Racing	1	3	N/A	N/A	N/A	N/A
News Vendor	3	8	.10	2.00	1.03	N/A
Nursing Home	11	29	2.00	25.00	12.70	25.00
Parking Lots	13	34	3.00	60.00	16.21	10.00
Meters	3	8	N/A	N/A	N/A	N/A
Pawnbroker	4	11	60.00	60.00	60.00	60.00
Pet Shops	7	18	1.00	25.00	8.50	10.00
Photographers—Street	10	26	5.00	100.00	56.50	100.00
Transient	13	34	10.00	150.00	72.86	100.00
Plumbers—Permits	4	11	N/A	N/A	N/A	N/A
Contractor	16	42	8.00	100.00	32.15	25.00
Master	27	71	2.00	100.00	23.07	25.00
Journeyman	25	66	1.00	25.00	3.86	2.00
Public Address System	7	18	1.00	100.00	22.29	1.00
Public Garage	18	47	1.00	25.00	8.70	10.00
Public Garage and Gasoline Outlet	16	42	1.00	20.00	8.34	10.00
Public Hall	26	68	1.00	100.00	37.60	50.00
Restaurants	33	87	1.00	50.00	14.88	20.00
Road Opening	4	11	1.00	5.00	2.50	2.00
Roller Skating Rink	12	32	10.00	100.00	42.08	50.00
Salvage and Junk Yard	25	66	10.00	50.00	21.85	20.00
Scavenger	8	21	1.00	40.00	11.90	10.00
Second Hand	31	82	5.00	40.00	17.29	20.00
Shoe Repair Shop	2	5	1.00	2.00	1.50	N/A
Shoe Shine Shop	4	11	1.00	5.00	3.25	5.00
Shooting Gallery	12	32	10.00	100.00	37.92	25.00
Signs	8	21	.25	25.00	6.14	5.00
Taxi—First Car	32	84	10.00	300.00	31.76	10.00
Additional Car	27	71	5.00	100.00	14.79	10.00
Taxi-Cab Driver	30	79	1.00	5.00	2.21	1.00
Badge	2	5	.25	.50	.38	N/A
Television Installer	5	13	2.00	50.00	17.83	N/A
Theatre—	29	76	25.00	150.00	83.46	100.00
Drive In	4	11	N/A	N/A	N/A	N/A
Trailer	6	16	7.50	20.00	12.92	10.00
Trailer Camp	10	26	N/A	N/A	N/A	N/A
Transient Trader	29	76	100.00	500.00	328.13	{500.00 / 100.00
Travelling Circus (Daily)	19	50	25.00	500.00	150.00	300.00
Trucker	20	53	2.00	20.00	10.65	10.00
Truck for Hire	14	37	2.50	25.00	11.08	10.00

*For many items, the replies were too few, or the bases used for calculating the fees too diverse to allow tabulation and comparability.

TABLE 17:7

LICENCE AND PERMIT FEES, TOWNS WITH POPULATION UNDER 10,000

Sample of 32

DESCRIPTION	Municipalities reporting: Number	Municipalities reporting: %	Lowest fee	Highest fee	Arithmetic average	Most common
			$	$	$	$
Ambulance	nil	—	—	—	—	—
Auctioneer	7	22	10.00	20.00	12.86	10.00
Auto Wrecker	3	9	2.00	25.00	15.67	N/A*
Baker	5	16	1.00	50.00	10.80	1.00
Barber Shop	6	19	1.00	10.00	4.17	1.00
First Chair	nil	—	—	—	—	—
Additional Chairs	nil	—	—	—	—	—
Bathing House	nil	—	—	—	—	—
Bicycle	14	44	.50	1.50	.73	.50
Bill Distributor	1	3	N/A	N/A	N/A	N/A
Bill Poster and Sign Distributor	1	3	N/A	N/A	N/A	N/A
Billiards: First Table	26	81	5.00	150.00	36.40	25.00
Second Table	13	41	5.00	30.00	10.77	10.00
Additional Tables	13	41	5.00	30.00	10.77	10.00
Boat Livery	nil	—	—	—	—	—
Bowling Alley:						
First Alley	17	53	5.00	100.00	30.50	10.00
Second Alley	8	25	5.00	12.50	7.19	5.00
Additional Alleys	8	25	5.00	12.50	7.19	5.00
Building Permit	27	84	N/A	N/A	N/A	N/A
Bus	2	6	10.00	50.00	28.33	N/A
Butcher	5	16	2.00	25.00	10.40	10.00
Camp Grounds	1	3	N/A	N/A	N/A	N/A
Catering Establishment	3	9	2.00	100.00	42.33	N/A
Cigarette Vendor	15	47	1.00	25.00	12.00	10.00
Dance Hall	6	19	1.00	25.00	7.33	5.00
Dog Licence: Male	32	100	2.00	5.00	2.57	2.00
Female	32	100	3.00	25.00	6.09	4.00
Drain Contractor: Permit	2	6	2.00	3.00	2.50	N/A
Other	1	3	N/A	N/A	N/A	N/A
Driving School: Instructor	nil	—	—	—	—	—
Vehicle	1	3	N/A	N/A	N/A	N/A
Other	nil	—	—	—	—	—
Dry Cleaner: Agent	nil	—	—	—	—	—
Plant	3	9	2.00	25.00	12.33	N/A
Electrician: Contractor	nil	—	—	—	—	—
Master	7	22	5.00	50.00	20.00	25.00
Journeyman	nil	—	—	—	—	—
Other	nil	—	—	—	—	—
Employment Agency	nil	—	—	—	—	—
Exhibition	1	3	N/A	N/A	N/A	N/A
Explosives	nil	—	—	—	—	—
Fruit and Garden Produce	1	3	N/A	N/A	N/A	N/A
Fuel Dealer	3	9	5.00	100.00	40.00	N/A
Gasoline Outlet	5	16	1.00	10.00	5.60	10.00
Hairdressing Shop:	6	19	1.00	10.00	7.00	10.00
First Dryer	nil	—	—	—	—	—
Additional Dryers	nil	—	—	—	—	—
Hawkers and Pedlars—Motor, Foot, Other	29	91	2.00	200.00	53.06	50.00
Heating Equipment—						
Domestic	nil	—	—	—	—	—
Commercial	nil	—	—	—	—	—
Contractor	nil	—	—	—	—	—
Master	nil	—	—	—	—	—
Journeyman	nil	—	—	—	—	—
Ice Cream and Soft Drinks	6	19	1.00	10.00	4.00	1.00
Insulation Installer	nil	—	—	—	—	—
Jewelry, Old Gold, Silver	nil	—	—	—	—	—
Laundry—Agent	nil	—	—	—	—	—
Plant	3	9	5.00	15.00	10.00	N/A
Library	nil	—	—	—	—	—
Lodging House	3	9	1.00	25.00	9.00	1.00
Lunch Wagon—First, Additional	9	28	10.00	150.00	64.55	50.00
Masseur/Masseuse	nil	—	—	—	—	—
Midway (Daily)	6	19	25.00	100.00	66.67	100.00
Milk Shop	10	31	1.00	250.00	32.25	1.00
Vehicle	1	3	N/A	N/A	N/A	N/A
Miniature Golf	nil	—	—	—	—	—
Motel	nil	—	—	—	—	—

TABLE 17:7 (continued)

DESCRIPTION	Municipalities reporting		Lowest fee	Highest fee	Arithmetic average	Most common
	Number	%				
			$	$	$	$
Motor Vehicle Racing	nil	—	—	—	—	—
News Vendor	nil	—	—	—	—	—
Nursing Home	1	3	N/A	N/A	N/A	N/A
Parking Lots	4	13	5.00	15.00	11.00	10.00
Meters	nil	—	—	—	—	—
Pawnbroker	nil	—	—	—	—	—
Pet Shops	nil	—	—	—	—	—
Photographers—Street	3	9	50.00	100.00	66.67	50.00
Transient	4	13	50.00	100.00	62.50	50.00
Plumbers—Permits	2	6	3.00	5.00	4.00	N/A
Contractor	7	22	10.00	50.00	22.50	25.00
Master	7	22	5.00	50.00	21.43	15.00
Journeyman	4	13	2.00	10.00	6.25	10.00
Public Address System	nil	—	—	—	—	—
Public Garage	2	6	2.00	25.00	13 50	N/A
Public Garage and Gasoline Outlet	2	6	2.00	25.00	13.50	N/A
Public Hall	6	19	1.00	75.00	16.29	N/A
Restaurants	17	53	1.00	25.00	9.22	10.00
Road Opening	nil	—	—	—	—	—
Roller Skating Rink	nil	—	—	—	—	—
Salvage and Junk Yard	11	34	1.00	25.00	10.91	N/A
Scavenger	nil	—	—	—	—	—
Second Hand	5	16	1.00	20.00	11.60	20.00
Shoe Repair Shop	2	6	1.00	10.00	5.50	N/A
Shoe Shine Shop	2	6	1.00	10.00	5.50	N/A
Shooting Gallery	nil	—	—	—	—	—
Signs	1	3	N/A	N/A	N/A	N/A
Taxi—First Car	24	75	5.00	50.00	22.79	25.00
Additional Car	21	66	3.00	50.00	13.71	10.00
Taxi-Cab Driver	14	44	1.00	5.00	2.75	2.00
Badge	nil	—	—	—	—	—
Television Installer	nil	—	—	—	—	—
Theatre	10	31	15.00	60.00	32.22	N/A
Drive In	nil	—	—	—	—	—
Trailer	9	28	3.00	60.00	15.33	10.00
Trailer Camp	3	9	10.00	20.00	13.33	10.00
Transient Trader	20	63	50.00	500.00	180.00	100.00
Travelling Circus (Daily)	7	22	25.00	100.00	75.00	100.00
Trucker	5	16	15.00	30.00	20.00	15.00
Truck for Hire	1	3	N/A	N/A	N/A	N/A

*For many items, the replies were too few, or the bases used for calculating the fees too diverse to allow tabulation and comparability.

TABLE 17:8

LICENCE AND PERMIT FEES, VILLAGES WITH POPULATION UNDER 10,000

Sample of 27

DESCRIPTION	Municipalities reporting: Number	Municipalities reporting: %	Lowest fee	Highest fee	Arithmetic average	Most common
			$	$	$	$
Ambulance	nil	—	—	—	—	—
Auctioneer	nil	—	—	—	—	—
Auto Wrecker	1	4	N/A*	N/A	N/A	N/A
Baker	1	4	N/A	N/A	N/A	N/A
Barber Shop	1	4	N/A	N/A	N/A	N/A
First Chair	nil	—	—	—	—	—
Additional Chairs	nil	—	—	—	—	—
Bathing House	nil	—	—	—	—	—
Bicycle	2	7	.50	.50	.50	.50
Bill Distributor	nil	—	—	—	—	—
Bill Poster and Sign Distributor	nil	—	—	—	—	—
Billiards: First Table	15	56	10.00	115.00	46.33	50.00
Second Table	2	7	5.00	10.00	7.50	N/A
Additional Tables	2	7	5.00	10.00	7.50	N/A
Boat Livery	1	4	N/A	N/A	N/A	N/A
Bowling Alley:						
First Alley	7	26	2.00	100.00	47.43	N/A
Second Alley	1	4	N/A	N/A	N/A	N/A
Additional Alleys	1	4	N/A	N/A	N/A	N/A
Building Permit	21	78	N/A	N/A	N/A	N/A
Bus	nil	—	—	—	—	—
Butcher	nil	—	—	—	—	—
Camp Grounds	nil	—	—	—	—	—
Catering Establishment	nil	—	—	—	—	—
Cigarette Vendor	2	7	2.00	2.00	2.00	2.00
Dance Hall	2	7	10.00	50.00	30.00	N/A
Dog Licence: Male	27	100	2.00	5.00	2.46	2.00
Female	27	100	4.00	12.00	5.26	4.00
Drain Contractor: Permit	1	4	N/A	N/A	N/A	N/A
Other	1	4	N/A	N/A	N/A	N/A
Driving School: Instructor	nil	—	—	—	—	—
Vehicle	nil	—	—	—	—	—
Other	nil	—	—	—	—	—
Dry Cleaner: Agent	nil	—	—	—	—	—
Plant	nil	—	—	—	—	—
Electrician: Contractor	nil	—	—	—	—	—
Master	nil	—	—	—	—	—
Journeyman	nil	—	—	—	—	—
Other	nil	—	—	—	—	—
Employment Agency	nil	—	—	—	—	—
Exhibition	nil	—	—	—	—	—
Explosives	nil	—	—	—	—	—
Fruit and Garden Produce	1	4	N/A	N/A	N/A	N/A
Fuel Dealer	1	4	N/A	N/A	N/A	N/A
Gasoline Outlet	1	4	N/A	N/A	N/A	N/A
Hairdressing Shop:	1	4	N/A	N/A	N/A	N/A
First Dryer	nil	—	—	—	—	—
Additional Dryers	nil	—	—	—	—	—
Hawkers and Pedlars—Motor	nil	—	—	—	—	—
Foot	nil	—	—	—	—	—
Other	12	44	5.00	100.00	38.46	50.00
Heating Equipment—						
Domestic	nil	—	—	—	—	—
Commercial	nil	—	—	—	—	—
Contractor	nil	—	—	—	—	—
Master	nil	—	—	—	—	—
Journeyman	nil	—	—	—	—	—
Ice Cream and Soft Drinks	4	15	1.00	5.00	2.67	N/A
Insulation Installer	nil	—	—	—	—	—
Jewelry, Old Gold, Silver	nil	—	—	—	—	—
Laundry—Agent	nil	—	—	—	—	—
Plant	nil	—	—	—	—	—
Library	1	4	N/A	N/A	N/A	N/A
Lodging House	1	4	N/A	N/A	N/A	N/A
Lunch Wagon—First	3	11	2.00	50.00	25.67	N/A
Additional	nil	—	—	—	—	—
Masseur/Masseuse	nil	—	—	—	—	—
Midway (Daily)	nil	—	—	—	—	—
Milk Shop	4	15	2.00	75.00	44.25	50.00
Vehicle	nil	—	—	—	—	—
Miniature Golf	2	7	2.00	10.00	6.00	N/A
Motel	nil	—	—	—	—	—

TABLE 17:8 (continued)

DESCRIPTION	Municipalities reporting		Lowest fee	Highest fee	Arithmetic average	Most common
	Number	%	$	$	$	$
Motor Vehicle Racing	nil	—	—	—	—	—
News Vendor	nil	—	—	—	—	—
Nursing Home	nil	—	—	—	—	—
Parking Lots	nil	—	—	—	—	—
Meters	nil	—	—	—	—	—
Pawnbroker	nil	—	—	—	—	—
Pet Shops	nil	—	—	—	—	—
Photographers—Street	nil	—	—	—	—	—
Transient	nil	—	—	—	—	—
Plumbers—Permits	1	4	N/A	N/A	N/A	N/A
Contractor	2	7	10.00	50.00	25.00	N/A
Master	1	4	N/A	N/A	N/A	N/A
Journeyman	1	4	N/A	N/A	N/A	N/A
Public Address System	1	4	N/A	N/A	N/A	N/A
Public Garage	1	4	N/A	N/A	N/A	N/A
Public Garage and Gasoline Outlet	1	4	N/A	N/A	N/A	N/A
Public Hall	2	7	5.00	20.00	11.67	N/A
Restaurants	7	26	1.00	10.00	5.14	N/A
Road Opening	nil	—	—	—	—	—
Roller Skating Rink	1	4	N/A	N/A	N/A	N/A
Salvage and Junk Yard	3	11	20.00	50.00	30.00	20.00
Scavenger	nil	—	—	—	—	—
Second Hand	1	4	N/A	N/A	N/A	N/A
Shoe Repair Shop	1	4	N/A	N/A	N/A	N/A
Shoe Shine Shop	1	4	N/A	N/A	N/A	N/A
Shooting Gallery	nil	—	—	—	—	—
Signs	nil	—	—	—	—	—
Taxi—First Car	11	41	2.00	50.00	12.25	5.00
Additional Car	6	22	1.00	10.00	6.00	5.00
Taxi-Cab Driver	6	22	1.00	2.00	1.67	2.00
Badge	nil	—	—	—	—	—
Television Installer	nil	—	—	—	—	—
Theatre	nil	—	—	—	—	—
Drive In	nil	—	—	—	—	—
Trailer	8	30	N/A	N/A	N/A	N/A
Trailer Camp	3	11	N/A	N/A	N/A	N/A
Transient Trader	11	41	2.00	300.00	88.50	100.00
Travelling Circus (Daily)	nil	—	—	—	—	—
Trucker	nil	—	—	—	—	—
Truck for Hire	nil	—	—	—	—	—

*For many items, the replies were too few, or the bases used for calculating the fees too diverse to allow tabulation and comparability.

TABLE 17:9

LICENCE AND PERMIT FEES, TOWNSHIPS WITH POPULATION OVER 10,000

Sample of 14

DESCRIPTION	Municipalities reporting		Lowest fee	Highest fee	Arithmetic average	Most common
	Number	%	$	$	$	$
Ambulance	3	21	10.00	15.00	13.33	15.00
Auctioneer	2	14	25.00	100.00	62.50	N/A*
Auto Wrecker	5	36	20.00	100.00	38.00	N/A
Baker	4	29	1.00	10.00	3.25	1.00
Barber Shop	3	21	2.00	10.00	5.67	N/A
First Chairs	nil	—	—	—	—	—
Additional Chairs	nil	—	—	—	—	—
Bathing House	nil	—	—	—	—	—
Bicycle	2	14	.50	.50	.50	.50
Bill Distributor	nil	—	—	—	—	—
Bill Poster and Sign Distributor	1	7	N/A	N/A	N/A	N/A
Billiards: First Table	6	43	10.00	90.00	27.50	N/A
Second Table	3	21	5.00	10.00	8.33	10.00
Additional Tables	3	21	5.00	10.00	8.33	10.00
Boat Livery	nil	—	—	—	—	—
Bowling Alley:						
First Alley	4	29	5.00	150.00	47.50	N/A
Second Alley	2	14	5.00	10.00	7.50	N/A
Additional Alleys	2	14	5.00	10.00	7.50	N/A
Building Permit	11	79	N/A	N/A	N/A	N/A
Bus	nil	—	—	—	—	—
Butcher	4	29	5.00	10.00	7.50	N/A
Camp Grounds	nil	—	—	—	—	—
Catering Establishment	3	21	10.00	50.00	26.25	N/A
Cigarette Vendor	4	29	1.00	11.00	5.50	5.00
Dance Hall	3	21	20.00	25.00	23.33	25.00
Dog Licence: Male	14	100	2.00	4.00	2.58	2.00
Female	14	100	4.00	15.00	6.00	5.00
Drain Contractor:						
Permit	5	36	2.00	4.00	3.00	N/A
Other	2	14	10.00	50.00	30.00	N/A
Driving School: Instructor	nil	—	—	—	—	—
Vehicle	nil	—	—	—	—	—
Other	2	14	10.00	50.00	30.00	N/A
Dry Cleaner: Agent	4	29	10.00	20.00	15.00	10.00
Plant	7	50	10.00	50.00	22.86	25.00
Electrician: Contractor	nil	—	—	—	—	—
Master	2	14	10.00	20.00	15.00	N/A
Journeyman	1	7	N/A	N/A	N/A	N/A
Other	nil	—	—	—	—	—
Employment Agency	nil	—	—	—	—	—
Exhibition	1	7	N/A	N/A	N/A	N/A
Explosives	1	7	N/A	N/A	N/A	N/A
Fruit and Garden Produce	4	29	1.00	75.00	25.25	N/A
Fuel Dealer	2	14	5.00	10.00	7.50	N/A
Gasoline Outlet	3	21	2.00	20.00	10.67	N/A
Hairdressing Shop:	3	21	2.00	10.00	5.67	N/A
First Dryer	nil	—	—	—	—	—
Additional Dryers	nil	—	—	—	—	—
Hawkers and Pedlars—Motor	2	14	20.00	50.00	35.00	N/A
Foot	1	7	N/A	N/A	N/A	N/A
Other	4	29	1.00	50.00	22.60	50.00
Heating Equipment—						
Domestic	1	7	N/A	N/A	N/A	N/A
Commercial	nil	—	—	—	—	—
Contractor	1	7	N/A	N/A	N/A	N/A
Master	nil	—	—	—	—	—
Journeyman	nil	—	—	—	—	—
Ice Cream and Soft Drinks	3	21	1.00	10.00	7.00	1.00
Insulation Installer	1	7	N/A	N/A	N/A	N/A
Jewelry, Old Gold, Silver	1	7	N/A	N/A	N/A	N/A
Laundry—Agent	nil	—	—	—	—	—
Plant	3	21	10.00	25.00	15.00	10.00
Library	nil	—	—	—	—	—
Lodging House	2	14	10.00	15.00	7.50	N/A
Lunch Wagon—First	4	29	10.00	75.00	40.00	N/A
Additional	nil	—	—	—	—	—
Masseur/Masseuse	nil	—	—	—	—	—
Midway (Daily)	4	29	75.00	100.00	91.67	100.00
Milk Shop	1	7	N/A	N/A	N/A	N/A
Vehicle	nil	—	—	—	—	—
Miniature Golf	1	7	N/A	N/A	N/A	N/A
Motel	3	21	10.00	10.00	10.00	10.00

TABLE 17:9 (continued)

DESCRIPTION	Municipalities reporting		Lowest fee	Highest fee	Arithmetic average	Most common
	Number	%				
			$	$	$	$
Motor Vehicle Racing	2	14	25.00	250.00	137.50	N/A
News Vendor	nil	—	—	—	—	—
Nursing Home	2	14	10.00	10.00	10.00	10.00
Parking Lots	1	7	N/A	N/A	N/A	N/A
Meters	nil	—	—	—	—	—
Pawnbroker	nil	—	—	—	—	—
Pet Shops	1	7	N/A	N/A	N/A	N/A
Photographers—Street	1	7	N/A	N/A	N/A	N/A
Transient	1	7	N/A	N/A	N/A	N/A
Plumbers—Permits	5	36	N/A	N/A	N/A	N/A
Contractor	—	—	—	—	—	—
Master	5	36	10.00	25.00	18.00	N/A
Journeyman	5	36	1.00	5.00	3.00	N/A
Public Address System	nil	—	—	—	—	—
Public Garage	3	21	2.00	10.00	7.33	10.00
Public Garage and Gasoline Outlet	3	21	2.00	25.00	12.33	N/A
Public Hall	4	29	2.00	50.00	17.40	5.00
Restaurants	7	50	3.00	25.00	12.71	N/A
Road Opening	nil	—	—	—	—	—
Roller Skating Rink	1	7	N/A	N/A	N/A	N/A
Salvage and Junk Yard	5	36	20.00	25.00	21.25	20.00
Scavenger	nil	—	—	—	—	—
Second Hand	3	21	20.00	25.00	23.33	25.00
Shoe Repair Shop	1	7	N/A	N/A	N/A	N/A
Shoe Shine Shop	1	7	N/A	N/A	N/A	N/A
Shooting Gallery	nil	—	—	—	—	—
Signs	nil	—	—	—	—	—
Taxi—First Car	8	57	10.00	75.00	19.12	10.00
Additional Car	7	50	5.00	10.00	9.29	10.00
Taxi-Cab Driver	7	50	1.00	3.00	2.07	2.00
Badge	nil	—	—	—	—	—
Television Installer	1	7	N/A	N/A	N/A	N/A
Theatre	3	21	N/A	N/A	N/A	N/A
Drive In	1	7	N/A	N/A	N/A	N/A
Trailer	2	14	10.00	10.00	10.00	10.00
Trailer Camp	2	14	N/A	N/A	N/A	N/A
Transient Trader	4	29	100.00	300.00	166.67	100.00
Travelling Circus (Daily)	4	29	20.00	300.00	123.33	N/A
Trucker	2	14	10.00	30.00	20.00	N/A
Truck for Hire	nil	—	—	—	—	—

*For many items, the replies were too few, or the bases used for calculating the fees too diverse to allow tabulation and comparability.

TABLE 17:10

LICENCE AND PERMIT FEES, TOWNSHIPS WITH POPULATION UNDER 10,000

Sample of 58

DESCRIPTION	Municipalities reporting: Number	Municipalities reporting: %	Lowest fee	Highest fee	Arithmetic average	Most common
			$	$	$	$
Ambulance	2	3	5.00	10.00	7.50	N/A*
Auctioneer	4	7	10.00	25.00	13.75	10.00
Auto Wrecker	8	14	5.00	50.00	19.38	20.00
Baker	3	5	1.00	10.00	4.00	1.00
Barber Shop	8	14	1.00	10.00	4.50	1.00
First Chair	nil	—	—	—	—	—
Additional Chairs	nil	—	—	—	—	—
Bathing House	nil	—	—	—	—	—
Bicycle	3	5	.50	1.00	.67	.50
Bill Distributor	nil	—	—	—	—	—
Bill Poster and Sign Distributor	2	3	1.00	10.00	5.50	N/A
Billiards: First Table	11	19	5.00	50.00	13.73	10.00
Second Table	2	3	5.00	10.00	7.50	N/A
Additional Tables	2	3	5.00	10.00	7.50	N/A
Boat Livery	1	2	N/A	N/A	N/A	N/A
Bowling Alley:						
First Alley	8	14	5.00	100.00	24.50	10.00
Second Alley	2	3	5.00	20.00	12.50	N/A
Additional Alleys	2	3	5.00	10.00	7.50	N/A
Building Permit	40	69	N/A	N/A	N/A	N/A
Bus	2	3	10.00	35.00	20.00	N/A
Butcher	2	3	1.00	5.00	3.00	N/A
Camp Grounds	2	3	10.00	100.00	55.00	N/A
Catering Establishment	2	3	10.00	50.00	30.00	N/A
Cigarette Vendor	1	2	N/A	N/A	N/A	N/A
Dance Hall	12	21	3.00	50.00	17.25	10.00
Dog Licence: Male	54	93	1.00	4.25	2.33	2.00
Female	54	93	1.00	15.00	5.26	4.00
Drain Contractor: Permit	3	5	1.00	15.00	5.75	N/A
Other	1	2	N/A	N/A	N/A	N/A
Driving School: Instructor	nil	—	—	—	—	—
Vehicle	nil	—	—	—	—	—
Other	nil	—	—	—	—	—
Dry Cleaner: Agent	nil	—	—	—	—	—
Plant	2	3	1.00	10.00	5.50	N/A
Electrician: Contractor	nil	—	—	—	—	—
Master	4	7	1.00	25.00	10.25	N/A
Journeyman	nil	—	—	—	—	—
Other	1	2	N/A	N/A	N/A	N/A
Employment Agency	nil	—	—	—	—	—
Exhibition	2	3	10.00	10.00	10.00	10.00
Explosives	nil	—	—	—	—	—
Fruit and Garden Produce	5	9	1.00	50.00	18.67	25.00
Fuel Dealer	2	3	5.00	5.00	5.00	5.00
Gasoline Outlet	3	5	2.00	25.00	12.33	N/A
Hairdressing Shop:	7	12	1.00	10.00	3.71	1.00
First Dryer	nil	—	—	—	—	—
Additional Dryers	nil	—	—	—	—	—
Hawkers and Pedlars—Motor	nil	—	—	—	—	—
Foot	nil	—	—	—	—	—
Other	11	19	1.00	100.00	21.50	10.00
Heating Equipment—						
Domestic	nil	—	—	—	—	—
Commercial	nil	—	—	—	—	—
Contractor	1	2	N/A	N/A	N/A	N/A
Master	nil	—	—	—	—	—
Journeyman	nil	—	—	—	—	—
Ice Cream and Soft Drinks	6	10	1.00	10.00	6.83	10.00
Insulation Installer	2	3	10.00	50.00	30.00	N/A
Jewelry, Old Gold, Silver	nil	—	—	—	—	—
Laundry—Agent	nil	—	—	—	—	—
Plant	nil	—	—	—	—	—
Library	1	2	N/A	N/A	N/A	N/A
Lodging House	6	10	1.00	25.00	10.33	N/A
Lunch Wagon—First	8	14	1.00	100.00	27.62	10.00
Additional	nil	—	—	—	—	—
Masseur/Masseuse	nil	—	—	—	—	—
Midway (Daily)	5	9	50.00	300.00	150.00	50.00
Milk Shop	2	3	1.00	10.00	5.50	N/A
Vehicle	1	2	N/A	N/A	N/A	N/A
Miniature Golf	2	3	15.00	100.00	57.50	N/A
Motel	3	5	1.00	25.00	17.00	25.00

TABLE 17:10 (continued)

DESCRIPTION	Municipalities reporting		Lowest fee	Highest fee	Arithmetic average	Most common
	Number	%				
			$	$	$	$
Motor Vehicle Racing	2	3	25.00	100.00	62.50	N/A
News Vendor	nil	—	—	—	—	—
Nursing Home	3	5	5.00	10.00	6.67	5.00
Parking Lots	nil	—	—	—	—	—
Meters	nil	—	—	—	—	—
Pawnbroker	nil	—	—	—	—	—
Pet Shops	nil	—	—	—	—	—
Photographers—Street	2	3	10.00	15.00	12.50	N/A
Transient	nil	—	—	—	—	—
Plumbers—Permits	5	9	1.00	7.00	4.21	5.00
Contractor	1	2	N/A	N/A	N/A	N/A
Master	3	5	10.00	75.00	36.67	N/A
Journeyman	3	5	1.00	2.00	1.67	2.00
Public Address System	2	3	10.00	10.00	10.00	10.00
Public Garage	3	5	10.00	25.00	15.00	10.00
Public Garage and Gasoline Outlet	4	7	1.00	25.00	11.50	10.00
Public Hall	10	17	3.00	100.00	23.22	10.00
Restaurants	12	21	1.00	20.00	8.08	10.00
Road Opening	nil	—	—	—	—	—
Roller Skating Rink	2	3	10.00	12.50	11.25	N/A
Salvage and Junk Yard	6	10	2.00	25.00	14.50	N/A
Scavenger	1	2	N/A	N/A	N/A	N/A
Second Hand	3	5	10.00	20.00	16.67	20.00
Shoe Repair Shop	3	5	1.00	5.00	2.33	1.00
Shoe Shine Shop	1	2	N/A	N/A	N/A	N/A
Shooting Gallery	2	3	10.00	50.00	30.00	N/A
Signs	nil	—	—	—	—	—
Taxi—First Car	18	31	2.00	50.00	15.83	10.00
Additional Car	8	14	10.00	35.00	16.88	10.00
Taxi-Cab Driver	9	16	1.00	20.00	7.00	10.00
Badge	nil	—	—	—	—	—
Television Installer	2	3	1.00	25.00	13.00	N/A
Theatre	5	9	10.00	100.00	57.00	100.00
Drive In	nil	—	—	—	—	—
Trailer	22	38	3.50	20.00	7.71	10.00
Trailer Camp	12	21	N/A	N/A	N/A	N/A
Transient Trader	8	14	25.00	250.00	106.25	100.00
Travelling Circus (Daily)	6	10	50.00	300.00	151.43	100.00
Trucker	3	5	5.00	10.00	6.67	5.00
Truck for Hire	2	3	5.00	15.00	10.00	N/A

*For many items, the replies were too few, or the bases used for calculating the fees too diverse to allow tabulation and comparability.

Chapter 18

Local Revenue and Property Assessment Appeals

INTRODUCTION

1. No revenue system can pretend to be fully equitable if it fails to provide a simple and effective appeal procedure. This rule applies to local revenue systems no less than others, and North American jurisdictions, Ontario included, accordingly provide local-revenue-source appeal procedures that are marked, admittedly, by rather varying degrees of simplicity and efficacy. There are no statistics on the number of appeals heard in Ontario on local taxation and assessment. But it is a matter of general knowledge that the number of appeals fluctuates widely from year to year, depending on the number and population of the municipalities that happen to complete general reassessments in any given year. At a very rough guess, we would suggest that the Courts of Revision process from 15,000 to 60,000 appeals each year, and that from 750 to 3,000 of these may be taken on to the County Court Judge. While a few appeals involve large sums of money or questions of law, the majority are a matter of relatively small changes in assessed values. But for the appellants, the principle may often be more important than the monetary considerations. Hence an appeal procedure should always be clear and the decision certain. It is to this subject that we devote ourselves in this chapter.

EXISTING PROCEDURES

2. Before 1950, an assessment appeal normally travelled from the original notice of assessment to the Court of Revision, thence to the County Judge, perhaps to the Ontario Municipal Board, and, on a question of law only, to the Ontario Court of Appeal. The first three tribunals enjoyed virtually exclusive jurisdiction over questions of fact, supported by legal decisions stating that these tribunals were indeed the sole judge of the facts. In addition, the same tribunals were thought capable of deciding matters of law as well as fact. But in 1950, a decision of the Court of Appeal in *Quance v. Ivey* threw assessment appeal procedure into a state of confusion from which it has yet to recover.[1]

3. In this decision, the Court held that the Ontario Municipal Board had no power to determine whether a person is liable to assessment or exempt therefrom because this is a question of law and hence is within the sole competence of a judge appointed federally under the British North America Act. The Ontario Municipal Board and, by direct implication, the Court of Revision, were thereby restricted to deciding only questions of fact, that is to say, questions as to "persons alleged to be wrongfully placed upon or omitted from the roll or assessed at too high or too low a sum."[2] The County Judge, for his part, was likewise restricted to deciding on questions of fact, at least in so far as he decides appeals not as a member of a federal court appointed under the British North America Act, but rather as *persona designata*, that is to say as a statutory appointee under The Assessment Act. The ensuing confusion forms a tale that virtually defies the telling, but as preliminary remarks we offer the following thoughts: (1) that it is frequently difficult to distinguish between a question of fact and one of law, (2) that to decide what is a question of fact and what is one of law is itself a question of law, (3) that the status of the County Judge is suspended in a state of total uncertainty.

4. The present appeal procedure is not only protracted, cumbersome and bewildering, but its outcome is ever in doubt. If a taxpayer objects to the assessment he has received, he must, within fourteen days of the formal date of mailing, indicate his wish to appeal. The first tribunal is the Court of Revision, the composition of which we shall consider later in this chapter. As we indicated earlier, most appeals are mercifully concluded at this stage. But if he is dissatisfied with the decision, our taxpayer must start *de novo*—that is to say, all over again—before a County Judge or, alternatively, if the amount of the assessment is $25,000 or more, he has the choice of going directly to the Ontario Municipal Board. If the taxpayer has appeared before the County Judge and the Judge's decision is unsatisfactory, he may begin *de novo* once more before the Ontario Municipal Board. Finally, he may on a question of law appeal to the Court of Appeal, but that Court may thereupon go beyond the question of law to reopen the whole question of assessment.

5. The reader should note that, to complicate matters further, the appeal procedure is far from hierarchical. Inasmuch as the Court of Revision, the County

[1] *Quance v. Ivey*, 1950 O.R. 397.
[2] *The Assessment Act*, R.S.O. 1960, c. 23, s. 87; am. 1960-61, c. 4, s. 12.

Judge and the Ontario Municipal Board can only decide questions of fact, a point of law, if recognized in the course of proceedings, must be settled elsewhere. Either by way of a stated case or by way of originating motion to the Court, the taxpayer generally may apply to the County Court (which, we remind the reader, is to be distinguished from the County Judge as *persona designata*) or to the Supreme Court for a ruling to settle the legal question. But these Courts have no original jurisdiction as to assessment, so that while they consider the question of law, the remainder of the appeal must stand still. This, incidentally, is so in spite of the fact that the Court of Revision is ordinarily required to make its decision before November 30 in each year, the day on which assessment rolls must normally be finalized. An additional note of uncertainty is injected by the dual status of the County Judge. Sitting as *persona designata*, he has no authority to decide a question of law, or even, for that matter, to state a case for the Court of Appeal.[3] Again, while he does have authority to decide a question of law sitting as a County Court, he presumably lacks jurisdiction, sitting as *persona designata*, to state a case for himself as a County Court. Finally, and only to add to the confusion, the very question of whether the County Judge, when sitting as *persona designata*, is indeed *persona designata* under The Assessment Act, is not open and shut; the Courts tend to assume that he is *persona designata*, but the only time they were called upon to decide the question they held that he was not.[4]

6. Thus the present state of local appeal procedure in Ontario: a non-hierarchial contortion of four appeal levels that flounder in imprecision. If the appeal structure was ever grounded in rationality, it lost whatever basis it once had when its cornerstone, the power to decide questions of law, was gravely undermined in 1950. The reader should note, at this juncture, that it is possible to bypass the existing appeal structure altogether in challenging assessments. Indeed, the taxpayer may choose to attempt to contest the validity of an assessment by any one of the following three methods:

(1) by an action for a declaration or other relief, such as an injunction, based upon the allegation that the assessment is invalid;

(2) by raising the invalidity of an assessment as a defence when the municipality takes an action for recovery of tax or to enforce any of its rights;

(3) by other Court procedures, such as *certiorari* or *mandamus* or a declaration of right under section 15 (2) of The Judicature Act or a motion under section 87 (a) of The Assessment Act or under Rule 612 (1) (b) of the Rules of Practice.

But we submit that none of the above constitutes an acceptable substitute for a general appeal procedure that is simple, direct and efficient.

7. Before an appropriate cure can be prescribed, the nature of the patient must be appreciated. There are two kinds of assessment appeals, small ones and large ones. The small ones, which relate to private dwellings and the like, and

[3] *Re Ontario Motor League and Toronto*, 1960 O.R. 38.
[4] *Guardian Realty and Toronto*, 1934 2D.L.R. 721.

which involve relatively small amounts of tax for the municipality, far outnumber the large ones. It is therefore desirable to have a forum in which the citizen may contest these relatively less complicated matters cheaply, expeditiously and informally, with or without the aid of a lawyer. This function the Court of Revision has traditionally performed. In more complicated appeals, it is necessary to have a formal hearing because here the fact, the law and the opinions of experts, such as appraisers, must be fully developed and considered. It is in these instances that the County Judge and the Ontario Municipal Board have traditionally been called upon, subject, of course, to all the complications just discussed.

8. While existing appeal procedures with their four different tribunals are, in our opinion, wasteful and redundant, we believe that it is possible to meet the respective needs of small and large appeals on the basis of the bare structure of these procedures, that is to say the informal Court of Revision and the formal judicial proceedings. The first, which is in effect an adjunct of the act of assessment, may be looked upon as an administrative process which in a sense gives the taxpayer his "day in court". The second, designed for difficult appeals, we shall label the judicial process.

THE ADMINISTRATIVE PROCESS

9. We submit that an efficacious administrative process can be built on the existing Courts of Revision, but not without serious overhaul of the composition of these Courts. At present, the composition of these so-called "Courts" may take any one of the following forms:

(1) In cities whose population is 200,000 or higher, the Court may alternatively consist of: (a) one member who is a barrister of at least ten years' standing and who is not a municipal councillor or civic employee, or (b) one or three members who are not councillors or civic employees.

(2) In all other cities, the Court consists of three members, one of whom is the official arbitrator or, where there is no official arbitrator, the sheriff; councillors and civic employees may not be members.

(3) In all other local municipalities, the Court consists of five members who must be eligible for election to council, and who may be, and commonly are, members of council.

(4) Where a county assessor has been appointed, a County Court of Revision may be established in lieu of the Courts of the local municipalities, composed of five members who shall be persons eligible for election to a local municipal council but who may not be councillors. The jurisdiction of such a Court is somewhat more limited than that of local Courts of Revision.

(5) Where county assessment commissioners have been appointed, the County may establish one or more Courts of Revision in lieu of the Courts of the local municipalities, composed of one or three members none of whom may be a councillor or employee of a township, town or village in the county, or an officer or employee of the county at the time or during the preceding year.

(6) Where a district assessor has been appointed, the Minister of Municipal Affairs constitutes one or more Courts of Revision for each municipality and locality for which the district assessor is deemed to be the assessor.

10. Historically, some of the above variations may have been sensible, but we believe that existing conditions hardly justify such a hodge-podge of bodies. An interesting point, among others, is the ambiguity with which the law views municipal councillors. In some cases, it appears to regard them as suspect and quite incapable of rendering unbiased decisions, but in other instances it implies no concern as to their capacity to be free from bias. In our view, the varying backgrounds, experience and training of the members, the closeness of many members of the various Courts to their communities, and the great number of these Courts all contribute to disparate levels of assessment and uneven dispensation of justice to the aggrieved.

11. The administrative process we advocate is designed to maximize consistency and impartiality. These goals, we suggest, can best be attained through the use of persons experienced in various aspects of real estate evaluation, such as realtors, appraisers, trust company officers, lawyers and accountants. Again, especially if the process is to be successful in reducing the wide assessment variations encountered in our studies, the reviewing body should be responsible for a reasonably large geographic area. Here two basic rules are applicable, in our view. The first is that the area over which the tribunal has jurisdiction should either be the same size as the assessing area or combine two or more assessing areas; under no circumstances should it be smaller. The second is that the jurisdictional area should be co-terminous with the boundaries of one or more municipalities. The obvious means immediately at hand to secure larger jurisdictional areas is to pursue to their conclusion existing legislative provisions that permit county assessment in southern Ontario and district assessment in northern Ontario, and to match the appeal jurisdiction with county and district boundaries. In the event that units larger than existing counties and districts are established for assessment purposes or cities and separated towns are brought within larger assessment areas, then the change in assessment area should be matched by a parallel change in appeal jurisdiction.

12. The informal procedures now in use before Courts of Revision are in accord with our idea of this level of appeal, and we therefore recommend no change. For the rest, we suggest that appointment be made by council for a period of three years with a right of renewal, and that the appointees rotate on a three-year cycle. In a northern district, representatives of the district municipalities should meet to recommend the required appointments to the Minister of Municipal Affairs. No councillor or municipal employee should be eligible for appointment, and the remuneration of the appointees should be fixed by by-law of council which would take effect only when published. Provincial legislation should stipulate that appointees must not deal with appeals where transactions in

which they have been involved could constitute evidence. Finally, we do feel strongly that because an administrative process is involved, the tribunal should not be designated as a court when in fact it is not, and in our view should not be, a court. Accordingly, *we recommend that:*

(a) The present Courts of Revision be replaced by one or more Assessment Appeal Boards for each city, separated town and county or any combination thereof, or any larger taxing unit that may be formed, composed of three members to be appointed for a three-year term and remunerated by the municipality; **18:1**

(b) Similar Assessment Appeal Boards be appointed for each district by the Minister of Municipal Affairs upon the recommendation of the local municipalities within the district; and

(c) The members of an Assessment Appeal Board be persons meeting prescribed qualifications who are, or in the year prior to their term of office were, neither employees nor members of the Council of the municipality or of the Council of any other local elective body with jurisdiction within that municipality.

13. In matters of appeal, the taxpayer today is often at a disadvantage because he cannot readily determine in advance of the hearing how the assessor has arrived at his assessment. There is no reason, in our view, why the taxpayer should not be able to examine the assessor's working papers and his reasons for the decision he has made, and indeed we approve of the existing practice whereby assessors normally volunteer information on request. The assessor should, of course, be protected from nuisance inquiries to no serious purpose; this can be accomplished by requiring the taxpayer first to file his notice of appeal. Thereupon, the taxpayer should be entitled, as of right and not by grace, to view all the material upon which the assessor based the questioned assessment. *We therefore recommend that:*

A taxpayer who has filed a notice of appeal to an assessment have the statutory right to examine, personally or through an agent, all the material used to establish the assessment subject to objection. **18:2**

14. As we pointed out earlier, a wide upswing in the number of appeals tends to occur in a year when reassessment is being vigorously pursued. The upswing will be particularly great in any year during which a change in the level of values for assessment is instituted. Such an upswing may well flood the Assessment Appeal Board of one municipality while in another, which is not undergoing

reassessment, the Board may have time to spare. Under these circumstances, it would be eminently reasonable to permit one municipality to borrow, as it were, the Board of a neighbouring municipality either by arrangement or, if need be, by order of the Minister of Municipal Affairs. Added flexibility might be achieved where necessary by authorizing the appointment of similarly qualified persons to temporary Boards. *We therefore recommend that:*

Provision be made so that, if the work of the Assessment Appeal Board of a municipality cannot be processed within the statutory time, the municipality may appoint a temporary Board or enlist the services of a Board from another municipality. **18:3**

THE JUDICIAL PROCESS

15. Since under our constitution none but a federally appointed judge can decide questions of law, and since questions of law in assessment appeals cannot effectively be separated from issues of fact, it is plain that no tribunal other than a judge sitting as a member of his court can be effective. Thus we must bring municipal and business tax appeals all the way back to the law courts and not just part way as at present where jurisdiction is divided and mutually exclusive. For the trial court of first instance it is not practical to give jurisdiction to the Supreme Court of Ontario. The County or District Court, as its name implies, is a regional court whose jurisdiction geographically follows those of the counties and districts of Ontario. In our opinion, taxpayers should have access to the judicial process easily and quickly.

16. While we would expect that most objections would be heard, in the first instance, by an Assessment Appeal Board, the taxpayer should be free to choose whether he will follow this first step or alternatively launch his appeal directly to the County or District Court. There are circumstances under which the taxpayer may well believe that his interests will best be served by proceeding immediately with the judicial process. From a decision of the County or District Court, a full appeal on fact and law to the Court of Appeal would then be available just as it is at present from other decisions of the County or District Court. A final appeal to the Supreme Court of Canada would also be available in accordance with its existing rules. Accordingly, *we recommend that:*

Jurisdiction in all matters in dispute relating to municipal property and business tax arising from any assessment, levy or administrative act and from any decision of the Assessment Appeal Board be given to the County or District Court. **18:4**

17. Broadly speaking, we would suggest that the procedure operate as follows:

(1) An appeal to the County or District Court should be instituted by serving on the Clerk of the Municipality in which the real property affected is

situated a Notice of Appeal in a prescribed form and by filing a copy of the notice with the Clerk of the County or District Court in which the municipality involved is situated.

(2) The appeal to the County or District Court should be permitted

(a) within fourteen days from the date of the assessment, levy or administrative act to which objection is taken, or

(b) within thirty days from the date of the decision of an Assessment Appeal Board.

(3) The practice and procedure of the County or District Court, including the right of further appeal to the Court of Appeal of Ontario, and the practice and procedure relating to appeals should apply.

18. Appeals in municipal and business tax matters generally will turn on questions of value of real property. This requires the consideration of expert evidence on techniques of appraisal, ability to distinguish between the merits of various techniques, a knowledge of economics and the like. These are more likely to be within the competence of judges who deal frequently with assessment appeals, perhaps to the exclusion of all else.

19. A supplementary problem is that there can develop as many different attitudes to assessment appeals as there are County or District Courts. But for the subsequent intervention of the Court of Appeal, there will obviously be difficulty in establishing any uniformity of approach to, or treatment of appeals. This problem could be largely alleviated if there were provision to appoint additional County Judges who would specialize in assessment appeals. We would further hope that the Chief Judge would call Assessment Appeal Judges to meetings from time to time to discuss ways and means of arriving at a uniform approach to and treatment of these appeals. General meetings of County and District Court Judges are already permitted under section 16 (8) of The County Judges Act.[5] Accordingly, *we recommend that:*

The federal government be requested to appoint additional County Judges at large to specialize in assessment appeals. **18:5**

RELATED CONSIDERATIONS: COSTS AND TIME LIMITS

20. While proceedings before the present Courts of Revision are free of cost to the taxpayer, further proceedings are not. We are firmly of the opinion that appeals are part of the revenue-collection process and that costs, except in unusual circumstances, should be borne by the municipality raising the revenue. It must be admitted, however, that some appeals are bound to stem from the prejudices and misunderstandings of the appellants, and not upon a bona-fide objection. Accordingly, *we recommend that:*

No costs be charged on any appeal before the proposed Assessment Appeal Board. **18:6**

[5]*The County Judges Act*, R.S.O. 1960, c. 77, s. 17; am. 1961-62, c. 25, s. 9.

We further recommend that:

Statutory direction be given that costs as between a solicitor and his client are to be awarded to the appellant and against the municipality in all appeals before the County or District Court unless the Court considers that the appeal is frivolous and vexatious or that the appellant previously has withheld pertinent evidence. **18:7**

OTHER RIGHTS OF APPEAL

21. We have dealt so far with the ordinary run of appeal procedures. There exist other types of appeals, but we are of the opinion that, with slight adjustments for procedural time limits, the appeal procedures we have recommended should apply. In a more specific vein, we now wish to comment directly on equalization appeals involving counties and high school districts, and on the right of appeal given to those who are unable to pay taxes because of sickness or extreme poverty.

22. So long as the existing structure of counties and high school districts obtains, there will be occasion for equalization appeals. Section 35 of The Secondary Schools Act provides that an appeal respecting a high school district equalization matter be conducted by arbitrators, and that a further appeal may be taken to the Ontario Municipal Board. On county equalization matters, appeals may, on consent, go before the County Judge or, in the absence of consent, before an arbitration board or the Ontario Municipal Board on the direction of the Minister, with a right to further appeal on a question of law to the Court of Appeal. There appears to us to be no good reason why this multiplicity of forums cannot be avoided. The appeal procedure we have recommended, including the option of commencing an appeal in the County or District Court, should be adopted for equalization appeals. *We therefore recommend that:*

Existing high school district and county equalization appeal procedures be repealed and the appeal procedures recommended for other property and business tax matters be made applicable. **18:8**

23. For over one hundred years, a right of appeal has been granted to those who are unable to pay taxes because of sickness or extreme poverty under what is now section 131(1)(e) of The Assessment Act. It is a cardinal point of our philosophy of taxation that where the circumstances warrant, relief should take the form not of a tax concession but rather of a direct subsidy. Welfare authorities can surely deal with hardship cases in a manner far more effective than the modest remission of taxes. That our welfare system has already made substantial strides in this domain is supported by the fact that appeals under section 131(1) (e) are now very infrequent. *We therefore recommend that:*

The right to apply for tax relief on the grounds of sickness or extreme poverty be withdrawn. **18:9**

CONCLUSION

24. It is readily possible to uncover a multitude of local appeal procedures, under The Local Improvement Act, for example, which we have not discussed directly. We have plainly expressed our dissatisfaction with the existing multitude of procedures, all of which basically deal with related disputes. It is our intention that the recommendations in this chapter be interpreted so as to encompass all local-revenue appeals, whether specifically referred to or not. The citizens of Ontario are entitled to a clear right of appeal to a skilled group of Assessment Appeal Board members, and to County and District Courts. In the reform of our local revenue system, high priority must be given to cutting through the existing jungle of procedures and tribunals so as to give full and effective opportunities for appeal.

Chapter 19

Some Possible New Sources of Municipal Revenue

INTRODUCTION

1. One of the continuing features of politics in Ontario (as indeed where not?) is the persistence with which representatives of municipal governments appeal to the Province for new sources of revenue. These representations usually seek their justification in the need to answer the growing demand for services and to ease the burden on the property taxpayer. It behooves us, therefore, to take a close look at the specific suggestions that have been made from time to time to put more money into the hands of municipalities and also assess what appear to be feasible new sources of revenue. In an examination of these possibilities, we have taken note of the powers that other provinces and states of the United States of America have given to their municipalities.

2. Not all possible new sources of local revenues are examined in this chapter. We have found it more appropriate to discuss certain particular items in other chapters of this Report. Thus the desirable breadth of the property tax base, including a consideration of personal property, is dealt with in the chapters on the property tax, and the whole question of provincial grants to municipalities is treated in the chapter devoted to that subject. Nor have automobiles and their

operators escaped the notice of those who would feed local coffers—we discuss the appropriateness of additional municipal vehicle or driver licences, and municipal gasoline taxes, in our chapter on motor vehicle revenues. Some revenue sources, such as the poll tax and sewer service charges, are not at present used by all municipalities in the province, though all have the authority to do so. These and other existing sources are discussed in the chapters dealing with revenues available to the municipalities.

3. This chapter, then, deals only with those types of revenue that have not been made available to local governments of Ontario. The forms of taxation available to any government are in fact quite limited, their three general categories being taxes on wealth, income and consumption. Although there may be a great variety of specific levies within each class, the actual choice is restricted. We have given consideration to each broad category and examined the specific taxes that might be adapted to municipal use, bearing in mind that they must be capable of being enacted in the form of direct taxation. As a result of these limitations, and because we have dealt with several of the possibilities elsewhere, this chapter is restricted to the discussion of two taxes. The first is a hotel and motel room tax, which has been suggested to us in written submission. The second is a local income tax, utilized in the past by Ontario municipalities and now employed in various forms in several other jurisdictions.

A HOTEL AND MOTEL ROOM TAX

4. Recently there has been some discussion of a proposed tax to be levied by municipalities on the occupancy of hotel and motel rooms. As usually conceived, this tax is levied on room rents paid by transients, in order to obtain a contribution from visitors for the municipal services they use. Sometimes it is argued that the tax should reimburse a municipality for the expenditure it makes on tourist and convention promotion.

5. The idea of such a tax is not new: it has been used in some cities of the United States for years. Recently California has passed legislation allowing its counties or municipalities to impose the tax. The opportunity to do so has been seized by many local governments in that state. On the other hand, several cities —including Buffalo, Syracuse and Schenectady in New York State, and Providence in Rhode Island—abandoned the levy after imposing it for a time. In the United States as a whole this tax makes a very minor contribution to municipal revenues. Even in New York City, which levies such a tax at a 5 per cent rate, the yield in the fiscal year ending June 20, 1962, amounted to only $1.06 per capita.

6. In Canada the tax is virtually unused. It was only in 1965, when the scope of the Meals Tax Act of Quebec was extended, that transient accommodation was subjected to tax in this country. It is interesting to note that in this, the only use of the tax in Canada, it is a wholly provincial revenue source. By enacting a separate statute, the Government of Quebec avoided making it a part of the general retail sales tax and thereby having to share it with the municipalities. It has been esti-

mated that the 6 per cent tax on transient accommodation will yield between two and three million dollars annually in that province.

7. Those who advocate this tax as a municipal revenue source usually try to justify it on the ground of benefits received. Their contention is that visitors derive benefits from municipal services to which they make no contribution. A related argument is that many local governments spend money explicitly on tourist or convention promotion and they ought to have the right to recover these expenditures. In addition, it is argued, the tax is easily administered at the local level, as has been shown by recent American experience.[1]

8. These arguments rest on the proposition that transients produce such a net drain on municipal finances that a specific excise on their accommodation is warranted. But the hotels and motels in which visitors stay are already subject, like other properties, to the property tax, and, unlike other forms of residential accommodation, pay business tax in addition. Thus the accommodation used and paid for by transients is subject to higher rates of local taxation than the homes of residents, including rooming houses, which are specifically excluded from business tax. In addition, by increasing the business activity of a community, tourists help to increase the values of property, and hence the assessment base. Certainly tourism and conventioneering are activities that municipal councils are anxious to promote, even in the absence of any special taxes. We take this to be evidence supporting our conclusion that tourists produce benefits beyond their costs in the areas they visit. Thus it seems to us that the case for a municipal tax on transient accommodation is weak.

9. We note further that if the tax were adopted it would be of widely differing value to various municipalities. Some communities, such as Niagara Falls which plays host to perhaps a million and a half overnight guests each tourist season, would be greatly helped by this tax. Many municipalities, however, have few if any facilities of this nature and would not be assisted at all by the tax. Thus the levy is poorly suited to serve as a new general source of municipal revenue.

10. In our opinion a levy on transient accommodation can be justified only as a part of a general tax on services within the broader spectrum of a retail sales tax. To single out one type of service expenditure for tax is a completely arbitrary and unjustifiable policy. In our chapter dealing with the retail sales tax, we discuss this question and make recommendations about the form such a levy might take. But we cannot recommend the use of a tax on hotel, motel and similar accommodation as a selected source of municipal revenue.

TAXES BASED ON INCOME, EARNINGS AND PAYROLLS

11. For nearly a hundred years the municipalities of Ontario were empowered, and even obliged, to levy a tax on the incomes of their residents. The history of this tax, and particularly the ways in which it was modified and finally

[1]An account of California experience is found in "The Transient Occupancy Tax", *Municipal Finance*, May 1965, Municipal Finance Officers Association of the United States and Canada, Chicago.

abolished, will be found in our chapter dealing with the history of property taxes. The tax on income was always closely related to the property tax, since income assessment was added to property assessment to form a total on which the tax rate was levied. The object was to round out the base for property taxation in relation to the growing and increasingly diversified forms of local wealth and income. Whether for sufficient reasons or not, this goal was never achieved and the tax was taken out of local hands.

12. In spite of a lack of data on the administration of the tax, there is general agreement that it was badly managed. Although this legislation made income a compulsory part of the assessment base, many municipalities neglected or refused to comply. Thus in Ontario in 1935, 33 towns, 58 villages and 437 townships, or a total of 528 of the 937 municipalities, reported no income assessment at all. In addition, many others reported a total income assessment of less than $1,000. The result amounted to local tax havens in some parts of the province. In the municipalities that did levy the tax, there was great difficulty in getting full and fair assessment; evasion was common. Table 19:1 shows the importance of income assessment for certain classes of municipalities in three selected years. Despite the

TABLE 19:1

INCOME ASSESSMENT AND TOTAL ASSESSMENT FOR ONTARIO MUNICIPALITIES FOR SELECTED YEARS

Year	*Class of municipality*	*Income assessment*	*Total assessment*	*Percentage of income assessment to total assessment*
		(thousands of dollars)		%
1929	Cities	104,942	1,823,751	5.8
	Townships	3,925	798,633	0.5
	All municipalities	119,219	3,013,863	4.0
1935	Cities	57,505	1,831,821	3.1
	Townships	4,097	804,344	0.5
	All municipalities	71,500	3,000,836	2.4
1941*	Cities	5,181	1,765,330	0.3
	Townships	1,309	846,701	0.2
	All municipalities	7,534	2,986,105	0.3

SOURCE: Department of Municipal Affairs, Annual Reports of Municipal Statistics.
*No personal income and only a small portion of corporate profits were assessable in 1941.

small impact of income assessment on the total assessment base for all Ontario municipalities, there were some urban centres for which it made a welcome addition to the tax base. It is not surprising that some support remains for a local tax on income.

13. In 1965 in the United States, local income taxes were imposed in six states: Alabama, Kentucky, Michigan, Missouri, Ohio and Pennsylvania. There are a number of differences among these levies, including the rate of tax, the treatment of corporate profits, and the exemptions permitted. In fact, the tax currently imposed by Detroit and certain other Michigan municipalities is nearly as sophisticated as our federal and provincial income taxes.

14. There are several different ways in which a local income tax might be put into effect. It is theoretically possible to give municipalities the power to levy an income tax of their own devising. Such a course would no doubt result in a wide variety of tax structures, with little conformity among municipalities. As a result, there could be very great disparities in the amounts of tax that people with similar incomes living in different municipalities would have to pay. In addition, many of the levies would be simple, and therefore rough measures at best, necessarily containing inequities in the definition of income. Furthermore, it seems quite improbable that more than a handful of Ontario's 500 municipalities with populations of less than 2,000 could succeed in imposing and operating their own income taxes. In practical terms, therefore, over half the municipalities in Ontario would be effectively barred from employing this tax source. In any event, there is little likelihood that the Province would allow such a wide latitude to the municipalities in defining their own levies. Even the base for the present poll tax is quite closely defined in legislation. We must assume, then, that any municipal income tax would need to be carefully defined, at least as to its base, by provincial statute.

15. One of the first questions that would have to be considered if the Province were to devise a municipal income tax is whether corporate profits should be included in the tax base. A tax on corporate profits would, of course, add enormously to the administrative complexities of the levy. For example, the allocation of profits among the municipalities in which a corporation conducts its business would require a complex formula in order to be equitable and to avoid double taxation. We have already discussed the municipal business tax and considered the appropriate level of contributions that business enterprises should make to the coffers of local government. We are convinced that if our recommendations in that connection are implemented, businesses will then bear an adequate share of municipal costs. Any further tax imposition on corporations would be patently inequitable from the point of view of an appropriate sharing of the expenses of local government. In addition, we are impressed with the necessity of avoiding taxes that increase business costs and hence the prices of Ontario goods. For these reasons, we think it would be inadvisable to authorize still another local levy on businesses.

16. If an income tax is to be administered locally, ease of administration is a requisite. One possible form of local tax on earnings is a flat-rate levy imposed on the gross amount of all payrolls in the community. With an accompanying procedure for similarly taxing those who are self-employed, such a tax might be justified as a means of getting all people who work in a municipality to contribute to the cost of the services with which they are provided. However, if and to the extent that the tax would be imposed on employers and not on their employees, it would probably be *ultra vires* on the constitutional grounds that it was an indirect tax which the employer would be expected to pass on in the price of his goods and services. And, regardless of its legality, the tax is subject to the criticism that it would undoubtedly increase business costs, and hence to some degree impair Ontario's competitive position in world markets.

17. These objections could be overcome if the tax were levied on the employees—the wage- and salary-earners. Such a tax, a greatly simplified form of the income tax as we know it, is now used by a number of cities and other municipalities in the United States. Philadelphia, for example, taxes workers on their wages and salaries and the owners of unincorporated businesses on their profits. No exemptions are allowed, and the rate remains constant regardless of size of income. Philadelphia has found it a productive tax which contributes nearly 30 per cent of total city revenues. It is also relatively inexpensive to collect. The problem of double taxation can be avoided by allowing municipalities to enter into collection agreements and other arrangements for sharing taxes levied against taxpayers who live in one municipality and work in another. Clearly, this is a relatively simple tax which would be administratively quite feasible for large municipalities.

18. If a simple tax on personal income were levied in Ontario the revenue raised would be substantial. According to the Department of National Revenue's statistics, earned income for 1963 of individuals resident in Ontario who filed taxable returns was almost $9 billion.[2] (Total earnings, including those of persons not subject to income tax, would, of course, be somewhat higher.) A tax on this base would yield at least $90 million for each 1 per cent in the rate. A recent estimate indicates that Metropolitan Toronto alone could expect over $54 million from a 1½ per cent tax.[3] If all personal income and corporate profits were to be included in the tax base, the revenue would of course be increased substantially.

19. We doubt, however, that even a simple tax on earnings could be enforced equitably throughout the province. Small municipalities, and many larger ones, would find it difficult or impossible to hire the highly trained staff that the competent administration of the tax would require, particularly for assessing incomes from unincorporated businesses. We think that the unfairness that would result from inexpert management of the tax, or from the restriction of the levy to the larger centres, would be so great as to offset any gain in equity that might be achieved by adding income to the base for the tax levies of local government. For the same reason we must reject the proposal for any other form of income tax administered by municipalities. Should there come a time when local government is so structured that equitable administration of an income tax is feasible, it would be appropriate to reconsider this question, although we fear that the per-capita yield of such a tax would vary widely from one municipality to another. In this event, the provincial government would necessarily become involved in major equalization grants, and the result would be little different from the vastly simpler approach of making unconditional grants to the municipalities in the first place. If it should ever be thought feasible to permit the municipalities to levy an income tax, it would be necessary to weigh carefully the advantages (if any) of local administration against the costs of duplicating the existing machinery for collecting the federal and provincial income taxes.

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[2]Department of National Revenue, *1965 Taxation Statistics*, Ottawa: Queen's Printer, 1965.

[3]"Financing Metro—Additional Sources of Revenue", *Civic Affairs*, Bureau of Municipal Research, Toronto, 1965, p. 7.

20. The final point to consider is whether municipalities should share in the personal income tax now collected for the Province by the federal government. As long as the collection agreement is in force, it is unlikely that there would be any possibility of collecting varying rates of tax for different parts of the province. Hence the Province would need to set a uniform rate for all municipalities, a procedure that would have the same effect as if it were to set aside a certain proportion of its own tax for local distribution. Through the use of computers it may soon be possible to determine the amount of income tax paid by residents of each municipality in the province, especially if the number of municipalities is reduced by forming larger regional units. Thus the proceeds of the income tax could be distributed on the basis of the yield for each region. However, just as we saw with a locally imposed income tax, such a course would undoubtedly give rise to quite justifiable demands for equalization. The net result of such a tax would then be indistinguishable from an increase in the rate of provincial income tax and a new municipal grant program. Admittedly, however, personal income tax revenue might provide a base from which a new and more sophisticated grant could be calculated.

21. In summary, then, it is our conclusion that to introduce a municipal income tax in Ontario at the present time would be folly. If it happens that local governments are reorganized into larger units, which would be better able to administer such a tax, this matter might well be reviewed, but even in these circumstances we have considerable doubts about its advisability. Municipal sharing of the provincial income tax must be viewed essentially as a grant program, and considered in that context.

LOCAL SALES TAXES

A GENERAL RETAIL SALES TAX

22. It is often suggested that local governments in Ontario should be authorized to levy a sales tax. Support for the idea is found in the use made of this tax by municipalities throughout the United States and, until very recently, by both municipal and school corporations in the Province of Quebec. It behooves us, therefore, to consider this apparently realistic method of providing some part of local revenue requirements.

23. In the United States, from a beginning in New York City in 1934, the sales tax has grown into a substantial local source of revenue. From 1954 to 1964, sales and gross receipts revenues in United States cities increased by 144 per cent compared to an increase in property tax of only 73 per cent. These local levies on sales and receipts now approach 20 per cent of the total tax yield of American cities. The development in this direction has been supported by the adoption of enabling legislation in about one in four of the states.[4]

24. Montreal was the first jurisdiction of any kind in Canada to adopt a retail sales tax. It imposed the tax at a rate of 2 per cent in 1935, the year following

[4] *Municipal Year Book*, 1966, Chicago: The International City Managers Association, p. 257.

the introduction of the New York City tax. Impressed by the success of the tax in Montreal, the Province of Quebec brought in its own tax in 1940, closely patterned after Montreal's legislation and also at a rate of 2 per cent. To avoid confusing and annoying the merchants, who were required to collect both taxes from their customers, the Province and Montreal entered into an agreement under which the Province collected the city tax along with its own and remitted the appropriate share to the city. The agreement also included certain Montreal suburbs that had by this time introduced the tax, and it provided for distribution of the local revenues among the municipalities on the basis of population.

25. The year 1940 also witnessed the adoption of a sales tax for Quebec City. Thereafter, the municipal levy spread to other major cities in Quebec, with the sole exception of Hull, as well as to smaller urban centres and some rural municipalities. Pooling and redistribution of local revenues on a population basis were adopted in the Quebec metropolitan area and some other urban areas. Commencing in 1949, school corporations were permitted to levy a 1 per cent sales tax, which was subsequently increased to 2 per cent. Thus the combined sales tax burden in the province was as much as 6 per cent or as little as 2 per cent. However, the maximum rate was in fact imposed on most of the urban and on almost none of the rural populations. After 1940, all local authorities imposing the tax made arrangements with the Province to collect it for them, and the base stayed identical for almost all jurisdictions, and closely similar for the remainder.

27. In 1964, the Province of Quebec abolished the local power to levy the sales tax, raised its own rate to 6 per cent, and adopted a formula for distributing a portion of the proceeds to local authorities. This action brought to a close the only Canadian experiment with a local retail sales tax.

28. The primary problem with a local retail sales tax, as may be seen clearly from the Quebec experience, is that municipalities are not nearly big enough. Even provincial and national sales taxes are subject to evasion by people ordering goods to be delivered outside the taxing jurisdiction, or by making purchases in jurisdictions where the tax is lower, or absent. Thus Hull was discouraged from levying local sales taxes by its proximity to Ottawa. To give an example in the Ontario context, if the City of Waterloo were to levy a tax, and Kitchener were to abstain, the effect on retail sales in the former would be disastrous.

29. The second major problem arises from shopping patterns. A city is the commercial centre for a number of surrounding municipalities, suburban or rural. As a result, a dormitory suburb or agricultural municipality would not get the benefit of a large part of the tax collected on purchases made by its residents. Even if taxation is uniform and revenues are pooled throughout entire urban areas, the problems, while reduced, are far from eliminated. Such an adjustment also contracts the autonomy of the individual taxing units but does not meet all questions of equitable revenue distribution.

30. One way that these problems can be overcome is for the Province to legislate uniform rates and inter-municipal sharing arrangements. This solution

would remove any local discretion in the application of the tax. The alternative is for the Province to earmark a portion of the yield from its own sales tax and distribute it to local governments on the basis of some formula. But what emerges from that is a provincial grant whose total size is determined by a measure quite unrelated to local fiscal need.

31. Termination of the local sales taxes in Quebec followed study by the Quebec Royal Commission on Taxation at the request of the provincial Minister of Revenue. Its report on the subject indicated public support for the change and stressed the loss of potential sales tax revenue and the inequity and expense resulting from local tax differences.[5]

32. Despite the continuing and, indeed, the increasing popularity of local sales taxes in the United States, we are unable to advocate their use in this Province. They were not universally acclaimed in Quebec even though they were employed by a large and growing proportion of local authorities. Their replacement by an addition to the provincial sales tax met with a favourable response.

33. For our part, we do not think the yield from the sales tax furnishes a particularly suitable measure of local need, either as a local levy or as a shared revenue. The total amount and actual distribution of funds given to local authorities from general provincial revenues should be independent of the yield from any specific provincial tax, including the retail sales tax. Even the introduction of much larger units of local government would not, in our view, alter this basic conclusion.

SPECIFIC SALES TAXES

34. Certain specific forms of expenditures are now taxable by local authorities in this country and the United States. One is expenditure on transient accommodation, discussed earlier in this chapter. Examples of others are taxes on amusements, used by some Saskatchewan municipalities, and on transfers of land, used by some American cities. Our position on specific consumption levies is set out in connection with the tax on hotel and motel accommodation. Our recommendations in Chapter 31 that the Province discontinue specific levies on land transfer and amusements are supported by arguments that are equally valid with respect to similar taxes at other levels of government. Any tax on retail sales should be a part of a general retail sales tax; there is seldom justification for singling out one type of expenditure for an additional tax.

[5]Quebec, *Report of the Royal Commission on Taxation*, 1965, p. 389.

Chapter 20

School Finance

INTRODUCTION

1. Education is a compulsory local function which, in Ontario, has been discharged without cost to students since 1871 in elementary, and since 1921 in secondary, schools. The financial dimensions of public support for this function are staggering. From the historical statistics provided earlier in this Report, it is apparent that the gross money expenditures of school boards have increased some fourteen-fold since World War II. By Canada's centennial year, these expenditures were well on their way to totalling one billion dollars annually. These expenditures are met almost entirely from a combination of provincial grants and local property taxes. Accordingly, this chapter is devoted in the main to a discussion of the present use of these two sources of school revenue. First, however, a discussion of the general setting in which school finance operates is in order.

THE ONTARIO SCHOOL SYSTEM

SOME DISTINGUISHING FEATURES

2. In addition to its dollar magnitude, the public provision of elementary and secondary education in Ontario has at least four distinctive characteristics. First, it

exhibits an unusual degree of provincial-local sharing in functional as well as financial terms. Second, it involves a clear-cut provincial commitment to minimum standards not matched in any other sphere of government activity. Third, it is structurally insulated from the competing claims of other functions for local tax resources. Fourth, it is marked in one area, that of "separate" elementary schools, by rights and privileges that are grounded in constitutional law, and accordingly it departs from the general pattern whereby local institutions lie entirely within the realm of provincial statutory authority.

Functional Sharing

3. From its very beginnings at the turn of the nineteenth century, the Ontario school system has been functionally an eminently intergovernmental operation. Among the primarily provincial responsibilities can be found curricula, methods of instruction, textbooks, length of school year and school day, period of compulsory attendance, and teacher training and qualifications. School boards, for their part, have a prime role in hiring and remunerating teachers, determining the size of classes, transporting students, maintaining school facilities, and, within the limits imposed by provincial regulations, constructing schools, providing special classes, and choosing curricula and textbooks.

Financing Minimum Standards

4. The intergovernmental sharing of educational functions is closely reflected in the related financial arrangements. The Province in effect guarantees minimum expenditure levels through equalization grants while leaving to school boards discretionary authority over the ultimate allocation of resources to educational services. The result is an unusually sophisticated grant structure to whose complexities the reader will be introduced shortly.

The Special Status of School Expenditure

5. The Ontario school system enjoys a highly insulated position in its access to local tax resources. Local educational expenditure is autonomously determined by special boards whose members are either elected or appointed. (The latter is true of most boards responsible for secondary schools.) All school boards are legally entitled to requisition annually from municipal councils a sum equal to the difference between the total current expenditure they wish to make and the operating grants receivable from the Province. The extent to which school spending is accordingly protected from the incursions of competing local functions need not be belaboured.

The Constitutional Status of Separate Schools

6. In the perspective of history, Ontario schools are rooted in religion and the family. In the pioneer days of Upper Canada, elementary schools typically were established through the initiative of family heads who combined to hire a teacher, who often doubled as the local clergyman. It was these groups of parents that the Province originally recognized when, in The Common Schools Act of 1816, it provided for the creation of so-called "common schools" under the jurisdiction of locally elected trustees. But as communities grew and lost their religious homo-

geneity, friction between dissentient parents and the local school authorities became increasingly widespread. In 1841 this situation was further complicated when Upper and Lower Canada, with their respective preponderances of Protestants and Roman Catholics, were constitutionally fused by the Act of Union. In that very year, the newly formed Legislature of the Province of Canada officially recognized the rights of parents to form a "separate" common school if they dissented on grounds of religious faith "from the regulations, arrangements, or proceedings of the Common School Commissioners".[1]

7. Subsequent legislation passed in 1843, 1853 and 1855 developed the legal and financial positions of separate schools, whose status was consolidated in substantially its present form by The Separate Schools Act of 1863. In regard to separate schools, separate school trustees were granted all powers enjoyed by their common school counterparts. Separate school supporters were exempted from all tax levies made on behalf of common elementary schools and were made liable instead for the taxes requisitioned from municipal councils or levied directly by separate school boards. Finally, separate schools were entitled to their due share of the provincial operating grant and also "to a share in all other public grants, investments and allotments for common school purposes now made or hereafter to be made by the province or the municipal authorities, according to the average number of pupils."[2] Signal importance attaches to The Separate Schools Act of 1863 in that it was entrenched by Section 93 of the British North America Act of 1867 and as such is a matter of Canadian constitutional law. With but two exceptions, present Ontario separate schools are Roman Catholic schools.[3]

THE ORGANIZATION OF THE ONTARIO SCHOOL SYSTEM

8. For the sake of convenience, if not of the strictest accuracy, the Ontario school system can be described in terms of its elementary and secondary components, as illustrated in Table 20:1. As of 1966, elementary education, generally but not invariably embracing grades 1 through 8,[4] was offered to 1,364,871 students in 5,197 schools under the aegis of 1,408 school boards. Of the latter, 528 were separate school boards, 526 Roman Catholic and two Protestant, with 1,393 schools and 388,151 pupils. Of the 880 "public" school boards,[5] which are the

[1]Statutes of the Province of Canada, 4 and 5 Victoria, c. 18.

[2]Statutes of the Province of Canada, 26 Victoria, c. 5, s. 20. That the reference in this Act to "public" grants means grants for elementary school purposes only was later specified in *Tiny Separate School Trustees v. the King* (1928) 3 D.L.R. 753.

[3]There are two Protestant separate school boards, Penetanguishene and School Section No. 1, Grattan.

[4]As a matter of long-standing practice, elementary school boards have been authorized to provide instruction to grades 9 and 10 in areas not organized for secondary school purposes. With the growth of secondary school facilities, only a very few public schools now provide instruction to these grades, but perhaps half the separate schools include grade 9 and 10 classes, which are considered as elementary grades for provincial grant purposes.

[5]The reader who lacks familiarity with the Ontario setting should note carefully that in this province, the "public" school is only one segment of that to which the term *public school* is applied generically in most other North American jurisdictions. In its familiar generic sense, the term *public school* embraces three kinds of Ontario schools: the "public" school, which is *any publicly supported non-denominational elementary school*, the "separate", denominational elementary schools, and secondary schools. In this Report, the term "public" school is applied according to Ontario usage.

TABLE 20:1

SCHOOLS, SCHOOL ENROLMENT, AND ADMINISTRATIVE UNITS OPERATING SCHOOLS IN ONTARIO, SEPTEMBER 1966

Type of administrative unit	*Number of units*	*Number of schools*	*Enrolment*
ELEMENTARY			
(1) Public			
boards of education	53		
county school areas	10		
district school areas	2		
township school area boards	545		
other public school boards:			
urban	172		
rural	78		
boards operating schools on Crown lands	20		
Total Public School Boards	880	3,804	976,720
(2) Separate			
Roman Catholic:			
combined boards	270		
other boards	256		
Total Roman Catholic	526	1,391	387,971
Protestant	2	2	180
Total Separate School Boards	528	1,393	388,151
TOTAL ELEMENTARY	1,408	5,197	1,364,871
SECONDARY			
Collegiate institute and high school boards	188		
Continuation school boards	7		
Boards of education	51		
TOTAL SECONDARY	246	523	436,026

Source: Ontario, Department of Education, *Report of the Minister*, 1966.

lineal descendants of the nineteenth-century "common" school boards, 53, called boards of education, were authorized to provide secondary education, grades 9 through 13, as well as the primary grades.[6] The remainder had jurisdiction over elementary schools only. While the number of elementary school boards is substantial, it represents a drastic decline from earlier levels, because of concentrated provincial efforts at consolidation and rationalization. These are touched upon elsewhere in this Report; it suffices to note in the present context that the 1,408 elementary school boards in existence in 1966 stood in the place of no fewer than 5,506 boards in existence at the end of the War.

9. As sketched in Table 20:1, secondary education, embracing both academic and vocational courses, was provided in 1966 to 436,026 students in 523 schools under the jurisdiction of 246 school boards. With the sole exception of boards of

[6]Two boards of education, those of Swansea and Deseronto, did not provide secondary instruction in 1966. Subsequently, the Deseronto board became an urban public school board, and the Swansea Board was amalgamated with the Toronto Board of Education.

education, already mentioned, secondary school boards are appointive bodies under The Secondary Schools and Boards of Education Act.[7] Their membership is composed of municipal, public school board, and separate school board appointees, and—except for cities, separated towns, and northern Ontario—county appointees. Like that of elementary education, the structure of secondary education has been considerably streamlined since the War. The principal outcome of post-war reform, described later in this Report, has been the multiplication of district high school boards whose jurisdiction embraces groups of municipalities. The spread of high school districts has brought secondary school organization to virtually all populated parts of the province. Where a secondary school board covers more than one municipality, its operating expenditures and debenture liabilities are apportioned among the constituent municipalities according to their equalized assessment.[8] An important by-product of the spread of the high school district has been the decline of the continuation school. Continuation school boards are appointed offshoots of elementary school boards that provide grades 9 through 12 in provincial areas not organized for secondary school purposes. As indicated in Table 20:1, only seven continuation school boards operated in 1966. The reader should take note of their existence because, though few in number, these boards qualify for special grant treatment.

PROVINCIAL GRANTS: HISTORICAL DEVELOPMENT

10. With the above outline of school organization in hand, we can now broach the specific subject of school finance, taking up first the development of grant structure for elementary and secondary education and second, the impact of provincial grants on post-war school finance.

THE EVOLUTION OF THE GRANT STRUCTURE

11. From 1816, when The Common Schools Act combined official recognition of the legal status of school trustees with an appropriation of £6,000 for common schools, the growth of provincial grants has proceeded hand in hand with the development of the Ontario school system. In 1850, when the first major step on the road to free elementary education was taken by allowing trustees of urban boards to raise revenue by "rate bills", provincial grants were significantly rationalized by being based in part on the average daily attendance of students. Provincial grants to secondary schools likewise took account of average daily attendance from 1865.[9]

12. When the goal of free elementary education was attained in 1871, concern shifted to the problem of ensuring minimum standards of education in a province

[7]Boards of education are not composed entirely of elected members. They include appointees of separate school boards for purposes of secondary education.

[8]If a municipality is of the opinion that the division of liability according to equalized assessment is inequitable, it may request arbitration, and the arbitrators may take into account such factors as population, the location of the school, and transportation costs. The decision of the arbitrators may be appealed to the Ontario Municipal Board, which may alternatively hear the matter in the first instance.

[9]For more detailed information on the development of school grants, see J. S. Dupré, *Intergovernmental Finance in Ontario*, Toronto, Queen's Printer, 1967, a study prepared for this Committee.

where the fiscal capacity of school boards varied greatly from community to community. The initial attempt to take account of local fiscal capacity was made in 1907, when assessment became a factor in apportioning grants to rural schools. In 1924, legislation extended in some degree the principle of equalization to non-rural elementary schools by providing that any special grants to urban public and separate schools take account of the value of property taxable for school purposes. Then in 1930 all public elementary and all separate school grants to urban and rural boards alike were made subject to apportionment on the basis of taxable assessment, in addition to average daily attendance and school board expenditure. As to secondary education (which had also become "free" in 1921), from 1936 on, grants for teachers' salaries and those based on attendance were related inversely to taxable assessment.

13. Pre-war provincial grants for school purposes should be understood in the perspective of the times. The provincial contribution to total school expenditure, current and capital, was relatively small, never attaining one-quarter of the total spending by boards, and regularly exceeding one-fifth only during the depressed 1930's. In this setting, grants could be based on calculations that would be considered haphazard by present-day standards, and nowhere was this more true than in the domain of equalization. Because local assessment figures were not equalized to take account of differing assessment practices, the effectiveness of school grants in actually equalizing on the basis of fiscal capacity was at best uneven.

14. Not surprisingly, when school finance entered its post-war phase, taxable assessment was downgraded as a factor in grant allocation. The first major set of post-war school grants came into being through the *Circular Grants General 12*, issued late in 1944 and in effect, with minor alterations, from 1945 through 1949. The new grant structure, which temporarily boosted the average provincial contribution to school expenditures to an unprecedented high in excess of 40 per cent, introduced the concept of "approved costs". Essentially, approved costs were maximum costs established by the Minister for grant purposes, whether current or capital. Thus, for example, the approved cost for instructional salaries could be set at an amount not exceeding $115 per pupil of average daily attendance, and for a new home economics classroom in an elementary school at a level not exceeding $20,000.

15. For elementary schools, the new grants departed from the 1930 legislation and reverted to earlier practice by treating urban and rural schools under separate formulas. For grants to urban elementary school boards, the assessment factor was dropped and funds were apportioned on a percentage basis graded inversely with population. Under a five-step formula, school boards received percentages of approved cost varying from 30 per cent in municipalities of 100,000 population or above to 60 per cent in municipalities under 2,500. Assessment per classroom remained a factor in grants to rural schools, and here four percentage steps—50, 60, 75 and 90—were made applicable to the approved costs of four categories of school boards ranging from those with $80,000 or more assessment per classroom

(a 50 per cent grant) to those with less than $30,000 per classroom (a 90 per cent grant).

16. Unlike their elementary counterparts, rural secondary school boards received grants on an identical basis with urban ones. The formula for academic high schools was made up of two parts: (1) a flat grant of $10 per pupil of average daily attendance, and (2) variable percentages of approved cost graded according to the number of mills necessary to raise the approved cost on the local taxable assessment. A fourteen-step schedule allowed for grants varying from 5 per cent of approved cost where the indicated rate was less than 1 mill, to 75 per cent of approved cost where the indicated rate was 14 mills or higher. Vocational schools were subject to a more complicated formula. In practice, provincial grants contributed a much smaller proportion of secondary expenditure than of elementary expenditure because the Province set low ceilings on approved costs.

17. The year 1950 launched a series of changes in the grant structure. The concept of approved cost was retained but increasingly liberalized. Flat grants per pupil of average daily attendance were extended from the secondary to the elementary level, and equalization schedules were graded in finer categories. Population rather than assessment remained the principal determinant of grants to urban elementary schools,[10] and became an important factor in a revised system of grants to secondary schools in which, among other changes, the provincial percentage of approved costs varied inversely with population, ranging from 15 per cent in cities of over 100,000 to 85 per cent where population was under 1,500.

18. The grant structure initiated in 1950 served for eight years with numerous *ad hoc* adjustments in allowable costs, schedule rates, and per-pupil payments. Then in 1958 a wholly revamped grant structure incorporated three important changes. First, approved cost and average daily attendance grants were merged. Second, the introduction of equalized taxable assessment made it possible for the Province to gear grants to the fiscal capacity of all school boards. Finally, the grant structure attempted to come to grips with burgeoning enrolment through a new device termed "recognized extraordinary expenditure". This measure was the sum of each board's approved costs for debenture payments, its capital outlays from current funds, and its transportation costs—the three items most likely to be affected by rising enrolment. In practice, the 1958 grant scheme, which remained in effect through 1963, operated on the basis of complicated schedules running to some seven tables for each of elementary and secondary education. The schedules took account of percentages of approved cost, average daily attendance, equalized taxable assessment, recognized extraordinary expenditure, population and urban-rural status.

19. The 1958 grant scheme was supplemented by a special additional grant initiated in 1961. Called the Residential and Farm School Tax Assistance Grant,

[10]From 1955 grants on approved costs to urban municipalities with population under 6,000 and assessment per classroom below $35,000 were based on assessment rather than population.

TABLE 20:2

PROVINCIAL GRANTS AND SCHOOL BOARD EXPENDITURE IN ONTARIO 1945–65

Calendar year	*Provincial grants**	*School board expenditure (capital and current)**	*Provincial grant as a percentage of school board expenditure*
	(thousands of dollars)		
1945	$ 26,600	$ 62,154	42.8%
1946	29,236	68,386	42.8
1947	30,134	78,785	38.2
1948	34,954	89,897	38.9
1949	37,479	100,081	37.4
1950	42,540	113,021	37.6
1951	46,876	136,420	34.4
1952	54,755	157,589	34.7
1953	57,672	171,434	33.6
1954	62,904	191,662	32.8
1955	71,913	222,169	32.4
1956	79,062	250,280	31.6
1957	96,486	284,362	33.9
1958	128,168	327,728	39.1
1959	148,186	382,954	38.7
1960	158,741	429,932	36.9
1961	181,278	474,856	38.2
1962	201,147	532,217	37.8
1963	228,679	583,161	39.2
1964	285,208	673,653	42.3
1965	328,528	752,555	43.7

Source: Ontario, Department of Education, Annual Reports of the Minister, 1946-1966.

*These figures exclude special expenditures during the years 1962-65 under the terms of The Federal-Provincial Technical and Vocational Training Agreement, discussed later in this chapter.

the grant provided flat payments, in 1961-62, of $5 per elementary and secondary pupil; in 1962-63 of $12 per pupil; and in 1963-64 of $20 per pupil in elementary and continuation schools, $30 per pupil in academic secondary schools, and $40 per pupil in vocational schools. This assistance was designed solely to reduce the tax burden on residential and farm property, and was to be applied in its entirety to the portion of school taxes for which this property was liable. The Residential and Farm School Tax Assistance Grant thus joined the earlier municipal unconditional grants, described elsewhere in this Report, in accounting for the so-called "split mill rate" whereby a lower mill rate applies to residential and farm property than to industrial and commercial property.

PROVINCIAL GRANTS AND SCHOOL FINANCE

20. Table 20:2 sketches the contribution to school finance of the post-war grants whose structure has just been outlined, and includes data for 1964 and 1965, when payments under the most recent grant scheme were made. The grants introduced in 1945 constituted, at 42.8 per cent of school board expenditure, an unprecedented provincial contribution to school finance. At no time before 1945 had the

provincial contribution exceeded 30 per cent. It is abundantly evident from the Table, however, that the Province's 42.8 per cent level of contribution was not long maintained. After 1946, the relative provincial contribution fell almost uninterruptedly until it reached a low of 31.6 per cent in 1956. This decline is attributable not so much to the inadequacy of the grant formulas as to the fact that actual school costs were allowed to outstrip the levels of costs approved or recognized by the Province for grant purposes. The advent of the 1958 grant scheme brought a considerable improvement in the proportion of the provincial contribution, raising it in four of the six years during which the scheme was in effect to a range of 38.2 to 39.2 per cent. But the 1945-46 level was not regained until 1965, by which time the new Ontario Foundation Tax Plan (discussed below) had taken hold.

21. Behind the aggregate figures just cited lie numerous shifts in the level and proportion of provincial contributions to different school boards. An exhaustive analysis of post-war school finance was far beyond our resources, but a study we commissioned did produce certain findings for the ten years from 1953 to 1962 that are useful in this context. First, there was a decided trend in the direction of growing percentages of provincial grant contribution in urban municipalities for all types of school boards. This phenomenon is due to a combination of factors, one of which is the extension to these municipalities of equalization on the basis of assessment from 1958 and, throughout the period, rising enrolments due to a combination of natural population increase, rural-urban population shifts, immigration, and annexation of suburban areas. Second, the proportional rise in grant contributions to urban schools was particularly marked among separate school boards after 1958. This is largely due to the extension in that year of equalization on the basis of assessment: the rise in the provincial grant reflected the dearth of industrial and commercial properties taxable for separate school purposes. Third, in the domain of secondary education, the proportional provincial contribution showed a tendency to catch up to the public school percentage in urban municipalities and to decline somewhat elsewhere, reflecting grant formula changes favourable to secondary school enrolment. Fourth and last, the provincial contribution to school finance in small and indigent municipalities was high and relatively stable. Among such municipalities, provincial grants as high as 70 and 80 per cent of public school expenditure, and 80 and 90 per cent of secondary school expenditure, were not uncommon.

THE ONTARIO FOUNDATION TAX PLAN

22. Initiated in 1964, the Ontario Foundation Tax Plan is the backbone of the present school grant structure. It is apparent that the grant scheme in effect immediately before the launching of the Foundation Tax Plan took closer account than its predecessors of the need to extend equalization to large urban school boards and to reflect conditions created by rapidly rising enrolments. The Foundation Tax Plan attempts to consolidate these advances. In particular, it seeks to allocate provincial grants for operating costs on the basis of a formula that determines

the financial conditions of individual boards more accurately than did the traditional schedules and tables, which must automatically lump groups of boards into categories.

OPERATING EXPENDITURES

23. For operating or current expenditures, which are officially termed "ordinary expenditures", the Plan offers as an integrated scheme a basic tax relief grant and an equalization grant. The basic tax relief grant involves the payment of flat dollar amounts per pupil of average daily attendance in each of elementary, continuation, and academic and vocational high schools. For 1964, the amounts per pupil were fixed at $80 (elementary), $120 (continuation), $175 (academic high) and $250 (vocational high). The basic tax relief grant represents the minimum amount payable on behalf of ordinary expenditure to any given school board.

24. The equalization grant uses the basic tax relief grant as its point of departure. In addition, it involves two sets of data. The first is a foundation mill rate designed to represent a standard level of local fiscal effort. In 1964, the Province set two foundation mill rates: one of 11 mills for elementary schools and one of 7 mills for secondary schools. When applied to a school board's equalized taxable assessment, the foundation mill rates produce the yield of a standard local fiscal effort for that board. The second measure is a foundation level of annual operating cost per pupil of average daily attendance in each of elementary, continuation, and academic and vocational high schools. For 1964, these levels were set at $210 (elementary), $310 (continuation), $410 (academic high) and $550 (vocational high), calculated to reflect approximate province-wide average operating costs. The equalization grant for any given school board can now be readily calculated. It is the amount by which the foundation level of operating cost exceeds the sum of the board's basic tax relief grant and the yield of the foundation mill rate applied to the board's equalized taxable assessment.

25. For the arithmetically minded, the mechanics of the equalization grant can be summarized by means of the following equation:

$$\text{Equalization Grant} = \text{FLOC} \times \text{ADA} - (\text{BTRG} \times \text{ADA} + \text{ETA} \times \text{FMR})$$

where FLOC = Foundation level of operating cost
ADA = Number of pupils of average daily attendance
BTRG = Basic tax relief grant
ETA = Equalized taxable assessment
FMR = Foundation mill rate

If the yield of the equation is equal to zero or is less than zero, the school board receives no equalization grant; but, of course, it always qualifies for its basic tax relief grant.

26. The advantages of the Ontario Foundation Tax Plan over its predecessors are apparent upon a few moments' reflection. Its basic asset is that it reduces to a simple equation what was previously a maze of tables, schedules and rates. Accordingly, the scheme can easily accommodate the changes that future needs or

policies might dictate. The reader who examines the equation just given will readily appreciate that, for example, it is quite possible to increase the level of aid to wealthier school boards without increasing support elsewhere simply by raising the level of the basic tax relief grant. On the other hand, if more equalization favouring the poorer boards is wanted, this may be accomplished by reducing the foundation mill rates; if it is desired to extend equalization to some of the wealthier boards that just fail to qualify for an equalization grant at present, the foundation level of operating cost can be increased. Varying the levels of relative provincial support as between elementary and secondary education can be accomplished by varying the different levels of foundation mill rate, basic tax relief grant, or foundation operating costs (depending on the degree of equalization desired—if any), that apply to elementary and secondary schools respectively. Then, too, the Plan can accommodate special instances where specific provincial aid might be deemed necessary—the provision of education to handicapped children, for example—through variations in the definition of average daily attendance. Thus a handicapped child in an opportunity class might be counted as two pupils of average daily attendance, with a corresponding effect on the levels of the basic tax relief grant and foundation operating costs.

27. The above examples by no means exhaust the flexibility of the Foundation Tax Plan in terms of its capacity to accommodate desired policy departures. But they do illustrate that the Foundation Tax Plan exhibits that quality to which every part of a provincial and local revenue system should aspire—fiscal sophistication in a framework of simplicity. As might be expected, no such scheme can be introduced without transitional pains. Accordingly, the Foundation Tax Plan still includes cumbersome schedules of limitations designed to ease the impact of its basic structure on the fiscal position of individual school boards whose treatment under the previous grant scheme was substantially different. But these transitional limitations are being phased out as a matter of deliberate provincial policy—a policy that meets with our unqualified approval.

28. Yet another dimension of the Ontario Foundation Tax Plan deserves mention at this juncture: the corporation tax adjustment grant, an integral part of the Plan applying only to elementary school boards. In practice, it applies almost exclusively to separate school boards. To appreciate the meaning of this grant, it is necessary only to understand the principal historical dilemma of separate school finance. This dilemma is grounded in the simple fact that while closely owned firms can declare themselves to be separate school supporters if their owners meet the legally stipulated religious qualifications, many corporations, such as those whose shares are publicly traded, are not in a position to do so under the terms of The Assessment Act. The result is that separate school finance in most municipalities has been one of chronic fiscal deficiency, a situation that the corporation tax adjustment grant attempts to remedy.

29. The grant applies whenever two or more elementary school boards co-exist within the boundaries of a given municipality, and is designed to compensate whichever school board receives a deficient share of the local property taxes paid

by incorporated businesses. As originally constituted in 1964, the test of deficiency was whether the ratio of corporate assessment supporting the separate school board to residential and farm assessment supporting it was less than the ratio of total corporate assessment to total residential and farm assessment. When a deficiency appeared, the Province paid to the separate school board a grant whose amount was determined by applying the commercial mill rate for public school purposes in the municipality to the deficiency—i.e., to the additional assessment required to make the ratio of the board's corporation assessment to its residential and farm assessment identical to the proportion that prevailed in the municipality as a whole. A recent amendment has related the deficiency to the difference between corporate assessment per pupil for the public and separate school systems.

30. It should be noted that, as an integral part of the Ontario Foundation Tax Plan, the corporation tax adjustment grant attempts to remedy an identifiable deficiency in support to separate schools without "over-equalizing" total provincial outlays in their favour. This is because the assessment on which the corporate grant is made is carried into the level of equalized taxable assessment that determines the school board's warranted support under the equalization grant formula of the Foundation Plan.

"RECOGNIZED EXTRAORDINARY EXPENDITURE"

31. The provisions of the Foundation Tax Plan discussed thus far bear on only the ordinary, or basically current, expenditures of school boards. The Plan also takes account of capital expenditures and certain current expenditures heavily affected by capital undertakings through a formula applied on behalf of "recognized extraordinary expenditure", a term carried over from the 1958 grant structure. For grant purposes, a school board's recognized extraordinary expenditure in any given year is the sum—subject to provincial schedules of approved capital cost—of: (1) capital expenditure out of current revenue; (2) debt charges; (3) transportation expenditure; (4) 15 per cent of tuition fees paid to other school boards; and (5) since 1966, expenditure for board, lodging and weekly transportation of commuting pupils.

32. The Foundation Plan provides a basic tax relief grant payable to all school boards, of 35 per cent on recognized extraordinary expenditure. Then it provides for equalization grants according to a schedule that increases the basic grant in steps of 0.1 per cent according to declining ratios of equalized taxable assessment per classroom, a "classroom" being defined as a stipulated number of pupils of average daily attendance—usually 30. For 1964, two equalization schedules were in effect, one for elementary schools, and the other for secondary. The elementary school schedule provided 0.1 per cent where equalized taxable assessment per classroom was $400,000 or over and additional tenths of 1 per cent to a maximum of 57 per cent where assessment per classroom was below $30,000. The secondary school schedule ranged from 0.1 per cent where assessment per classroom was above $1,200,000 to 55 per cent where it was below $150,000. Added to the basic 35 per cent applied to all school boards, this meant that the maximum provincial

grants payable on behalf of recognized extraordinary expenditure to elementary and secondary school boards were 92 per cent and 90 per cent respectively.

33. In its treatment of recognized extraordinary expenditure, the Foundation Plan provides a growth need grant designed to take account of school boards that operate under conditions of rapidly rising enrolment. In 1964, this grant provided an additional 0.1 per cent on recognized extraordinary expenditure for each $50 by which an elementary board's recognized extraordinary expenditure per classroom exceeded $500, and for each $25 by which a secondary board's exceeded $1,000.

DEVELOPMENTS SINCE 1964

34. The Ontario Foundation Tax Plan is the fruit of intensive research and analysis and it is to the credit of the Province that research efforts were not terminated at the time of the Plan's inception. On the contrary, every detail of this sophisticated grant scheme is the subject of continuing studies carried on by the Department of Education and its recently created research arm, the Ontario Institute for Studies in Education. The outcome of these studies is already apparent in the steady phasing out of transitional provisions and in the revision of basic calculations and levels of support.

35. Two important changes affected the operation of the Foundation Tax Plan in 1966. The first was the development and use of data equalizing taxable assessments on the basis of full sale value. This basis was between three and four times as large as the basis of the equalized taxable assessment data used for the 1964 and 1965 grants. It facilitates far more accurate inter-municipal comparisons of fiscal capacity than the system previously in use. The new basis for arriving at equalized taxable assessment data necessarily forced a revision in two of the basic Foundation Plan measures: the foundation mill rate and the equalization schedule for recognized extraordinary expenditures. The foundation mill rate was reduced from 11 to 3 mills for elementary schools and from 7 to 2 mills for secondary schools. As to recognized extraordinary expenditure, the schedule of assessment per classroom for equalization purposes was revised so that, for elementary schools, the first 0.1 per cent applies where assessment per classroom is $1,500,000 or over and the 57 per cent level is reached where it is below $75,000, whereas for secondary schools the first 0.1 per cent applies where assessment per classroom is over $4,410,000 and the 55 per cent maximum is reached where it is below $560,000.

36. The second major change effected in 1966 was designed to take account of province-wide increases in operating costs over the previous year. Accordingly, both the basic tax relief grant and the foundation levels of operating cost were raised, providing across-the-board additions to provincial aid. The basic tax relief grant of $80 per pupil for elementary schools, $120 for continuation schools, $175 for academic high schools and $250 for vocational high schools became one of $85, $125, $185 and $260 respectively. The foundation levels of operating cost by type of school were raised from their 1964 levels of $210, $310, $410 and

$550 to $220, $330, $440 and $570. Further changes effective in 1967 brought the basic tax relief grant to $190 for academic high and $265 for vocational high schools, and the foundation levels of operating cost to $260 for elementary, $450 for academic high and $580 for vocational high schools. The additional equalization made available by the enhanced level of basic tax relief grant was held in check, for elementary schools, by an accompanying increase in the foundation mill rate from 3 to 3.5.

37. Many other refinements are being added to the Foundation Tax Plan on a continuing basis, of which at least three major examples may be cited. Because it became apparent that the growth need grant offered insufficient compensation to certain rapidly growing school boards, an attendance growth grant was introduced for 1966 whereby an elementary school board whose estimated September enrolment involves a student increase of more than 5 per cent draws $100 per pupil on the excess, and a secondary board whose enrolment reveals an increase above 10 per cent receives $200 per pupil on the excess. A second change, effective in 1967, affects the basis on which the number of school pupils is calculated. Rather than being based on average daily attendance, as has been the practice for decades, it will be based on average daily enrolment. This change is designed to remove the fiscal penalty that attached under the old system if children in a municipality were plagued by illness, and to reduce the administrative load of school teachers, whose detailed attendance reports will no longer be needed as the basis for the principals' reports. The third revision, also effective in 1967, applies to grants on recognized extraordinary expenditure. It replaces the earlier methods of calculating approved costs for capital projects with a more flexible system that takes much closer account of actual physical needs, existing construction costs and geographical cost differentials. The new approval cost system has been made retroactive to cover capital projects undertaken in 1965 and 1966. Its effect is to increase the level of approved cost originally given in those years by approximately 50 per cent for an elementary school and 100 per cent for a secondary school.

IMPROVING THE STRUCTURE OF THE FOUNDATION TAX PLAN

38. The Ontario Foundation Tax Plan represents a substantial improvement over the grant schemes that preceded it. This, in our opinion, is particularly true of its treatment of operating costs which is at once adaptable and sophisticated, and whose effectiveness is sustained by a program of on-going research. But there are four aspects of the mechanics of the Foundation Tax Plan that we think can be improved upon: the Plan's treatment of the manner in which a school board's pupil load is calculated, its handling of recognized extraordinary expenditures, its accommodation of regional and other variations in school costs, and its corporation tax adjustment grant.

CALCULATING THE PUPIL LOAD

39. Calculating the pupil load plays a critical role in determining a school board's fiscal support. It sets the board's basic tax relief grant, its applicable

foundation level of operating cost, and its recovery of equalization payments on recognized extraordinary expenditure. The Province, as we have pointed out, is now shifting the basis of its calculation from average daily attendance to average daily enrolment. We consider the shift from attendance to enrolment to be entirely warranted in that reduced fiscal support consequent upon reduced attendance due to sickness is eliminated, and in that truancy is no longer, in the 1960's, a problem that requires provincial policing. Nevertheless, in our view, the calculation of a board's pupil load remains marked by a significant defect: a school board's grant, which is paid on a calendar year basis, is based on the pupil load of the previous calendar year. Consequently the grant lags significantly behind the board's actual enrolment.

40. The growth need and attendance growth grants mitigate this situation somewhat. But these grants apply only to those school boards whose enrolment rise is out of the ordinary. For the rest, the fact remains that their grant is based on a pupil load that has simply become outdated. The existing lag is defended on the ground that provincial grants must be based on strictly accurate figures that are subject to checking by the Department of Education.

41. Given the important role of the pupil load in determining a school board's grant, we fully sympathize with the need to ensure that enrolment figures are accurate. However, we question the necessity for basing grants on the provincially policed enrolment figures of an entire year when the accompanying disadvantage is that grants lag significantly behind the factor that is the most important single determinant of school expenditure. We note that the most critical month in terms of school enrolment is September, in which a new school year begins. Under the present scheme of calendar year grants, a school board's enrolment is particularly weighed down by the January to June enrolment for the previous year, which over the span of the grant year is out of date by one school year until September of the grant year, when it becomes out of date by two school years. So long as the scheme of calendar year grants is in effect, we think that the grants should at least be geared to a pupil load that fully reflects conditions in September of the previous year. *We therefore recommend that:*

> ***So long as school grants are on a calendar year basis, the existing practice of calculating them on the previous calendar year's pupil load be replaced by a system of calculations that reflects school enrolment in the period beginning the first school day of September of the calendar year preceding that in which the grants are paid.*** **20:1**

42. Elsewhere in this Report, we have recommended that the fiscal year of local governments be changed from its present calendar year basis to one that coincides with the fiscal year of the Province. This would entail an accompanying change in the payment of school grants to an April 1-March 31 year. Not least among the ensuing advantages would be the possibility of calculating school grants on the basis of September enrolment in the year in which the grants are actually

paid, this because the seven months that elapse between the beginning of September and the end of March should be sufficient to assemble the data in sufficient time for the last grant instalment. Accordingly, *we recommend that:*

> ***In the event that school finances are based on a fiscal year that coincides with that of the Province, the final school grant instalment be based on calculations of pupil load that reflect enrolment in September of the fiscal year in which the grants are paid.*** **20:2**

RECOGNIZED EXTRAORDINARY EXPENDITURE

43. As we have pointed out, a school board's recognized extraordinary expenditure for grant purposes is composed of five items: capital expenditure out of current revenue, debt charges, transportation expenditure, a percentage of tuition fees paid to other boards, and the boarding and lodging expenses of commuting pupils. Strictly speaking, only the first two are entirely composed of capital expenditure, and it is these that we now consider.

44. The provincial treatment of capital expenditure for school purposes departs significantly from that of other grant-eligible items of local capital expenditure. For the latter, of which roads and highways are the most important example, the provincial contribution is geared to the entire amount of capital outlay, and is made at the time the work is undertaken. For school capital expenditures, however, the only provincial contribution at the time the work is undertaken is on that part of the outlay that school board finances out of current revenue. The remaining provincial contribution to the work is left to accrue over time in the form of financial relief on debt charges.

45. This existing treatment of school capital expenditure has two consequences of signal importance. The first is an increase in the burden of local debt beyond what would be occasioned if the provincial grant were geared to the capital outlay at the time it is made, as with roads and highways. We note that this increase in local debt is in lieu of what would be a provincial liability if the grant were made at the time of the outlay. The second consequence attaches to the status of the local debt incurred for school purposes. Under the present grant scheme, it is true that provincial relief on debt charge obligations can be anticipated, but the extent of this relief is hedged about by uncertainty because future changes in levels of provincial support cannot be forecast. Accordingly, exactly what portion of school debt rests on local assessment and what is backed by provincial support is not subject to calculation. There is ample evidence that school boards and municipalities consider the existing grant treatment of school capital expenditures unsatisfactory, and indeed the Department of Education had to make exceptions to its regulations in 1967.

46. Because needed school construction would have resulted in local debt levels above the ceilings applied by the Ontario Municipal Board, the Province authorized, by order-in-council, lump-sum contributions on the capital expenditure

of no fewer than eight school boards. In three instances, those of the Blezard and Hanmer High School Board, the Chapleau High School Board, and the Rainy River Board of Education, the contributions were made on behalf of secondary schools. The remainder, all for elementary schools, involved the public school authorities of Tavistock, Wingham, Raglan and Murray, and that of Garafraxa West, Luther West and Arthur Village. Also, retroactive to January 1, 1966, the Province is now making lump-sum capital contributions to the construction of schools in northern Ontario when such construction is needed to enlarge school jurisdictions.

47. In a setting where there is not only widespread dissatisfaction, but where the Province finds itself forced to riddle its capital grant structure with exceptions, we can only conclude that the path of reform leads to a grant policy that extends to school construction the same treatment accorded to highway construction—that is to say, a contribution based on the capital expenditure at the time it is undertaken. To do this, of course, would be in the main to effect an increase in provincial debt that would correspond to the accompanying reduction in local debt. We have noted in Chapter 22 that this additional debt can be financed by recourse to Canada Pension Plan funds, which will become available to the Province if our recommendation that the Ontario Education Capital Aid Corporation no longer purchase local school debentures is adopted. Accordingly, *we recommend that:*

> ***Provincial treatment of the recognized extraordinary expenditure of school boards be amended so that the grant contribution to capital expenditure is applied at the time the expenditure is incurred.*** **20:3**

48. To effect this amendment of the provincial treatment of capital expenditure will require considerable care. It is here that we confront transportation, board and lodging expenditure, and tuition fees paid to other boards. These items are included in recognized extraordinary expenditure because they are closely affected by school construction. Thus, the addition of a classroom facility to the area of one school board may occasion tuition payments by another board whose students can be accommodated to enjoy a previously unavailable option. Conversely, a board acquiring a new facility may be able to discontinue tuition payments, and a formula that incorporates the latter for grant purposes creates a corresponding saving to the Province. Transportation expenditures, for their part, are most sensitive to school construction. For one board, a new school may materially reduce transportation costs; for other boards, particularly those in rural areas, the construction of a central school may create substantially increased transportation costs, and may even necessitate the weekly boarding and lodging of some pupils.

49. Recognition that a school board's tuition, transportation, and boarding and lodging costs are related to its capital outlays is a feature of the existing grant system that should be retained. We are not prepared to indicate exactly what form

this might take under the revised scheme of capital grants we have recommended. It may be, for example, that a foundation mill rate might be used as the basis for a grant on such expenditures; on the other hand, a percentage formula, such as obtains at present, may be more appropriate. In any event, we urge that in amending its treatment of recognized extraordinary expenditure, the Province study carefully the appropriate form that future grant treatment of tuition, transportation, and boarding and lodging costs might assume, giving major consideration to the extent to which these expenses are affected by capital outlays.

REGIONAL AND OTHER VARIATIONS IN SCHOOL COSTS

50. Although it represents a signal advance over earlier school grant schemes, the Ontario Foundation Tax Plan does not yet attempt to cope systematically with the important variations in operating costs occasioned by the geographical and social diversity of this large and heterogeneous province. There are in fact many variables that affect school expenditure. Three obvious examples are found in the higher salary costs arising from the need to attract teachers to remote areas, the relatively high heating bills of schools in northern Ontario, and the special problem of coping with culturally deprived children in urban slums. Because the Foundation Plan, in its treatment of operating expenditures, applies uniform rates of basic tax relief grant and foundation levels of operating cost, it inevitably suffers from the fact that it applies gross averages to what is actually a multitude of very different situations. Thus the average foundation level of operating cost hardly represents the minimally satisfactory, or true foundation cost, of running, say, a remote northern school whose isolation boosts salary costs and whose climate necessitates high fuel expenses. In 1967, there arose certain instances of distress so acute that the Province applied special operating grant provisions to no fewer than eleven public school boards named in the regulations, all of them in northern Ontario.[11]

51. We note this particular development with grave concern. Where any part of a fiscal system, be it a tax or a grant, must incorporate named exceptions to its applications, both fiscal equity and impartial administration are endangered. Pressures are invariably engendered for additions to the list of exceptions until exceptions become the rule and formulas are made meaningless. We suggest that, rather than make exceptions to a formula, the proper course of action is to make the formula more discriminating in its application. We note with satisfaction that, through revised treatment of approved costs for capital expenditure purposes, the

[11]These were the public school boards of: (1) the Township School Area of Auden in the Territorial District of Cochrane; (2) School Section No. 1 of Mine Centre in the Territorial District of Rainy River; (3) School Section No. 1 of Savant Lake in the Territorial District of Thunder Bay; (4) School Section No. 1 of the unorganized townships of Asquith, Churchill, MacMurchy and Fawcett in the Territorial District of Sudbury; (5) the Township School Area of Ramsey in the Territorial District of Sudbury; (6) School Section No. 1 of the unorganized Township of Franz in the Territorial District of Algoma; (7) School Section No. 1 of the unorganized Townships of Martin and Carney in the Territorial District of Algoma; (8) School Section No. 1 of the unorganized Township of Noble in the Territorial District of Sudbury; (9) School Section No. 1 of the unorganized Township of St. Julien in the Territorial District of Algoma; (10) the Township School Area of Joan and Phyllis in the Territorial District of Nipissing; (11) School Section No. 2 in the unorganized Township of Menapia in the Territorial District of Cochrane.

grant on recognized extraordinary expenditure now takes account of geographical variations in construction costs. We also appreciate the fact that the Ontario Institute for Studies in Education has been surveying regional and other variations in school cost as part of its on-going program of research in school finance. We wish to attach the weight of whatever influence we possess to the importance of refining the Ontario Foundation Tax Plan so that its application to operating costs may soon take these variations into account. We have no doubt concerning the capacity of the basic formula to accommodate the needed refinements.

CORPORATION TAX ADJUSTMENT

52. As implemented in 1964, the corporation tax adjustment grant launched a serious attempt to cope effectively with the fiscal deficiencies of separate schools. Since its implementation, the grant has been the subject of several representations by separate school authorities and of continuing study by the Department of Education. The result has been a series of revisions in the grant formula.

53. In 1965, the second year of its operation, the grant was amended by providing that the mill rate applicable to a separate school board's corporation assessment deficiency should be the greater of the commercial public school mill rate or 11 mills, instead of the commercial public school mill rate alone. This change was made in recognition of the fact that the fiscal deficiency of many separate schools is such that their mill rates are higher than those for public schools. The amended formula remained in effect during 1966, adjusted only to take account of the change in the basis of equalized taxable assessment to full sale value. This adjustment made the applicable mill rate for grant purposes the greater of the commercial public school mill rate or 4 mills.

54. Directly in the wake of a well-argued submission by separate school authorities, a further revision in the corporation tax adjustment grant took effect in 1967. Under the regulations now in effect, a separate school board's corporation assessment deficiency is determined not with respect to the municipal ratio of corporation assessment to residential and farm assessment but with respect to the relative corporation assessment per separate school pupil and per public school pupil. By being so designed, the corporation tax adjustment grant reflects the relative pupil load of public and separate schools, and thus registers relative fiscal need rather than the relative fiscal capacity indicated by residential and farm assessment. Once a separate school board's assessment deficiency has been determined according to the revised formula, its grant is calculated by applying to the deficiency, adjusted to equalized taxable assessment, the greater of 5.5 mills or the commercial public school rate plus 1 mill.

55. Conscious of our responsibility to make a comprehensive review of all local revenues, we have subjected the corporation tax adjustment grant to exhaustive examination. Our basic criterion has been that of equity, which in terms of school finance means that all schools in the publicly supported Ontario system should be subject to similar fiscal treatment, whether the source of revenue is a provincial grant or a local tax. The basic structure of the Ontario Foundation Tax Plan is such that all school boards in Ontario can be accommodated under

an identical formula that takes account of differences in fiscal need and fiscal capacity, *provided that their access to local revenue sources is not inhibited by deficiencies in the structure of local taxation.* Unfortunately, however, there exists a major structural deficiency in the property tax as it applies to school finance: the inability of an impersonal corporation to declare its support as between public and separate schools. The result is that, by default, virtually all corporation assessment has redounded to the support of public schools. In its various forms, the corporation tax adjustment grant has attempted to remedy the resulting "deficiency" in separate school assessment.

56. But from an over-all view, the outcome is not simply a deficiency in separate school assessment. As students of the Ontario tax structure, we are of the considered opinion that the inability of many corporations to declare school support has had the equally undesirable effect of creating a windfall gain for public school boards. These boards are automatically assigned virtually all the corporation assessment in many municipalities. For their part, even under the corporation tax adjustment grants, the separate school boards have received revenues geared only to the *average* corporation assessment in a municipality, or, since 1967, to their *relative* pupil load.

57. If all publicly supported elementary schools of Ontario are to be treated with complete equity, they should have identical access to local tax resources uninhibited by peculiar defects in the structure of taxation. Once this identical access has been secured, grants can be paid on the sole basis of fiscal need and capacity, uncluttered by extraneous formulas designed to take account of structural shortcomings. In the Ontario context, identical access by public and separate school boards to local tax sources can be said to obtain where the tax base of each of the boards has been determined through the choice of the taxpayers concerned. Choice as to the direction of school tax support is available to individuals, to unincorporated business enterprises, and to certain incorporated firms, but not to the corporations whose ownership is not closely held and controlled. For these firms, which cannot direct their school tax support on the assessment roll, we propose a distinct corporation assessment allotment, taxable by both public and separate school boards in direct proportion to their respective pupil enrolment. *We therefore recommend that:*

> ***In each municipality, the assessment of corporations that cannot under The Assessment Act direct their taxes for school support be segregated into a distinct allotment taxable by public and separate school boards in exact proportion to the relative pupil enrolment of the boards.*** **20:4**

58. Once the access of public and separate school boards to local tax resources is established on an identical basis, the operation of the Ontario Foundation Tax Plan will compensate all boards in accordance with differences in fiscal capacity based in all instances on access to an identically composed local tax structure. Not least among the consequent benefits in terms of equity should be a reduction

in any existing spreads between public and separate school mill rates. Indeed, if both public and separate school boards have identical access to local tax sources, and receive grants related to an identical index of capacity to pay, any remaining spreads in mill rate would be largely attributable to the relative success of the boards in the pursuit of economy, efficiency and optimal size. To further these ends, we would suggest that the mill rate levied within each school area of the municipality on the distinct corporation assessment allotment be the lower of the two rates, public and separate. Accordingly, *we recommend that:*

> ***The elementary school mill rate levied in any given year against the corporation assessment allotment be the lower of the public or separate school mill rate applicable where the property is situated.*** **20:5**

59. The financial effects of the above recommendation will vary from municipality to municipality. The over-all result will be to reduce the level of funds now flowing to both public and separate school boards from the existing combination of the windfall access to corporate assessment enjoyed by public school boards and the corporate tax adjustment grant received by separate school boards. We note that this grant takes account of all corporate assessment, not simply of the assessment of corporations that cannot direct their taxes for school support. The consequent shortfall for both public and separate schools must, of course, be taken into account through the operation of the Foundation Tax Plan, which, as a result of our recommendation, can be applied more effectively than before, since the tax base of both public and separate school boards will be determined through identical structural principles.

OTHER SOURCES OF FINANCIAL SUPPORT FOR SCHOOL BOARDS

STIMULATION GRANTS

60. There exist, outside the basic structure of the Ontario Foundation Tax Plan, a number of individual grants for restricted purposes. Generally termed "stimulation grants" under the regulations, these payments are sometimes made in recognition of a provincial requirement—for example, for the provision of free textbooks—or to encourage a board to undertake an optional commitment, such as classroom television. They have been allowed to accumulate over time, and most antedate the Foundation Tax Plan.

61. The stimulation grants that now exist outside the basic structure of the Foundation Tax Plan are the following:

(1) Municipal inspectors' grant—35 to 92 per cent of salaries to a maximum of $900 per month.

(2) Evening courses grant—50 to 92 per cent of teachers' salaries to a maximum of $6 per hour.

(3) Industrial arts and home economics instruction to non-resident pupils grant—$7.50 per pupil per term.

(4) Library books grant—*either* the amount spent for books for kindergarten through grade 13 to a maximum of $2 per pupil per year, *or* 35 to 92 per cent of expenditure up to $9 per pupil.

(5) Textbooks grant—total spent up to variable maxima per pupil according to grade, plus variable percentage of cost on the amount spent in excess of the maxima to a ceiling of $3 per pupil.

(6) Small secondary schools grant—$10 per resident pupil up to a $2,000 maximum for academic secondary schools under 400 pupils; $20 per resident pupil up to a $4,000 maximum for vocational secondary schools under 500 pupils.

(7) Television grant—$270 or $1.50 per pupil, whichever is the greater, up to actual amount spent.

(8) Grant for English, French and citizenship courses for new Canadians—90 per cent of teachers' salaries to a maximum of $6 per hour.

(9) Free milk grant to elementary schools—the lesser of 50 per cent of cost or net board expenditure after donations.

(10) Trustees' Council fees—35 to 92 per cent of fees paid to the Ontario School Trustees' Council to a maximum of $30 or 15¢ per pupil, whichever is greater.

(11) Grant on entering larger units of administration—

(a) Elementary:

(i) $20 per rural student prior to admission to the larger unit to a maximum of $300 per board (paid once only to the unit absorbed);

(ii) $20 per rural student with a $500 maximum for each former school section (paid each year to the larger unit).

(b) Secondary:
$150 per year for each rural school section or former rural school section within the jurisdiction.

62. To the extent that school stimulation grants are made for obligatory services—for example, the provision of free textbooks—they are not, in the strict sense, stimulation grants. For the rest, it may well be that from time to time, the Province may wish to encourage school boards to initiate a new program, perhaps on an experimental basis, as with educational television. In this event the Province should, we believe, bear in mind that the multiplication of stimulation grants inevitably leads to a grant system marked by unwarranted administrative complexity. If relied upon at all, stimulation grants should be made for limited periods of time and phased out as soon as they have had the desired effect on levels and standards of service. Also, the Province should take careful account of the extent to which stimulation grants, if not equalized, discriminate in favour of wealthy local authorities and against indigent ones. We have made plain our concern over the so-called "substitution effect" of unequalized stimulation grants at the outset of

this Report in Chapter 2, which contains in detail our philosophy of intergovernmental fiscal relations.

63. Given the basic structure of the Foundation Tax Plan and its sophisticated approach to equalization, we are puzzled by the continued existence in their present form of the eleven "stimulation" grants just outlined. In specific terms, it is our considered opinion that the first seven grants listed should be abolished in their present form and incorporated into the structure of the Foundation Tax Plan. In this connection, we observe that the Foundation Tax Plan has already been revised so as to absorb a "stimulation grant" that led a lengthy and generally unhappy existence. We refer to the grant on school sites, abolished in 1966 and incorporated into the Plan's treatment of recognized extraordinary expenditure. We note also that grants for special subjects and services, while outlined separately, are integrated in the grant formula that applies to operating costs.

64. On the subject of the seven grants in question, we note that the municipal inspectors' grant, which applies only to certain school boards, might well be included either in the grant for operating costs or perhaps in a revised treatment of recognized extraordinary expenditure. We see no reason why evening courses and non-resident students could not be accommodated by the Foundation Tax Plan through the Plan's pupil load calculations, suitably weighted. There is a strong case for considering library books as part and parcel of normal school operating expenditures, and certainly textbooks, which are everywhere free of charge as a matter of provincial policy, do not warrant grant treatment that differs from, say, teachers' salaries. Again, where the problems of small secondary schools must be taken into account, an adjustment in the basis on which the pupil load is calculated will provide appropriate treatment. Finally, to the extent that televised instruction continues on an experimenal basis only, account may be taken for grant purposes through yet another adjustment in pupil load. *We therefore recommend that:*

> ***The grants on behalf of municipal inspectors' salaries, evening courses, industrial arts and home economics instruction to non-resident pupils, library books, textbooks, small secondary schools, and televised instruction be abolished in their present form and incorporated into the basic structure of the Ontario Foundation Tax Plan.*** **20:6**

65. The provincial grant for English, French and citizenship courses for new Canadians is of concern to us in that the settlement pattern of immigrants among Ontario municipalities is uneven, and therefore has very disparate effects on the finances of different school boards. Furthermore, immigration ebbs and flows with changing economic conditions both here and abroad, and is greatly affected by changes in federal policy. The existing grant does shoulder the major part of the burden of providing special instruction to new Canadians, but on the basis of the above considerations, it is our view that no part of the cost of providing

such instruction should accrue to local school boards. *We therefore recommend that:*

> ***The existing grant for English, French and citizenship courses for new Canadians be abolished and that the Province relieve school boards of all costs arising from such courses.*** **20:7**

66. We come finally to the free milk grant, the grant for Trustees' Council fees, and the grant on entering larger units of administration. The free milk grant has been permitted to lead a haphazard existence for some years, and apparently is received by relatively few school boards. If the Province wishes to provide free milk to students as a matter of health or welfare policy, we suggest that one of the appropriate government departments should bear the entire fiscal and administrative burden. The grant for Trustees' Council fees was initiated to encourage school trustees to join the Ontario School Trustees' Council, an association similar in principle to such bodies as the Association of Ontario Mayors and Reeves, whose membership fees certainly do not qualify for provincial grant support. Finally, the grant on entering larger units of administration, which involves inconsequential sums, has a very dubious role since experience indicates that boundary reform is accomplished through legislation, not through grant incentives. To the extent that a school board's fiscal position is affected by the absorption of another unit, this should be reflected in its treatment under the Foundation Tax Plan proper. On the ground that they have outlived whatever useful purpose they may once have served, and in conformity with our general principles that a grant system should be as streamlined as circumstances permit, *we recommend that:*

> ***The grants for free milk, trustees' council fees, and entering larger units of administration be terminated.*** **20:8**

VOCATIONAL EDUCATION GRANTS

67. As senior levels of government, particularly the federal, have come to treat the development of vocationally skilled manpower as an integral part of economic policy, new responsibilities and new sources of support have devolved upon the school system in the domain of vocational education. Up to now, the most spectacular manifestation of federal concern for vocational education has come in the form of the aid made available for school construction under the Technical and Vocational Training Assistance Act of 1960. Under the terms of this Act, the federal government undertook to make grants equal to 75 per cent of provincial capital expenditure for technical and vocational schools to a stipulated maximum, and grants of 50 per cent to a ceiling beyond this maximum. Ontario took full advantage of this program, and plans to extend it under its own auspices after federal contributions terminate in 1967. Because the Province absorbed the remaining 25 per cent of the capital outlays until 1965, school boards were enabled to acquire vocational schools whose entire cost of construction was met by senior governments. Over the period of the federal vocational school construction grant, the number of vocational schools in Ontario has more than quadrupled.

68. The federal capital grant for vocational school construction provides an excellent case in point for a debate over the merits and demerits of conditional grants. On the one hand, it can be argued that to the extent that manpower training affects national economic performance, a federally extended incentive for provincial vocational school construction was entirely desirable. At the same time, and precisely inasmuch as the federal incentive proved effective, provincial priorities were distorted and commitments undertaken that may not have been as much in keeping with the provincial interest as those that would have prevailed had the same cash resources been made available in the form of additional tax abatement. We have made our own outlook on federal conditional grants a matter of record elsewhere in this Report. In the context of this chapter, our concern is with the terms under which the Province now makes vocational school aid available, and with the impact of the new vocational schools on the operating costs of school boards.

69. Since 1965, the Province has been discontinuing its practice of absorbing whatever vocational school construction costs are not covered by federal contributions. School boards have themselves been required to finance 25 per cent of the capital outlay, with the senior government contribution limited to 75 per cent. Accordingly, the vocational school construction program has been transformed into a flat-rate conditional grant that takes no account of the fiscal capacity of school boards. We consider this practice unwarranted when the equalization provisions of the Ontario Foundation Tax Plan are readily at hand. We note that the Plan can readily accommodate vocational school capital grants if it is amended so as to pay all capital grants at the time these outlays are undertaken. *We therefore recommend that:*

> ***All future grants made by the Province for vocational school construction be integrated under the provisions of the Ontario Foundation Tax Plan.*** **20:9**

70. As to the impact of the new vocational school facilities on operating costs, it is not yet possible to be precise. We are nevertheless informed that this impact is substantial and we therefore deem it most important that the Province keep the operating costs of vocational schools under close observation in terms of their treatment under the Foundation Tax Plan.

71. Again in the domain of current expenditures on vocational education, federal grants are made for provincial manpower retraining programs. These programs often make use of school facilities, but their entire cost is absorbed by the senior governments. Retraining programs are bound to expand as federal and provincial emphasis on manpower policy intensifies. In this context we deem it all the more important to state that, in our view, manpower retraining programs should not be allowed to become a burden on local school finance.

THE PROPERTY TAX AND SCHOOL FINANCE

72. With our discussion of provincial grants now complete, we confront that other pillar of school finance in Ontario: the property tax. This Report has already dealt at length with the property tax, and our recommendations on this subject will, in our opinion, make possible more efficient and equitable use of this tax by school boards no less than by municipalities. Specifically in the context of school finance, we now wish to develop our views on three aspects of property taxation. The first is the question of school tax differentials as between residential and farm property on the one hand, and industrial and commercial property on the other; the second is the requisitioning authority vested in school boards; and the third is the highly important question of why the property tax, in our opinion, has a continuing role in school finance.

SCHOOL TAX DIFFERENTIALS

73. The existing school tax differential as between residential and farm property on the one hand and industrial and commercial property on the other is of recent origin. It stems from the inception in 1961 of the Residential and Farm School Tax Assistance Grant, described in paragraph 19 of this chapter. The reader will recall that this grant made available per-pupil payments that were to be applied solely to effect a reduction in the mill rate on residential and farm property. Upon the launching of the Ontario Foundation Tax Plan in 1964, the school tax assistance grant was abolished, but provisions for the more favourable treatment of residential and farm property were incorporated in provincial legislation. Under Section 105 of The Schools Administration Act, passed in the year the Foundation Tax Plan came into effect, the school portion of the mill rate applied to residential and farm property must be calculated so that it is 90 per cent of the corresponding mill rate on industrial and commercial property.

74. We have made it clear that, in our view, split mill rates are an inefficient and inequitable means of distributing tax burden as between residential and farm properties on the one hand and business on the other. Accordingly, the termination of the split mill rate, whether for school or municipal purposes, is recommended in Chapter 11. Our further concern in this chapter is to ensure that this change is accomplished without hardship for residential and farm school taxpayers. We have considered the merits of creating a special grant to school boards to absorb the consequent readjustment in residential and farm mill rates. However, in the interest of a simplified grant structure, we prefer to leave this task to the Ontario Foundation Tax Plan, which can achieve it automatically in the wake of the greatly increased level of school grants recommended in Chapter 8.

THE REQUISITIONING OF SCHOOL TAXES

75. In democratic societies, there are surely few principles that equal in importance the dictum that every government should, to the maximum practical extent, shoulder the responsibility of raising its own revenue. In school finance, provincial grants must be expected to play a major role. This, in our view, makes it all the more important that the line of responsibility between school authorities and local

taxpayers should be clear and direct. Not only is this in the interest of healthy local democracy; from the narrow point of view of the Province as a grant-disbursing agency, it constitutes a vital safeguard for economy and efficiency in school operation.

76. No amount of rhetoric about the cost-consciousness of school trustees can obscure the simple fact that, under the system whereby school boards requisition annually from municipal councils the difference between their provincial operating grant and their current expenditures, the line of responsibility between boards and taxpayers is less than simple and direct. The practice of indicating separately on the municipal tax bill the amount owing for school tax purposes has the virtue of identifying the school tax for the taxpayer who studies his tax bill. But the bill is a municipal tax bill, and municipal councillors inevitably constitute the front line for the complaints of irate citizens.

77. We have carefully studied the practices of other jurisdictions in search of an alternative to requisitioning suitable to Ontario, including such alternatives as a municipal veto on school board budgets, and the striking of mill rates at joint sessions of council and school board. Our frank preference in principle would involve the abolition of school boards; we would place schools directly under the aegis of the municipal council, as in the United Kingdom and the (relatively few) Alberta counties. In these jurisdictions, not only is direct responsibility of elected representatives for school finance ensured but education is placed on a basis identical to that of other local functions and becomes part of an over-all process of priority determination within the municipality.

78. We discuss the feasibility of accomplishing this desirable reform for secondary schools later in this Report. Its fruition is some years removed in that major changes in the structure of local government are a prerequisite. In the interim, no alternative to requisitioning secondary school tax revenues is available except to boards of education, since they alone are elected. Boards of education again excepted, secondary school boards are already closely tied to municipal councils in that they are composed in the main of municipal appointees.

79. As to elementary schools, the Ontario system precludes the integration of education as a responsibility of municipal council. This is because of separate school boards, whose continued existence is sanctioned by tradition, public acceptance and constitutional law. Accordingly we propose that public school boards and separate school boards, which are everywhere elected, be made responsible, along with boards of education, for levying their own taxes. As we envisage it, this step will not encumber these boards with the need to set up their own tax collection machinery. We propose that the school tax be collected as at present by the municipality. The school tax bill, however, should be distinct from the municipal tax bill, bearing the name of the school board on whose behalf it is collected at a different time of year. With respect to the latter, we note that the timing of school tax bills can be easily integrated with the instalment billing procedures recommended elsewhere in this Report. Accordingly, *we recommend that:*

The requisitioning powers of public school boards, separate school boards and boards of education be terminated, and that these boards levy their own taxes to be collected through bills issued for the purpose by municipalities and payable at times distinct from those at which municipal tax bills are payable. **20:10**

THE ROLE OF THE PROPERTY TAX IN SCHOOL FINANCE

80. We now confront in general terms the question of what weight should be assigned to the property tax, as opposed to provincial grants, in school finance. We have already indicated in developing our philosophy of intergovernmental relations that the property tax does, in our view, have a continuing place in school finance. Schools do confer benefits on the owners of property, albeit in indirect fashion. Some degree of property taxation for school purposes will be necessary for as long as local government continues to play a meaningful role in education. We deem this most desirable, not least because local responsibility for schools is an indispensable means of ensuring the diversity and experimentation that constitute two keys to educational excellence.

81. At present the relative role of provincial grants and property taxes varies enormously from school board to school board. For some school boards, provincial grants may account for over 90 per cent of revenues. For others, grants may finance less than 30 per cent of expenditure. That the relative role of grants and taxes should vary so widely from board to board is a direct offshoot of equalization, which is a necessary and desirable facet of school finance. Our own considerations must dwell on the appropriate role of grants and taxes on a province-wide basis.

82. In the entire period from the end of the War through 1963, provincial grants as a portion of province-wide school board expenditure exceeded 40 per cent only in 1945 and 1946. For the rest, provincial grants hovered between a high of 39.2 per cent in 1963 and a low of 31.6 per cent in 1956. The grant scheme in effect from 1958 through 1963 consolidated the relative provincial contribution in the range of 36.9 to 39.2 per cent. In 1964, when the Foundation Tax Plan was implemented, provincial grants climbed to 42.3 per cent of school board expenditures, and in 1965, the last year for which data are available, the relative grant level of 43.7 per cent exceeded for the first time the 1945 high of 42.8 per cent. All data in this paragraph exclude the major provincial contributions to vocational school construction. These payments, which through 1966 had amounted to $347.8 million, are properly excluded in that they constitute a once-and-for-all windfall that distorts statistical continuity and provides no basis on which to project an appropriate level of provincial support for on-going school expenditures.

83. We have recommended in Chapter 8 of this Report that provincial grants be gradually increased until they finance a much higher portion of school expendi-

ture than they do at present. The reader who refers to that chapter will note that we arrived at the recommended level of educational assistance in the context of a host of closely related considerations, for instance enhanced equity in property taxation, additional funds made available to local governments through grants for purposes other than education, and our judgment of what constitutes reasonable burdens of income and consumption taxes, taking into account the consequences of higher rates of taxation on the economy and on the distribution of benefits and costs among income groups. We wish now simply to reiterate three general propositions that have guided us in the particular domain of school finance. For the purposes of this discussion they can be presented under the labels of local autonomy, cost control, and equity.

84. We repeat that public education is peculiarly well suited to local government. Whether the criterion is a reasonably open market for teachers' services, diversity and experimentation in education, or the need for school programs that are accommodated to regional peculiarities, local authority over education holds out greater promise than central administration. If it is to be more than an illusion, such local authority must be marked by a genuine degree of autonomy. And to be genuine, governmental autonomy must have a basis in the revenue system.

85. It is at this juncture that we encounter the question of cost control. There are only two means of securing responsibility in government spending. One of these, which applies when a government has raised its revenue from taxes, is the taxpayer himself. The second, which applies when a government has derived its revenue from a higher level of government, is that level of government. Educational finance in Ontario has developed between these twin guardians of the public purse. To reduce reliance on either one means simply that the task must be shifted to that extent to the other. An insignificant degree of recourse to local taxation inevitably means enhanced provincial control. We wish to focus at this point on a notion, voiced in some quarters, that we consider fallacious. It is the contention that, since the Province now finances 80 or 90 per cent of the expenditure of certain needy school boards without exercising greater control over them than over others, the Province can shoulder this level of spending for *all* boards without reducing their autonomy. In our view, the reason why the Province can finance a high proportion of the outlays of certain boards without placing them under tutelage is that on an over-all basis, most boards finance an appreciable portion of their spending through taxes. The latter boards provide efficiency yardsticks that enable the Province to countenance comparable autonomy for the boards it must finance heavily.

86. Finally, we broach the question of equity. If our recommendations on the structure of the property tax are implemented, local goverments will have a fiscal tool that is very much more equitable than at present. But full equity requires much more than the improvement of one particular tax. It can be achieved only in the context of the over-all manner in which the total fiscal system distributes burdens (taxes) and benefits (expenditures). Our concept of the role of the property tax in school finance must be understood in this light.

87. There is an almost irresistible temptation in such matters as school finance to play a game of numbers. We do not pretend that we can justify a magic percentage point—say 56, 59, 61, 63—to which the level of provincial aid should be carried, or beyond which it should not be extended. But we can state that, taking into account the need for local autonomy, the nature of cost control, and the general equity of the fiscal system, school grants can and should exceed half the cost of education. The actual level we recommend in Chapter 8 may not be far short of the maximum dictated by these considerations.

Chapter 21

Provincial Grants to Municipalities

INTRODUCTION

1. Provincial payments to local authorities can conveniently be broken down into four categories. The first comprises grants to school boards, treated in the preceding chapter. The second covers grants to hospitals. Because only a score of hospitals are municipal and the rest have but a distant relationship with municipal councils, these grants are discussed in the third volume of this Report in the chapter on hospital finance. The third is made up of payments in lieu of tax on government or mining property, and accordingly dealt with in our analysis of property taxation. The fourth and final category of provincial transfers embraces all other grants to local authorities. One of these grants is unconditional, and the remainder are for such functions as roads, welfare, public health and conservation. It is this fourth category that forms the subject of the present chapter.

2. The grants to which we now turn are generally, if not invariably, made to municipalities proper—that is to say, counties, cities, towns, villages and townships. Some are made to special-purpose entities such as health units and conservation authorities, others to Children's Aid Societies, which are quasi-public bodies. The

variety of recipients is partial testimony to the bewildering assortment of grants that has accumulated over the course of this century.

3. The situation with respect to provincial grants to local authorities in Ontario is—and we choose our word carefully—chaotic. It is not even possible to enumerate readily the grant programs currently in force. On the basis of a recent publication of the Department of Municipal Affairs, *Provincial Assistance to Municipalities, Boards and Commissions*, it would appear that there are some ninety-seven different programs that might properly be called grants to local authorities in the sense in which we use the term in this chapter.[1] A separate study that we commissioned indicates that the number may be closer to ninety than to one hundred.[2] That an accurate count of grant programs is virtually impossible is due to a number of factors, of which three are apparent to us.

4. First, different departments of government follow widely divergent practices in listing and accounting for grants. The Department of Highways, for example, makes all grants for roads, bridges and culverts under a single heading. On the other hand, the Department of Social and Family Services makes available its grants for general welfare assistance alone under at least thirteen different headings.

5. Second, it occasionally happens that grants, that to all intents and purposes constitute a single program but that are subject to variation by formula, appear more than once simply because the formula calls for varying levels of assistance. Thus general welfare assistance is commonly payable on the basis of 80 per cent of municipal outlays for the purpose, except that if 6 per cent of the population has been on relief for the previous five months, the Province pays 90 per cent of welfare costs for persons in excess of 5 per cent of the population. The Department of Municipal Affairs publication on provincial assistance lists the general welfare assistance grant twice, once for the 80 per cent level and again for the 90 per cent level.

6. Third, it is often difficult to tell whether a grant program whose potential application includes a host of private as well as government organizations should properly be deemed a grant to local authorities. An example is the non-profit camps grant of the Department of Education, for which "any organization conducting a non-profit program of camping"[3] may be eligible.

7. Whatever the reasons why an accurate count is seemingly impossible, the fact is that the existing conglomeration of provincial grants to local authorities does not readily lend itself to orderly analysis, let alone, as we stress later, to easy understanding by municipal officials. For that matter, it is not even possible to calculate with precision the flow of provincial funds transferred to local authorities proper. Our best estimate for 1966-67 indicates that, net of federal funds that form an important contribution to certain grant programs, provincial expenditure on

[1]Department of Municipal Affairs, *Provincial Assistance to Municipalities, Boards and Commissions*, Toronto, 1966.
[2]J. Stefan Dupré, *Intergovernmental Finance in Ontario: A Provincial-Local Perspective*, Toronto: Queen's Printer, 1967.
[3]Department of Municipal Affairs, *Provincial Assistance to Municipalities*, p. 314.

the grants covered by this chapter totalled $255.3 million. Inclusive of federal funds, which in 1966-67 were incorporated mainly in grants for welfare, conservation and winter works, our guess is that the gross figure approached $300 million.[4]

8. To bring rudimentary order to the discussion that follows, we have decided to group provincial grants under discernible headings, treating first grants for roads, second grants for welfare, and third grants which, for lack of a better term, we choose to call environmental grants. These grants, whether for public health or libraries, redevelopment or recreation, are made on behalf of functions that affect the municipal environment by providing physical or cultural amenities. Fourth, there will follow a discussion of miscellaneous conditional grant programs, and fifth an analysis of unconditional grants. The chapter will conclude with a discussion of the administration of provincial grant programs.

ROAD GRANTS

DEVELOPMENT AND PRESENT STRUCTURE

9. Except for education, road grants constitute the oldest major category of provincial payments to local governments. The first grant, for county roads, was enacted in 1901, and the contemporary system of road grants can be traced from 1915, when the predecessor of the present Department of Highways, the Department of Public Highways, was created. Within the next two years, three kinds of subsidy were instituted. The first provided a provincial payment of 60 per cent on the construction and maintenance of provincial county roads, the predecessors of today's King's highways. The second made available 40 per cent on construction and 20 per cent on maintenance of suburban roads—that is to say, roads linking cities and the outlying county. The third authorized 20 per cent on construction and maintenance of county roads. These three road categories have remained a part of the fiscal structure to the present day.

Provincial Highways

10. Main provincial thoroughfares, designated the King's highways in 1930, were assumed by the Province as its sole responsibility in 1935, the only exception being connecting links in cities, towns and villages.[5] From 1927, a grant was payable on behalf of the construction of connecting links in towns and villages, the former receiving 50 per cent of costs and the latter 75 per cent. Thirty years later, in 1957, it became possible for cities and separated towns to enter into agreements with the Province providing for grants of 50 per cent on the approved costs of constructing connecting links. The extent of subsidy was raised to 75 per cent in 1963. Also in 1963, the Province assumed the entire cost of constructing and maintaining connecting links in villages and towns with a population

[4]Because federal funds are reported in the Public Accounts through widely varying methods, it is not readily possible to calculate the sums that find their way into provincial grants to local authorities. During the research phase of our work, reasonably accurate estimates were compiled after many months of investigation for the fiscal year 1962-63. In that year gross provincial payments including federal funds were $174.1 million; net grants totalled $148.7 million. For a detailed grant-by-grant breakdown, see Dupré, *Intergovernmental Finance in Ontario.*

[5]In addition to the King's highways, the wholly provincial highway network includes lesser thoroughfares designated secondary highways and tertiary roads.

of 2,500 or less. In towns and villages whose populations exceed 2,500, the Province pays 90 per cent of the construction and maintenance costs of the link, and up to 90 per cent for bridges and culverts.

Suburban Roads

11. Suburban roads were placed under the jurisdiction of special suburban roads commissions in 1926. Where there is a separated town, or a city whose population is less than 50,000, the suburban roads commission is composed of three members, one appointed by the city or separated town, one by the county, and the third designated by the first two members, or failing agreement, by the Lieutenant Governor in Council. If the population of the city is 50,000 or more, the suburban roads commission has five members, two designated by the county, two by the city, and the fifth appointed either by agreement of the first four or, again, by the Province. From their original 1915 level of 40 per cent on construction and 20 per cent on maintenance, provincial grants on suburban roads were gradually raised until, in 1947, they attained their present level of 50 per cent on the approved costs of road maintenance and construction, and 80 per cent on bridges and culverts.

County Roads

12. Provincial grants for county roads evolved in a manner very similar to those for suburban roads. They reached their present level, identical to that for suburban roads, in 1947. Beginning in 1966, however, the Province introduced a new dimension to its county road subsidy, designed to take account of the disparate fiscal resources of Ontario counties. This involves injecting an element of equalization into the grant formula. Under the formula, an attempt is made to define county needs over five-year periods with reference to provincially acceptable county road standards. Account is taken of the construction, improvement, maintenance and administrative costs of meeting these defined needs. The county receives supplementary assistance from the Province geared to the difference between these costs (defined needs) and the sum of the county road levy plus the regular grant for county roads, bridges and culverts. The actual formula requires a minimum county levy of 6 mills on provincially equalized taxable assessment, and is designed to encourage a county to increase its levy above 6 mills to the point where the moneys locally raised, together with total provincial assistance, equal the defined needs. County levies above this point are discouraged in that the Province reduces supplementary assistance in direct proportion to the excess. The new system offers an attempt to integrate the measured needs of the county road system with the ability and willingness of the county to finance these needs. Under the formula, twenty-eight of the thirty-seven Ontario counties are now eligible for provincial payments over and above their entitlement from regular county road grants.

Township Roads

13. Provincial grants for roads other than principal thoroughfares, the county and the suburban systems have a later genesis. A few halting precedents aside, grants on township roads date from 1920. In that year, the Province initiated

legislation providing 20 per cent on the approved cost of constructing and maintaining township roads, and 40 per cent on the salaries of township road superintendents. Township road construction and maintenance subsidies were increased to a range of from 40 to 80 per cent in 1930, and from 50 to 80 per cent in 1944, the exact percentage to be determined by ministerial discretion. The existing level of township road grants has prevailed since 1949: 50 to 80 per cent of approved road costs, and 80 to 100 per cent of the approved costs of bridges and culverts. Also since 1949, The Highway Improvement Act has stipulated that ministerial discretion in setting the exact percentage of a township's subsidy may take into account the economic condition of the township. But not until 1963 was a formula devised to place township grants on an equalization basis. This formula involves two basic figures. The first is designed to reflect the average annual cost of achieving desired township road standards—$600 per mile. The second is a mill rate which, applied to a township's provincially equalized taxable assessment, denotes a standard local fiscal effort. The rate for townships in counties is 10 mills; that for townships not in counties and which therefore do not contribute to county roads is 16. The percentage of supplementary assistance above the basic grant of 50 per cent is determined by taking the sum of the basic grant per mile of township road plus the yield per mile of the 10 or 16 mill levy as a percentage of $600. The over-all ceiling of the total provincial contribution is 80 per cent of costs.

Town and Village Roads

14. Except for assistance on connecting links, provincial grants for town and village roads are of very recent vintage. It was not until 1947 that these municipalities became eligible for a regular provincial subsidy, set in that year at 50 per cent of approved road, bridge and culvert expenditure. Town and village road grants have remained at 50 per cent of approved cost, except that expenditure on bridges and culverts, at first included under the 50 per cent formula, has been eligible at the discretion of the Minister for a grant of up to 80 per cent since 1956.

Cities and Separated Towns

15. Provincial assistance on roads and streets in cities and separated towns is likewise recent. These municipalities were included with towns and villages under the provisions of the 1947 grant providing 50 per cent assistance, but were subject to a grant ceiling equal to 2 mills on their taxable assessment. In 1949 the 2 mill limit was removed and the provincial grant to cities and separated towns was set at 33⅓ per cent, its present rate. The grant covers approved costs on all categories of road, street, bridge and culvert expenditure—that is to say, construction, improvement, maintenance and repair.

Other Programs

16. With the above sketch of the evolution and present status of major provincial grants in hand, there remain four intergovernmental aspects of road finance to be noted. The first involves a highway category known as the development road. Since 1946, the Minister of Highways has been authorized to designate any road under the jurisdiction of a township, county or improvement district

TABLE 21:1

SUMMARY OF PROVINCIAL ROAD GRANTS, 1967

Grant on approved cost of:	*Grant coverage*	*Rate of grant*
1. Provincial highway connecting links		
(a) Villages and towns of 2,500 or less	All maintenance and construction	100%
(b) Villages and towns whose population exceeds 2,500	Road maintenance and construction	90
	Bridges and culverts	up to 90
(c) Cities and separated towns	All maintenance and construction	50
2. Suburban roads	Road maintenance and construction	50
	Bridges and culverts	80
3. County roads	Road maintenance and construction	50
	Bridges and culverts	80
	Supplementary assistance	Equalizing formula
4. Township roads	Road maintenance and construction	50%
	Supplementary assistance	Equalizing formula to maximum of 80%
	Bridges and culverts	80-100%
5. Towns and villages	All maintenance and construction	50
	Bridges and culverts	up to 80
6. City roads and streets	All maintenance and construction	33⅓
7. Development roads	All maintenance and construction by agreement with any township, county or improvement district	up to 100
8. Metro roads in the Municipality of Metropolitan Toronto	All maintenance and construction	50
9. Road study in any municipality	By agreement	75
10. Controlled access urban expressway or freeway	By agreement	Variable

a development road, and to enter into an agreement with the municipality or municipalities concerned to meet the cost of constructing, improving or maintaining the road up to 100 per cent of expenditure. The second aspect arose on the creation of the Municipality of Metropolitan Toronto in 1954. Metro receives a grant of 50 per cent on approved expenditures for the roads and bridges under its jurisdiction. The third is an offshoot of growing provincial concern for highway planning. Since 1960, the Province has undertaken to pay up to 75 per cent of the cost of a ministerially approved study of road development and improvement in any municipality. Fourth, legislation passed in 1964 authorized the Minister to enter into agreement with any municipality for the construction, maintenance and operation of controlled-access urban expressways or freeways. No rate of provincial subsidy is specified by the Act.

17. Table 21:1 provides a summary of the principal road grants now in force. While we were not able to obtain separate financial data for each of the items shown in the Table, we compiled the following breakdown of provincial grants and, where available, the approved expenditures on which they were made for the 1966 fiscal year. Counties received a total subsidy for all roads, including suburban roads, of $23.3 million against approved expenditures of $42.0 million (55.5 per cent). For their part, townships received $33.5 million out of approved expenditures of $57.0 million (58.8 per cent). Towns and villages received $9.0 million on approved expenditures of $17.5 million, or 51.4 per cent, while cities and separated towns were granted $15.3 million on $43.3 million, or 35.3 per cent. The Municipality of Metropolitan Toronto received exactly half of its approved road expenditures of $36.3 million. Provincial grants on connecting links, not included above, were $10.3 million. Finally, provincial spending on development roads was $17.0 million. Total provincial expenditure on all road grants, including development roads, was thus of the order of $127 million. What portion this amount represented of actual as opposed to approved municipal expenditure on roads is difficult to tell. As we point out in our chapter on motor vehicle revenues, no fully reliable statistics of municipal road expenditure are available. Against our tentative estimate of some $286 million, total provincial grants of $127 million would set the proportional provincial contribution to over-all municipal road costs at 44 per cent.

RATIONALIZING ROAD GRANTS IN ONTARIO

18. In principle, provincial payments to local authorities for roads constitute an outstanding example of what we refer to in an introductory chapter as revenue deficiency grants.[6] In brief, road grants are made in recognition of the fact that municipalities do not themselves levy taxes on an important class of road benefit recipients: users. It is, of course, reasonable to contend that in the best of all possible worlds, municipalities would themselves tax road users in relation to the benefits they derive from local road expenditure. But the mobility of users, to say nothing of the difficulty of having each municipality assign benefits and costs as between users and property, makes local taxation impractical. In Chapter 23 we advance the view that sufficiently large units of local government might in fact be authorized to levy a motor vehicle tax designed to meet some of the costs of the municipal road system. In the main, however, practical considerations dictate that the bulk of the moneys needed to finance user benefits be recouped locally through grants from the provincial government, which collects the user taxes.

19. What this means in our opinion is that road grants, like the user taxes they are designed to replace, should be geared primarily to user benefits. In the chapter that we devote to the subject of motor vehicle revenues, we advance the view, based on a broad application of benefit-cost analysis, that motor vehicle revenues in Ontario should finance between 65 and 75 per cent of total average annual expenditures on the over-all road network, provincial and local. The bulk of the remainder should be charged to property, whose access benefits can be financed through local levies. Viewed in this light, provincial grants representing

[6]Chapter 2.

user taxes should be matched to local property levies in proportion to the benefits conferred by local roads on users and properties respectively. Naturally, different kinds of roads benefit users and property differently. An arterial road, for example, confers a higher proportion of benefits to users than to property, while a local street, providing property with direct access, benefits property more than users. The basic working principle of a road grant system geared to supplement local property levies in accordance with a proper economic allocation of road benefits is plainly a road classification scheme designed to indicate the respective portions of user and property benefits by type of road.

20. How far Ontario now finds itself from such a system can be appreciated by re-examining Table 21:1 above. With the exception of development roads, controlled-access expressways and certain connecting links, road finance hinges on the status of the municipalities the roads are in, not to the relative flow of user and access benefits. And it cannot be said that municipal status in Ontario is even a rough index of the kind of road contained within a municipality's boundaries. One might be tempted to justify the Ontario system by arguing that most township roads would be rural collector roads, while most city roads would be of the arterial, collector and local variety. The undeniable fact is, however, that municipal status is a virtually meaningless guide to anything, including the roads within a municipality's jurisdiction. Such entities as Burlington and Oakville, for example, have an urban designation (town) but enclose substantial portions of rural territory. Again, Toronto township, in Peel County, has a population greater than those of twenty-five cities, and Nepean township has more people than fourteen Ontario cities. As for separated towns, which are classed with cities for road grant purposes, all have populations below the minimum 15,000 required for incorporation as a city, and the population of the smallest separated town, St. Mary's (4,598), is exceeded by over seventy townships. These examples could be multiplied almost endlessly; the point is that status is hardly a guide to a municipality's urban or rural nature, population, or anything else.

21. Status does indicate one thing in southern Ontario: whether a local municipality is or is not part of a county. Cities and separated towns are not part of the county for administrative purposes; other local municipalities are. This in itself, however, cannot justify the differential grant treatment accorded to the roads of cities and separated towns. In northern Ontario, where there are no counties, the same road grant differential between cities and other local municipalities applies. And in the Municipality of Metropolitan Toronto, a similar grant differential exists as between the City of Toronto and the other component municipalities. This anomaly was seen in a particularly acute light when the Royal Commission on Metropolitan Toronto recommended a four-city system for Metro. The proposed entities of North York, Scarborough and Etobicoke were to be called cities, but "should continue to be considered townships"[7] for purposes of road grants. The "boroughs" created by the Province in the wake of the Royal Commission's Report all continue to be eligible for township road grants.

[7]Royal Commission on Metropolitan Toronto, *Report*, Toronto: Queen's Printer, 1965, p. 188.

22. To take our argument one step further, we detect that the present road grant system itself has helped to drain municipal status of meaning. It provides a strong deterrent to a town or township acquiring city status, once it has become urbanized. It greatly stiffens the resistance of outlying settlements to annexation by a city and complicates the implementation of annexation decisions. An equitable system of road grants, geared to the relative benefits that property and users derive from roads, is plainly precluded if grants are made in accordance with municipal status. The actual operation of the Ontario road grants system, by ossifying municipal status, has, if anything, enhanced inequities in road finance. Provincial grants for education have long eschewed reference to municipal status, with generally beneficial results. It is high time that road grants followed suit.

23. The key to an equitable road grant system for Ontario, as mentioned above, is a comprehensive classification of all roads in accordance with the flow of user benefits and access benefits. Many schemes for classifying roads on this basis already exist. For example, the Canadian Good Roads Association in 1965 suggested that both urban and rural roads could be classed under the headings freeways, arterial, collector and local roads.[8] We do not pretend to be so knowledgeable in road matters as to suggest an actual classification system. But we are convinced that a workable scheme geared to user and access benefits can be devised. The throughway class of road, primarily of benefit to users, would still be financed and operated entirely by the Province, coinciding as it would with the present King's highway. The remaining classes of road would be eligible for provincial grants whose percentage reflected the proportion of user benefits flowing from the road. A municipality's grants would then be tied not to its status, but to the classes of road under its jurisdiction.

24. A reasonable interval should be allowed to permit the selection of a road classification system and the time-consuming task of allocating all Ontario roads and streets to their appropriate class. We suggest that five years would prove sufficient. *We therefore recommend that:*

> ***The Department of Highways prepare a scheme for classifying all roads in accordance with the user and local access benefits that flow from them, and assign each Ontario road and street to its appropriate class within five years of the publication of this Report.*** **21:1**

We further recommend that:

> ***Upon the completion of the road classification scheme, provincial road grants be based on total expenditure for each class of road within a municipality, the percentage of provincial aid to coincide with the percentage of user benefits assigned to each class of road.*** **21:2**

[8] *Road Classification, Rural and Urban*, 1964, Technical Publication No. 26, Ottawa: Canadian Good Roads Association, 1965, pp. 6-7.

25. Once it has been introduced, a scheme of grants geared to road classification must be capable of adaption to changing circumstances. Accordingly not only the classes themselves, but the specific classification of any given road, must be matters for continuing study. It is to be expected that individual municipalities from time to time may think that a specific road should be reclassified, or feel that the Province has placed a road in an inappropriate class. Therefore, we consider it important that any grant system such as we suggest incorporate mechanisms whereby municipal appeals on road classification can be heard. We recognize that such appeals will have little in common with the more familiar run of appeals in the domain of taxation. What is at stake is essentially a technical question: whether the benefits conferred by a road on users and property have been fairly appraised. Hence it seems to us proper that the path of appeal should lie in the first instance to the Department of Highways, which would be called upon simply to review its appraisal. If the municipality remains dissatisfied, it should then have the right to appear before the Ontario Municipal Board for a final settlement of the matter, which might require further studies by the Department of Highways as directed by the Board. We consider the Ontario Municipal Board particularly competent to rule on such questions because of its long experience with road matters arising from municipal annexation and arbitration proceedings. Since the questions are purely technical, a right of appeal to the courts is neither required nor desirable. *We therefore recommend that:*

Municipalities be given the right to appeal the classification of any road first to the Department of Highways, and then to the Ontario Municipal Board, which shall have the right to require further studies by the Department of Highways, and whose decision shall be final. **21:3**

26. Whenever a rationalized grant system replaces one that has long been in force, initial difficulties are to be expected. The road grant system we suggest may well occasion rather acute problems for certain municipalities, in particular those that have qualified for high levels of support simply because of their legal status. We submit that these difficulties should be eased by transitional measures designed to help the more severely affected municipalities adjust to the new pattern of support. Of course, any "temporary" grant adjustment, unless clearly delimited from the outset, suffers from a built-in liability to permanence. Accordingly, the introduction of transitional measures should be accompanied by a firm policy designed to phase them out over a reasonable period, and again the figure of five years appears to be appropriate. *We therefore recommend that:*

Transitional measures accompany the introduction of the new road grants to help municipalities adjust to changes in provincial payments, such measures to be gradually phased out within five years of the introduction of the new grant system. **21:4**

The Place of Equalization in Road Finance

27. In a rational scheme of road finance, where provincial grants are geared to user benefits, the grants are the substitutes for direct benefit taxes. One of the cardinal principles that we espouse, and discuss at the outset of this Report, is that benefit taxes should not be equalized. It follows that equalization does not, in our opinion, have a prominent role in road finance. However, we lay this down as a guiding rule rather than as a dogma that permits no exceptions. There may be circumstances where equalization is necessary. We wish to suggest that one of the advantages of the grant scheme we advocate is that these circumstances can be more clearly identified than at present. If there is a case for equalization, it arises when local taxpaying capacity is insufficient to bear the access portion of road costs as determined by a benefits formula. Precisely because it is based on a benefits formula, our scheme pinpoints the access portion of road expenditure to which equalization payments, if any, must be related. By contrast, the present township equalization scheme, attempting as it does to span municipalities whose lone common denominator is their township status, is imprecise.

28. It is our view that in a field as closely related to benefits as roads, equalization should be held to the minimum dictated by fully justified circumstances. In this connection, we wish to single out an all too common situation in which equalization is emphatically not justified. This is when fiscal indigence plagues either very small local municipalities, or counties with a poor assessment mix. Where this problem exists, it is surely to be overcome by boundary reform rather than circumvented by equalization. We must stress that indiscriminate application of the principle of equalization actually creates deterrents to the reform of the very boundaries whose inadequacy has compelled recourse to it. Because we have recommended a radically new grant scheme, we are not inclined to recommend the discontinuation of the existing township road equalization formula until our scheme is implemented. The same applies to county equalization, the need for which should in any event all but lapse if our recommendations on local government structure, made later in this Report, are accepted.

29. However, on the subject of county equalization, we do note a feature of the present equalization formula that in our opinion is anomalous and should be removed. We refer to the element of the formula whereby a county that is in receipt of supplementary assistance, but levies a mill rate higher than necessary (in combination with its grants) to meet its provincially defined needs, loses part or all of its supplementary assistance. In our view, this involves quite unjustifiable interference with local autonomy. A recipient of equalization payments should not be precluded from making additional fiscal efforts of its own to improve its service standards. The Province of Ontario does not preclude additional fiscal efforts on the part of equalization recipients in the domain either of education or of township roads. Accordingly, *we recommend that:*

> ***While the present county road equalization scheme remains in effect, no county be penalized for fiscal efforts that enable it to exceed the level of defined needs.*** **21:5**

Ministerial Discretion

30. The observant reader may already have noted from the earlier descriptive material that there is an administrative feature common to all existing road grants: ministerial discretion. The level of approved costs for all grants is at the discretion of the Minister. Whether township bridges and culverts qualify for aid higher than 80 per cent is a matter of ministerial discretion. The designation of development roads is at the discretion of the Minister, and so on.

31. We do not doubt that roads constitute a function for which a liberal measure of ministerial discretion is desirable. Given a level of local demand for road improvement greater than the provincial funds available in any one period, setting priorities on the timing of new construction among competing projects is properly a ministerial function. Again, the achievement of satisfactory road standards hinges in no small part on ministerial authority over approved costs. Then too, the flexibility needed to cope on a project-by-project basis with technological problems and other unforeseeable eventualities can only be provided for through ministerial discretion. Nevertheless, if we may paraphrase a famous saying, we are of the opinion that in Ontario ministerial discretion is great, has been increasing, and ought to be reduced. The ground on which we take this stand is the principle of certainty, which surely applies as much to a grant as to a tax. The greater the degree of ministerial discretion, the less a municipality can make its financial decisions in the light of anticipated grant revenues whose yield is calculable and can be counted upon in advance, and the more a municipality is tempted to jockey for ministerial favour.

32. Development roads are a particularly prominent example of what, in our view, constitutes an undue measure of ministerial discretion. Under The Highway Improvement Act, "the Minister may designate as a development road a road or proposed road under the jurisdiction and control of a town or village in a territorial district or of a county or of a township which because of the requirements of traffic he considers should be constructed, improved or maintained to a higher standard than is reasonable having regard to the economic situation of the Municipality." Surely a more question-begging clause would be difficult to devise. What are the requirements of traffic? What is the nature of the higher standard that is warranted? What constitutes the economic situation of the municipality?

33. Our research indicates that the designation of development roads over the last twenty years has not invariably proceeded on the basis of the application of rational criteria. We note that, in any event, pressure for ministerial designation of development roads has been created in no small part by the inadequacies of the existing grant system. Under the system we propose, "the requirements of traffic" will be directly reflected in road classification, leaving open to special treatment only those individual instances where fiscal need or sparse population is the dominant circumstance. Since we have already suggested that fiscal need can be accommodated by a formula under our system, only conditions of sparse population would justify the development road device. It is in any event only in the more sparsely populated areas of the province that the designation "development" road

is fully appropriate. The Minister should be in a position to designate development roads on the basis of this relatively objective criterion, and defend the application of the principle to specific cases in the Legislature. Accordingly, *we recommend that:*

> ***Development roads be designated by the Minister on the sole criterion of population sparsity, and a list of roads so designated be tabled annually in the Legislature.*** **21:6**

34. In our view, it is necessary to distinguish further between two types of development road: those in areas that can reasonably be expected to accumulate sufficient population to support the road as part of a regular municipal system, and those that, because they provide access primarily to resource or resort areas, may perhaps never qualify for municipal fiscal support. We suggest that where the latter is the more likely eventuality, the development road should be placed entirely under the jurisdiction of the Province. For the rest, development road status should be phased out over a reasonable period, say at most ten years, at the end of which the road in question would become an integral part of the municipal road system and be treated as such for grant purposes. *We therefore recommend that:*

> ***Roads designated as development roads either be under provincial jurisdiction or, where population growth is likely, be provincially supported in such a manner that development status is phased out over a period of no more than ten years, at the end of which the road becomes an integral part of the municipal system.*** **21:7**

35. It is our opinion that the twin devices that would characterize the designation of development roads in our system—namely, easily understood criteria and tabling in the Legislature—are applicable to other areas of ministerial discretion in relation to road grants. Thus, fiscal-need subsidies can be geared to formulas, as is already done with respect to supplementary assistance on county and township roads. Again, special aid such as that arising from extraordinary winter maintenance costs in certain parts of the province can be plainly segregated. Still other unusual circumstances can be justified in individual instances, with reasons tabled before the Legislature. *We recommend that:*

> ***A report on all special considerations giving rise to provincial road assistance to municipalities that cannot be geared to formulas be tabled in the Legislature, together with the dollar amounts of special provincial assistance involved.*** **21:8**

WELFARE GRANTS

HISTORICAL BACKGROUND

36. At the turn of the century, municipalities had sole responsibility for public welfare. Today they are limited to a residual role. This development has been brought about in part through the creation of new programs by senior levels of government, and in part by a long series of intergovernmental transactions between

federal, provincial and local authorities. At present, the role of the municipality in welfare continues to adjust to frequent changes in the position of senior governments, and this in a setting where all levels of government, particularly the local, must relate to the welfare activities of the voluntary sector.

37. The first major provincial program to affect the financial responsibility of local government for welfare was that for mothers' allowances. Following the lead of Manitoba and Saskatchewan, Ontario introduced these allowances in 1920. Based on the theory that children of destitute parents are better raised in their own homes than in orphanages or foster homes, the allowances were designed to shore up the income of families deprived of a breadwinner through death, physical incapacity or abandonment. Under the provisions of the original legislation, the cost of allowances was split evenly between the Province and its municipalities, with the Province shouldering the entire burden of administration. In 1937 the Province assumed, and has since retained, the entire responsibility for mothers' allowances.

38. A second major welfare program, that of old age pensions, followed a similar route—marked by federal as well as provincial-local involvement. Under legislation that took effect in 1927, the federal government initiated a matching grant for old age pensions to which Ontario acceded in 1929. However, the Ontario share of pension costs was itself split between the Province and its municipalities, the former paying 30 per cent of the total cost and the latter 20 per cent. Provincial-municipal apportionment continued after the federal government raised its rate of contribution to 75 per cent in 1932, making the over-all pension formula between the three levels one of 75-15-10. Then in 1937, at the same time that the Province assumed the entire cost of mothers' allowances, municipalities were relieved of all responsibility for old age pensions. When old age pensions became an entirely federal program in 1951, and were supplemented by a federal-provincial system of old age assistance in that year, municipalities were unaffected.

39. Relieved since 1937 of responsibility for mothers' and old age allowances, municipalities have plainly had only a residual role with respect to the welfare category known as "unemployables". They continue to shoulder a small part of the burden of providing for senior citizens in that they help finance homes for the aged. As for needy children, municipalities have long had certain responsibilities vis-à-vis the Children's Aid Societies, semi-public, semi-voluntary bodies that date from the 1890's. The contemporary aspects of financing the Societies and homes for the aged will be dealt with shortly.

40. For certain categories of unemployed employables, together with whatever unemployables are not now covered by existing federal and provincial programs, municipalities retain an important role through a blanket program known as general welfare assistance. The route whereby this program assumed its present nature is itself marked by numerous intergovernmental transactions and the gradual assumption of significant responsibility by senior governments.

41. The municipal role in unemployment relief is hallowed by tradition. Despite the fact that the federal government had made available emergency aid during the brief post-war depression of the early 1920's, Premier Howard Ferguson could state, in a letter written to the council of York Township in 1928, that "unemployment is an entirely municipal affair . . . it would not be just to use the money contributed by the whole province for purely local relief. The municipality derived the benefits from the workingmen in times of prosperity and should be prepared to bear the burden when times are not so bright."[9] The grip of this traditional view was broken only by the ravages of the Great Depression, which brought about, first, the irreversible involvement of federal and provincial governments in unemployment relief, and second, the formulation and eventual triumph of the Keynesian view that unemployment relief is an integral part of the pursuit of economic stability.

42. After a bewildering series of *ad hoc* programs launched by senior governments beginning with the Dominion Unemployment Relief Act of 1930, relief policy was stabilized in 1937 under an arrangement whereby, in Ontario, the federal government contributed 30 per cent of relief costs, the Province 45 per cent and the municipalities the remaining 25 per cent. There matters stood until 1941, when the federal government simultaneously introduced unemployment insurance under its sole jurisdiction and abolished its 30 per cent grant-in-aid. From this point provincial-local responsibility for unemployed employables was limited to those whose occupations were uninsured or whose insurance benefits became exhausted. From April 1, 1942, the Province assumed half the cost of this assistance, and the 50-50 arrangement with municipalities obtained until 1956. In that year, under a new federal initiative embodied in the Unemployment Assistance Act, the Dominion undertook to pay half the cost of relief in any province where the number of recipients exceeded 0.45 per cent of the population. This so-called "threshold" provision was removed in 1957, after which the federal government reimbursed the provinces for half of all approved unemployment assistance.

43. Taking full advantage of the federal grants, the Province of Ontario in rapid sequence raised its contribution on behalf of municipal relief costs from 50 to 60 per cent early in 1957, and to 80 per cent in December of that year. This 80-20 provincial-local apportionment of relief costs was further consolidated in The General Welfare Assistance Act of 1961, which embraces a number of aids in addition to relief, such as the burial of indigents and emergency dental services. At the time of writing, welfare grants were about to undergo further revision in the wake of yet another federal initiative: the Canada Assistance Plan. This Plan provides 50 per cent of a province's total assistance costs if the province has agreed to gear its contributions to the needs rather than the means of recipients. Its provisions extend federal assistance to certain welfare categories not covered by unemployment assistance, specifically needy mothers, dependent children, and children in the care of child welfare agencies. The Plan will have a greater impact

[9]Quoted in A. E. Grauer, *Public Assistance and Social Insurance: A Study Prepared for the Royal Commission on Dominion-Provincial Relations*, Ottawa: King's Printer, 1939, p. 17.

on such wholly provincial programs as mothers' allowances than on provincial-local ones, but will also have repercussions on certain municipal responsibilities, in particular those for child welfare.

44. The status of welfare as a municipal responsibility has been substantially shaped by the intergovernmental developments just noted, and continues to shift as initiatives are taken by senior levels of government. Budgetary figures indicate that in 1966-67, the total provincial grant contribution, net of federal funds, for the programs under discussion was $45.9 million, of which $11.8 million was on behalf of general welfare assistance, $17.3 million for child welfare, $9.2 million for homes for the aged and $7.6 million for other assistance, including aid to charitable institutions. We estimate that, if federal funds are included, gross provincial grants amounted to approximately 70 per cent of municipal welfare expenditure. We now proceed to discuss each grant program in turn.

GENERAL WELFARE ASSISTANCE

45. Provincial grants on behalf of general welfare assistance have been pegged at 80 per cent of municipal expenditure since 1961, and will not be affected by the advent of the Canada Assistance Plan. Under an amendment to the Regulations made in 1962, any municipality 6 per cent of whose population has been on relief can recoup 90 per cent of the cost of the allowances distributed to persons in excess of 5 per cent of the population. This provision recognizes the substantial variations to which the welfare assistance load is subject, not only from cyclical swings in national economic performance, but from the unemployment that can arise in relatively massive local proportions when plants in the smaller municipalities close down or otherwise adjust their work load.

46. We have no particular quarrel to pick with the existing grant for general welfare assistance. This is not to say that we are satisfied with the present system of financing welfare in Ontario. Far from it. We find that the over-all provision of welfare services in Ontario, including its fiscal dimension, is so wanting when judged by what are at once feasible and acceptable standards that to suggest adjustments in the grant system would be akin to prescribing aspirin where only surgery will save the patient.

47. The particular patient that we deem worth saving is the local administration of welfare. That local government, as the level of jurisdiction closest to home, is peculiarly well suited to the dispensation of welfare services constitutes one of the time-honoured canons of public administration. Indeed, so hallowed is the canon that it might better be called a cliché. But like most clichés, it is backed by a strong element of truth whose simplicity is startling. Welfare services must start and finish with a personal confrontation between the applicant and a representative of the appropriate welfare service in the community.

48. According to surveys we conducted and report upon later in this volume, it is precisely in the quality of the personal confrontation between recipient and official that welfare services in Ontario are most wanting. Literally only a handful of Ontario municipalities are in a position to cope scientifically as well as sym-

pathetically with what must now be judged the principal local welfare responsibility: the multi-problem family. Now that senior levels of government have assumed, and continue to enhance, their role in shoring up income deficiencies, it is precisely on the basis of its capacity to cope with the multi-problem family that local welfare administration can prove its worth. At present, most Ontario municipalities are not even in a position to employ full-time officials for the distribution of cash hand-outs, let alone assemble the professional skills needed to rehabilitate those persons who can be converted from "tax eaters" to taxpayers.

49. We considered three alternatives to the drastic reform we suggest later in this Report, and rejected each in turn. The first was to recommend that the Province build into its conditional grants tight standards stipulating high levels of municipal welfare services. We rejected this alternative first because grants laden with a multitude of conditions make a mockery of local autonomy. Again, as explained in one of the opening chapters of this Report, grants that are overly conditional can lead to gross fiscal inequities as between affluent municipalities that can meet the conditions easily and impecunious ones that can do so only with difficulty, if at all. Finally, we saw that no grant recommendation could possibly overcome the principal barrier to satisfactory standards of local welfare administration: the small size that simply prohibits the employment of full-time welfare officers, let alone professionals, by most Ontario municipalities.

50. Our second alternative was to recommend that the Province assume the entire burden of welfare financing and administration, completely freeing all municipalities from responsibility in this domain. We would point out that this alternative beckoned not least because it would once and for all silence the cry that welfare is an unjustifiable burden upon property owners and occupants. But we rejected it for two reasons. First, while the Province might be relied upon to devise the administrative means of providing field welfare services, the chances seemed remote that responsibility for differing levels of services would be decentralized to the point where these could be suited to local conditions. Second, from a financial point of view, the alternative we eventually chose appeared not greatly different from provincial assumption in that a combination of non-property taxes and unconditional grants could relieve property of all but an insignificant burden.

51. Our final alternative was to recommend that the government blanket Ontario with special-purpose districts created specifically to provide welfare services. We note that legislation designed precisely to bring about the creation of welfare units has been in the books since 1948. However, we rejected this alternative on the ground that single-purpose local authorities lack the fiscal strength and independence of well-devised, multi-functional regional governments.

52. If the scheme of regional government proposed later in this Report is not acted upon, we are bound to suggest regarding welfare that either of the last two alternatives considered and rejected by us be implemented by the Province—that is, either total provincial assumption of welfare services, or the creation of welfare units of sufficient size to provide specialized and integrated services everywhere in Ontario. Until the Province has decided upon its course of action, we suggest that

no change be made in the general welfare assistance grant. In this connection, we wish to point out that we considered, and rejected, the advisability of extending the provisions of this grant to the local cost of administration. Since widely disparate standards of administration constitute one of the most glaring deficiencies of the present welfare system, there is obviously nothing to be gained, and indeed a good deal to be lost, from subsidizing local administration before the far-reaching adjustments we deem necessary are implemented.

CHILDREN'S AID SOCIETIES AND RELATED CHILD WELFARE SERVICES

53. Launched in the last decade of the nineteenth century, Children's Aid Societies are private incorporated bodies with statutory responsibility for the protection and care of neglected children. The Societies, now fifty-three in number, cover all the populated portions of Ontario. They provide help to unwed parents, adoption services, and wardship arrangements. They first became eligible for a regular provincial grant in 1949, when the Province instituted an annual payment equal to 25 per cent of the municipal liability to the Societies for the cost of maintaining children in their care. The rate of subsidy was increased to 40 per cent in 1957, and, in the wake of the Canada Assistance Plan, was raised again to 60 per cent on April 1, 1967. Since 1965, the Province pays the entire cost of Society services to children of unwed mothers. For some years, the Province has also paid grants to certain institutions that provide services related to those made available by Children's Aid Societies. Thus, for instance, private children's residences, most of them for disturbed and maladjusted children, and approved under the terms of The Children's Institutions Act, are eligible for provincial subsidies of up to 80 per cent of net maintenance costs.

54. In vivid contrast to most municipal welfare offices, the Children's Aid Societies supply a battery of professional, consultative and preventive services, in part because, in the more sparsely populated areas, they cross municipal boundaries within counties. Admittedly, standards of service do vary widely from Society to Society, depending on location. Not least for this reason, we are of the opinion that child welfare programs can be well accommodated under a scheme of regional government where all services, including those of the Societies, could be supplied to multi-problem families at a satisfactory level. Our sole immediate concern is therefore to place the financing of the child welfare function on a basis comparable to the 80 per cent grant rate provided for general welfare assistance. A more nearly common formula of provincial assistance will facilitate transition to the co-ordinated fiscal treatment of the welfare services that regional government can provide. *We therefore recommend that:*

> ***Provincial grants in support of child welfare services be raised to a rate of 80 per cent.*** **21:9**

HOMES FOR THE AGED

55. Ever since the passage of The Houses of Refuge Act in 1890, municipalities, either individually or jointly, have had a responsibility for maintaining homes for the aged. Long eligible for *ad hoc* capital aid, homes for the aged were made the object of a straightforward capital grant equal to 25 per cent of the cost

of erecting a building in 1947. The capital grant was increased to 50 per cent of costs in 1949, when for the first time municipalities also became eligible for a maintenance grant of 50 per cent. In 1955 the latter grant was extended to cover the cost of maintaining elderly persons in private dwellings supervised by homes for the aged as well as the cost of maintaining inmates. The grant on both types of maintenance cost was raised to 70 per cent in 1958, and has since remained at this level. In all instances, the grant is payable on net costs—that is to say, total operating costs less what is recovered in fees from the individuals concerned.

56. Municipal homes for the aged were preceded, and continue to be complemented by, homes maintained under private auspices. Such homes can qualify for capital grants and are also eligible for provincial grants of up to 75 per cent of net operating costs. In our opinion, the differential of 5 per cent between the provincial operating grant to private homes and that to municipal homes begs justification. If a differential is warranted on financial grounds, 5 per cent strikes us as a suspiciously small and arbitrary figure. We think it likely that the existing differential is hardly the product of refined policy.

57. Like child welfare services, homes for the aged and related functions can and should be integrated into a regional scheme for the provision of welfare under which their budgetary and fiscal needs, together with their standards of service, would come under the over-all co-ordination of the regional authority. To this end, and as an interim measure only, we believe that the net costs of maintaining elderly persons, whether in public or in approved private homes, or in appropriate alternative accommodation, should be placed on the same basis as other local welfare costs. Since capital expenditures are more sporadic, and because the provincial contribution to these costs would have to be reviewed in the light of the fiscal consequences of regional government, we would leave the existing capital grants unaffected for the present. *We recommend that:*

> ***The level of provincial grants for the maintenance of inmates of municipal and approved private homes for the aged, and toward the maintenance of elderly persons in satisfactory alternative accommodation under municipal auspices, be increased to 80 per cent.*** **21:10**

OTHER WELFARE PROGRAMS

58. There now remain three welfare grant programs on which we wish to comment briefly. The first is a scheme of payments to municipalities on behalf of indigent hospitalization. The second is a provincial grant toward homemakers' and nurses' services. The third is a provincial payment for municipal day nurseries.

59. *Indigent hospitalization.* Since 1964, the Province has reimbursed municipalities for 80 per cent of their liability to hospitals on behalf of the care of indigent patients. For reasons that are not altogether clear to us, but that reflect the enormous complexity of provincial grant programs, these payments have remained under The Municipal Unconditional Grants Act rather than being transferred to welfare legislation. Save for transients from outside Ontario, the municipal liability

for indigent hospitalization arises because the Province has not chosen to make hospital insurance compulsory. We do not recommend any change in hospital insurance coverage, but because the extent of this coverage is purely a matter of provincial policy, we suggest that municipalities should not be burdened with the consequences. We submit that the Province should automatically provide premium-free insurance coverage to recipients of general welfare assistance on application from the municipality, as it does for recipients of mothers' allowances. We consider the liability for indigent hospitalization to be properly a provincial responsibility. *We therefore recommend that:*

The Province provide all persons who become indigent with premium-free insurance under the Ontario Hospital Care Insurance Plan, without a waiting period. **21:11**

60. *Homemakers' and nurses' services.* A number of municipalities make available, on a needs basis, the services of a homemaker when a mother is ill, or to look after elderly, handicapped or convalescent persons living at home. Municipalities may also provide for home visits by registered nurses so that persons may be cared for at home, perhaps after an earlier return from the hospital than would otherwise have been possible. For all these services, municipalities may be reimbursed by the Province to the extent of 50 per cent of cost. We wish to stress the importance of this grant program, particularly since the services it supports reduce the utilization of more expensive health facilities, especially hospitals. In our chapter on hospital financing, we emphasize the desirability of measures that reduce recourse to high-cost health services. Because the availability of homemakers and nurses can have a direct impact on hospital costs, we suggest that provincial grants on behalf of this service should be at the same level as those for general welfare. *We therefore recommend that:*

The level of provincial grants towards homemakers' and nurses' services be increased to 80 per cent. **21:12**

61. *Day nurseries.* Municipalities with day nurseries are eligible for provincial grants of 50 per cent of net operating costs (total costs of operation less revenue from fees, which normally take account of ability to pay). In this sense, the grant treatment of day nurseries is not unlike that of homes for the aged. A major difference, however, is that municipalities are not legally bound to maintain day nurseries. Day nurseries are clearly a special service to be provided at the option of the municipality. It may be that the net cost of day nurseries should eventually become part and parcel of the integrated welfare program that regional governments can sponsor. Such a move would clearly be appropriate if the Province, as a matter of public policy, wishes to incorporate the special needs of working mothers into a comprehensive welfare scheme.

ENVIRONMENTAL GRANTS

INTRODUCTORY REMARKS

62. The grants we place in the "environmental" category run the gamut from conservation and parks to recreation centres and museums. We have chosen to

call them environmental grants because they subsidize the amenities that local inhabitants enjoy. We estimate the total sum made available to local governments from these subsidies at approximately $25 million, stretched over at least twenty grant programs, a few major, most of them insignificant. Because of the large and unwieldy number of environmental grants, and because they cannot be lumped under a functionally comprehensible designation like "roads" or "welfare", we think a few preliminary remarks to be in order.

63. Taken as a group, environmental grants violate most of the principles that we believe should underlie a sound provincial-local fiscal system. By their very number, they run afoul of the principle of simplicity. Moreover, since each grant lays down its particular set of directives, the sum total is a maze of conditions that distort the local priority-setting process and do violence to local autonomy. Again, the conditional nature of environmental grants is such that they tend to accentuate inter-municipal discrepancies in fiscal capacity. These liabilities are serious enough in themselves, but they culminate in an even greater difficulty: that the rationalization of such grants on a package basis is impossible. By contrast, it is readily possible to construct a scheme of road grants that is at once equitable and efficient because it is related primarily to the benefit principle. For its part, the financing of welfare services can be immeasurably ameliorated by structural reform that, though drastic, fully accommodates this function at a regional level of government. But environmental grants for functions as disparate as public health and parks do not invariably relate to the benefits principle, and they affect responsibilities that are and will be carried out locally as well as regionally. Consequently, these grants can only be considered in the light of the total impact of the fiscal and structural changes we recommend. To the extent that we have succeeded in making the property tax a more equitable levy and that our recommendations for increased provincial transfers on behalf of education are accepted, the improved fiscal position of Ontario municipalities will permit the termination of numerous small grants. Also, especially with the advent of strong regional governments, further fiscal and structural gains will make it readily possible to devise block or unconditional grants and to entertain the feasibility of shared taxes.

64. It is against this background that our recommendations on environmental grants must be assessed. We suggest that some environmental grants be broadened or rationalized to ease the transition to yet more equitable fiscal arrangements under regional government. We advocate outright abolition of other grants to simplify and streamline provincial-local finance, bearing in mind that the improvements we recommend in property taxation and school grants more than compensate for the local revenue losses involved in the short run, and that the fiscal arrangements possible under regional government hold even greater promise for the long run. Finally, in one major area, that of recreation and community services, we propose that the Province begin an immediate phasing out of existing grants in favour of a block grant to regional governments. To simplify the discussion that follows, we group environmental grants in five categories: conservation, rural, health, redevelopment and housing, and recreation and community services.

CONSERVATION GRANTS

65. Grants to conservation authorities, which are special-purpose, inter-municipal bodies whose jurisdictional boundaries are drawn to encompass a drainage basin, date from the year 1946, and now exceed $6 million annually. At present, certain defined administrative expenses can be supported by a provincial grant of 50 per cent. In addition, approved expenditures on the purchase of land for conservation purposes on flood-control projects and on park improvements are eligible for provincial subsidies of 50 per cent, with a grant ceiling of $10,000 for any individual project in any given year. Approved expenditures on reservoirs and flood-control engineering studies qualify for a grant of 75 per cent with an identical ceiling. Since 1960, by federal-provincial agreement, specified development and maintenance costs may be met by a grant as high as 75 per cent, apportioned equally between the federal government and Ontario.

66. A Select Committee of the Legislature published a comprehensive report on conservation authorities in 1967. The report devotes a lengthy chapter to finance, including grants. Since the government is doubtless giving this report careful consideration, we shall limit our own discussion to those aspects of conservation authority finance where our perspective differs from that of the Select Committee. These aspects, three in number, are the following. The first, from which the Select Committee was precluded by its terms of reference, is that the creation of multi-purpose governmental regions offers a fiscally and politically more responsible means of dealing with conservation than the existing authorities. The second, which underlines the need for regional government, is in the domain of fiscal-capacity grants. The Select Committee recommends that the Province develop a sliding scale of grants based on the financial ability of each conservation authority. We question whether equalization grants on the scale envisaged by the committee are appropriate given the benefits-related nature of many conservation projects. And we are more especially concerned lest equalization payments be relied upon to accomplish something of which they are incapable. Fiscal equity in conservation is first and foremost a matter of overcoming the boundary deficiencies that now involve all too many small overlapping jurisdictions in this field. Third and finally, we wish to comment on the ceiling that the Province has imposed on grants to individual conservation projects. The Select Committee recommended that this ceiling, which can only be exceeded by order-in-council, be raised from $10,000 to $25,000. We are of the opinion that whether a project must be approved by order-in-council should hinge on the nature of the project, as defined by the Province, not on arbitrary dollar amounts. We note too that grant ceilings automatically become more stringent to the extent that any reduction in the purchasing power of money takes place. Accordingly, we are inclined to go further than the Select Committee, and *recommend that:*

> ***All dollar ceilings on existing provincial grants to conservation authorities be abolished.*** **21:13**

RURAL GRANTS

67. The Province makes a number of grants on behalf of projects or services

that are primarily of interest to rural municipalities. The only programs of consequence under this heading are those whereby the Province, since 1921, has provided 50 per cent of the capital cost of distributing electric power in rural areas and, since the 1930's, paid grants on the cost of agricultural drainage and flood-prevention schemes. Provincial expenditure under these programs approximates $2 million annually. In that these grants provide aid for special capital projects in sparsely populated areas, we have no quarrel with them. The same cannot be said of the remaining grants that touch upon the rural environment. We refer to grants for weed, warble fly and plant disease control. Yielding well under $150,000 annually, these small grants are subject to the same criticism as their counterparts under other headings. Any financial consequences arising from their abolition should be more than compensated for by the general fiscal arrangements we propose. *We therefore recommend that:*

Grants on behalf of weed, warble fly and plant disease control be abolished. **21:14**

HEALTH GRANTS

68. All Ontario municipalities have mandatory responsibilities under The Public Health Act, and must either have a local board of health or form part of a health unit. There are at present two categories of health grants in Ontario, one toward the provision of full-time public health services by health units or municipalities, the other a set of small subsidies for such specific items as school nursing inspection, school dental services and venereal disease clinics. Provincial spending for grants in the latter category is well under half a million dollars annually. Because this category exhibits all the liabilities of minor conditional grant programs, *we recommend that:*

All health grants to municipalities for such specific purposes as school nursing inspection, school dental services, and venereal disease clinics be terminated. **21:15**

69. Provincial grants for the local provision of full-time public health services were initiated in 1967, but have their genesis in a general program of grants to health units that dates from 1940. In that year the Province devised a set of subsidies designed to encourage the creation of these units, especially among the smaller municipalities. Health units are inter-municipal special districts formed with the approval of the Lieutenant Governor in Council on application by any group of municipalities whose combined population exceeds 35,000. By 1967 there were some three dozen health units in Ontario, whose provincial grants amounted to approximately $5 million annually. As structured until that year the grants provided 50 per cent on health unit expenditure save where the unit included a city. For units containing cities, the grant was scaled downward on the city's contribution to health unit expenditure. The downward scale was in three steps related inversely to population: 33⅓ per cent of the city contribution if the population of the city was less than 25,000; 25 per cent if between 25,000 and 100,000; and 15 per cent if between 100,000 and 150,000.

70. It is abundantly clear upon casual reflection that inasmuch as their formula was geared to municipal status, the health unit grants suffered from much the same deficiency as road grants. True, in that the Province was attempting to induce the creation of special authorities whose population was sufficient to make possible a satisfactory level of public health services, a grant differential favouring the smaller municipalities may have been justified. But as we emphasized earlier in this chapter, municipal status is not an index of population size. As they stood, health unit grants were inherently discriminatory as between small cities and large townships or towns. And exactly like road grants, they complicated city annexation of outlying municipalities.

71. Given the grave deficiencies of the health unit grants, the changes brought about in 1967, while less than fully satisfactory, are none the less welcome. Henceforth, all municipalities in health units will be subject to a grant rate of 50 per cent. In addition, municipalities that are not in health units but satisfy the Department that they provide full-time health services as prescribed in the Regulations will receive a grant of 25 per cent of their expenditures. These are exclusively urban municipalities large enough to make possible the employment of qualified full-time health personnel. Through the 25 per cent grant, the Province subsidizes for the first time the general health expenditure of municipalities not in health units.

72. In our opinion, the 1967 grant changes involve two highly desirable departures. The first is the abolition of municipal status as a consideration in the making of grants. The second is emphasis on full-time health services of satisfactory standard as the prime determinant of provincial support. We wish to suggest that, because of the province-wide significance of health services, it is particularly important to stress their standard, whether in making grants or in devising appropriate structural arrangements for the local provision of health services. In this connection, however, we consider the different grant rates of 25 and 50 per cent, the latter applying only to municipalities in health units, as still unsatisfactory. Given the present structure of local government for the provision of health services, we deem the fulfilment of acceptable standards, whether through a health unit or by an individual municipality, as the sole consideration of relevance. *We therefore recommend that:*

> ***All municipalities providing full-time public health services satisfactory to the Department of Health, whether individually or through health units, be eligible for a provincial grant of 50 per cent of their public health expenditures.*** **21:16**

73. By no means do we pretend that a flat-rate grant of 50 per cent is the golden key to the long-run financing of the public health services provided by local government. At the very time that health units have come to cover most of the inhabited portions of Ontario, save for the large urban municipalities, it is becoming apparent that some of the units are too small to keep pace with the rising levels of service dictated by changing circumstances. The Minister of Health

has announced that, beginning in 1968, his department will launch a policy of encouraging the establishment of larger health districts, and will make available to all municipalities joining a district a grant of 75 per cent of their health expenditure.

74. We dare hope that the Department will reconsider this policy in the light of our Report. In this context, we reiterate our view that grant differentials created solely to help achieve structural reform are no substitute for direct governmental action to secure boundary changes. This is because such differentials create financial inequities to induce structural reform whose inception is by no means guaranteed. As to the Department's end goal—larger units of health administration —we are of course in agreement. But we strongly favour multi-purpose rather than single-function units of regional government. From a fiscal standpoint, the health function offers particularly strong support for the superiority of general regional government. Because a number of public health services are closely related to welfare, there is a telling argument for a provincial block grant, or even a broader unconditional grant, covering all health and welfare services. Such grants hinge on the development of comprehensive governmental regions similar to those we suggest later in this Report, regions that we trust the Department of Health will study closely in devising policies for the improvement of municipal health services.

GRANTS FOR REDEVELOPMENT AND HOUSING

75. Only recently has it been recognized in Canada that government must assume an important responsibility for redevelopment and housing. Accordingly, the situation in the 1960's with respect to this broad function is not unlike that which existed in the field of unemployment relief in the 1930's. All levels of government, federal, provincial and local, have been developing programs and policies in a setting where their respective commitments, and the agencies through which they attempt to work, have yet to be sufficiently established and delineated.

76. Under the principal grant legislation now in force in Ontario, a municipality may undertake, with the approval of the Minister of Municipal Affairs, an urban renewal area study. Subsequently, the municipality may implement the renewal project in a redevelopment area designated as such by a by-law of council approved by the Minister of Municipal Affairs. The legislation authorizes the Province to assist in meeting both the costs of the urban renewal study and those of implementing the project in the redevelopment area. The sharable costs of implementation include those arising from the acquisition and clearance of land, the provision of improved municipal services to the redevelopment area, and the relocation of residents. The actual amount of aid is arrived at by agreement between the municipality and the Minister of Municipal Affairs, and with the approval of the Lieutenant Governor in Council. Substantial federal funds are incorporated in provincial redevelopment subsidies, and federal as well as provincial approval of municipal projects is the rule.

77. We frankly question the need for duplicating approval of municipal projects by both federal and provincial authorities. But this is by no means the only evidence that governments are still feeling their way in this new domain of public

policy. For instance, redevelopment may entail the construction of subsidized as well as *full-cost* residential housing. However, that subsidized housing should be closely related to welfare policy as well as redevelopment is not always kept clearly in sight.

78. Under a grant in effect since 1952, the Province provides 50 per cent of the cost of constructing low-rental housing for the aged through the Department of Social and Family Services. In our view it is important to distinguish clearly between the provision of housing on the one hand, and that of subsidized housing on the other. The latter is properly a welfare program, and ought to be administered as such. But in recent years other forms of subsidized housing have come to be available under a new agency, the Ontario Housing Corporation. The extent to which the Corporation's programs have been co-ordinated with those of the Department of Social and Family Services appears to be minimal. Just as the delineation of government jurisdictions is less than clear, so also are the welfare and non-welfare aspects of redevelopment and housing.

79. We recognize that elements of confusion must inevitably accompany the adoption by governments of a new field of responsibility. But we are most concerned lest equity and efficiency in municipal finance suffer in the process. To have devoted to the function of redevelopment and housing the study it deserves would have exceeded the resources at our disposal and perhaps transgressed our terms of reference. We must stress, however, that such a study appears to be badly needed.

80. Pending an over-all examination of redevelopment and housing, we are content to make no recommendation in this field, save one affecting the Department of Social and Family Services grant for the housing of the elderly. Here the provincial contribution has been subject to an arbitrary ceiling of $500 per dwelling unit. For the same reasons that have impelled us to urge the removal of grant ceilings in other instances, *we recommend that:*

> ***The ceiling on the Department of Social and Family Services grant for the construction of low-rental housing for the aged be removed.*** **21:17**

GRANTS FOR RECREATION AND COMMUNITY SERVICES

81. The term "recreation and community services" is used as a heading in the Annual Report of Municipal Statistics for municipal expenditure on a broad group of local amenities that includes libraries, museums, parks and recreation programs. The Province provides a number of grants for these amenities, of which the largest by far is the grant for public libraries. This grant, which is administered by the Department of Education, has been in existence since 1946 and will involve the expenditure of some $6 million in 1967-68. Recently, it has been made under increasingly complex regulations but, broadly speaking, it has had two bases: the first a contribution to salaries geared to librarians' certificates, the second a payment on approved costs that increases as equalized taxable assessment per capita falls.

82. The remaining grants for recreation and community services are a motley lot that involve payments totalling under $2 million annually on behalf of community centres, recreation programs proper, municipal parks and museums. Community centre grants, which date from 1919, are administered by the Department of Agriculture and provide a provincial contribution of 25 per cent toward the capital cost of community halls, athletic fields, skating arenas, outdoor rinks and swimming pools, with a ceiling of $10,000 for any individual project. Grants for recreation programs, made by the Department of Education and launched in 1945, provide assistance on the salaries of recreation directors and their staff. Instituted in 1957, museum grants likewise provide assistance on salary costs, and are administered by the Department of Tourism and Information. Municipal parks grants, initiated in 1960 and now under the Department of Energy and Resources Management, provide up to 50 per cent of the cost of acquiring and developing municipal parkland with an assistance ceiling of $50,000 for any one park.

83. We find all existing grants on behalf of recreation and community services gravely deficient. The only sizeable grant, that for public libraries, is marked by a degree of complexity that is out of all proportion to its monetary yield, and that in any event mocks the fiscal principles of certainty and simplicity. The frequency with which library grant regulations have been amended of late indicates not simply provincial willingness to experiment but genuine difficulties in constructing a satisfactory scheme. A consequence of recent revisions is that library grant regulations are beginning to rival those for schools in length and detail, with one important difference. School grants are gradually being simplified as the Province works toward accommodating educational finance under an effective and understandable formula. No such formula toward which library grants might evolve has yet appeared, nor is one likely to be devised. This is apparent for a number of reasons of which the following are particularly important. Libraries are not a compulsory local service and hence are not susceptible to the same kind of province-wide administrative and fiscal (foundation) standards as schools. Again, a public library's "case load" is hardly susceptible to the same ready measurement as that of a school, whose number of pupils provides a reasonably accurate guide.

84. As for the remaining recreation and community service grants, we are compelled to point out that they run afoul of virtually every principle that in our opinion should underlie an equitable system of provincial-local fiscal relations. They are plainly designed to provide appetite-whetting assistance for the undertaking of minor municipal projects. In that they subsidize capital costs, they are subject to low ceilings that penalize ambitious projects. And as to the complexities they entail, they produce one of our favourite examples of the extent to which the pell-mell accumulation of grant programs has created an administrative maze. Consider the fact that a recreation director, whose salary is met in part by a grant from the Department of Education, may in winter work in a community centre whose construction was subsidized by the Department of Agriculture, and in summer work in a municipal park whose acquisition was partly financed by the Department of Energy and Resources Management.

85. We would clearly be doing less than justice to our terms of reference if we failed to recommend a drastic overhaul of provincial subsidies for municipal recreation and community services. But a prescription is not easily devised. In rough outline, the optimal fiscal remedy for a host of overly complex conditional grants made on behalf of related functions is a block grant. Under the block grant, a senior government makes available to lower level authorities lump-sum annual payments free of all but one condition: that the moneys be spent on the functions for which the block grant is made. The authority receiving the grant is free to allocate it among the several functions approved for block grant purposes.

86. We have no doubt in principle concerning the efficacy of a block grant in the field of recreation and community services. Given the nature of these services, we deem it entirely appropriate that municipal governments should themselves determine how much they will devote, say, to libraries as opposed to museums, or to community centres as opposed to parks, free of provincial incentives and conditions. But given the staggering number and bewildering diversity of Ontario municipalities, how can a block grant formula be devised? Many municipalities provide little or nothing in the way of recreation and community services. This may be because a municipality is too small to countenance such services or to have need for them. Or a local jurisdiction may, so to speak, be "living off" the amenities available in an adjacent large urban centre.

87. These considerations bring home once more the stark fact that fiscal improvements are highly dependent on structural reform. Given the Ontario setting, a regional government is obviously the appropriate recipient of a block grant for recreation and community services. Such a grant, which might well be named a Community Enrichment Grant, could be divided by the regional council among the community amenities financed by the region itself and those provided by local municipalities, in full accord with the needs and desires peculiar to each region. The grant can be geared to a basic per-capita amount, adjusted where appropriate to take account of regional differentials in population density and fiscal capacity. The grant formula can be kept relatively simple, particularly in so far as the very existence of regions abolishes unbridgeable extremes in fiscal capacity.

88. We lay out later in this Report a blueprint for regional government that in our opinion could be fully implemented within five years. We would urge that, as each regional government becomes operational, the Province terminate all grants previously paid on behalf of recreation and community services to municipalities within the region, substituting a Community Enrichment Grant payable to the regional government. *We therefore recommend that:*

> ***Upon the creation of any unit of regional government, the Province terminate all existing grants for recreation and community services to the municipalities within the region in favour of a Community Enrichment Grant payable to the regional government.*** **21:18**

89. In making the above recommendation, we by no means wish to overlook the fact that a major regional government already exists in Ontario. We refer, of course, to the Municipality of Metropolitan Toronto. It is our opinion, consistent with the above recommendation, that Metro should be made the recipient of a Community Enrichment Grant forthwith. We have examined to the best of our ability the revenue anticipated by Metro and its constituent municipalities from recreation and community service grants in recent years. These revenues have shown appreciable growth, largely in the wake of successive revisions in library grant regulations. According to our estimates, the total revenue of Metro and its constituent municipalities from all grants for community amenities will be beween $1.30 and $1.40 per capita in 1967. Taking into account recent growth patterns, together with the importance of such amenities in the contemporary setting, we deem a per-capita Community Enrichment Grant of $2.00 to be reasonable for the year 1968. Not least among the benefits of making Metro eligible for the Community Enrichment Grant at present is that needed experience will be gained by the Metro government on the apportionment of the grant between regional and local levels of government. This experience will prove valuable to other regional governments as they are created and become eligible for the grant. *We therefore recommend that:*

All recreation and community service grants now applicable to the Municipality of Metropolitan Toronto and its constituent municipalities be terminated forthwith in favour of a Community Enrichment Grant of $2 per capita payable to the Municipality of Metropolitan Toronto for apportionment between Metro and its constituent municipalities. **21:19**

MISCELLANEOUS GRANTS

90. Five sets of conditional grant programs remain to be discussed. The first, that for municipal winter works projects, arises out of federal-provincial arrangements initiated in 1958, and is designed to cope in particular with seasonal unemployment. This grant should be reviewed in the over-all context of federal-provincial arrangements, but in that its purpose is born of the rational dictates of economic policy, we register approval. A second set of grants is disaster-oriented. One of these, a grant in aid of emergency measures organizations, stems from continuing federal-provincial arrangements. The others, on behalf of excessive forest-fire-fighting costs or general disaster relief, are made only when warranted. We offer no comment on disaster grants. The three remaining grant categories are grants for the administration of justice, grants toward the municipal cost of pensions and workmen's compensation for police and firemen, and grants to encourage the killing of certain fur-bearing animals.

91. *Administration of justice.* Earlier in this Report, we recommended that the Province assume sole responsibility for the administration of justice. It follows that all existing grants on behalf of the administration of justice, whether for legal services, courts or gaols, lose their reason for being. *We therefore recommend that:*

All provincial grants on behalf of the administration of justice be abolished. **21:20**

92. *Police and firemen.* Grants on behalf of the municipal contribution toward pensions and workmen's compensation for police and firemen are a remnant of more general grants on the cost of police and fire services in force from 1949 to 1953. They are paid according to the same formula as the earlier grants, providing 25 per cent of costs where municipal population is under 10,000, 20 per cent where it is between 10,000 and 24,999, 15 per cent where it is between 25,000 and 69,999, and 10 per cent where is is 70,000 and over. The earlier grants, which temporarily interrupted a series of unconditional grants otherwise in force from 1937 to the present, were designed to encourage municipalities, especially the smaller ones, to improve their standards of police and fire protection. No such claim can be made on behalf of their remnants. Since the Province was apparently satisfied that the original police and fire grants had served their purpose by 1953, the rationale for the remaining contributions limited to pensions and workmen's compensation eludes us altogether. We can think of no justification for grants that have no outcome other than to favour certain classes of municipal employees as against others. The amount now payable to municipalities under these grants is only about $750,000. *We recommend that:*

The grants payable to municipalities under provisions of The Fire Departments Act and The Police Act be abolished. **21:21**

93. *Certain fur-bearing animals.* Two grants provide provincial contributions of 50 per cent of municipal expenditure for wolf and fox bounties. The wolf bounty grant is if nothing else hallowed by tradition, dating from 1897, and appropriately enough is under the Department of Lands and Forests. Provincial payments on wolf bounties totalled $59,947 in 1965-66. By contrast, the fox bounty grant, instituted in 1958, is a brash newcomer. It entailed provincial expenditure of $11,698 in 1965-66. We wonder why fox bounty grants have been administered by the Department of Municipal Affairs rather than the Department of Lands and Forests. Without further comment, *we recommend that:*

Provincial grants on behalf of municipal expenditure for wolf and fox bounties be abolished. **21:22**

THE MUNICIPAL UNCONDITIONAL GRANT

94. In our discussion of the history of property taxation in Ontario, we sketched in detail the evolution of unconditional grants from their inception in 1937 to the present. The schedule of unconditional subsidies now payable to municipalities for the relief of residential and farm property owners is outlined in Table 21:2. There remains little to say about the grants other than to summarize the principles and recommendations already adopted by us, which have the net effect of bringing the utility of the grants to an end. We have explained that we do not consider municipal status an appropriate ground for differential grant treatment. We have rejected the split mill rate as an appropriate means of granting

TABLE 21:2

GRANTS UNDER THE MUNICIPAL UNCONDITIONAL GRANTS ACT, 1967

Status	*Population*	*Per-capita grant*	
		County	*Territorial district*
Cities or a metropolitan municipality	750,000 and over	$7.00	—
	400,000-749,999	6.50	$5.50
	200,000-399,999	6.00	5.00
	75,000-199,999	5.75	4.75
	below 75,000	5.50	4.50
Towns and villages	10,000 and over	5.25	4.25
	7,000-9,999	5.00	4.00
	5,000-6,999	4.75	3.75
	2,000-4,999	4.60	3.60
	below 2,000	4.50	3.50
Townships	20,000 and over	5.25	4.25
	15,000-19,999	5.00	4.00
	10,000-14,999	4.85	3.85
	5,000-9,999	4.75	3.75
	2,000-4,999	4.60	3.60
	below 2,000	4.50	3.50

relief to owners of farm and residential property. We have recommended that responsibility for the administration of justice, whose fiscal demands on local government are recognized in the unconditional grants through an additional payment of $1.00 per head to municipalities in counties, be assumed in its entirety by the Province. For all these reasons, the subsidies payable under The Municipal Unconditional Grants Act have lost their place in the provincial-local fiscal system. Accordingly, *we recommend that:*

The Municipal Unconditional Grants Act be repealed. **21:23**

95. If certain of the principles and recommendations we have adopted necessitate the abandonment of the existing unconditional grant, others create a clear need for new grants. We refer in particular to two sets of measures we espouse. The first is the granting of relief to the owners and occupants of farm and residential property by granting them an exemption on the first $2,000 of the provincially equalized assessed value of their property. The second is the abolition of the split mill rate. We submit that the implementation of each of these measures must be accompanied by the creation of a grant designed to enable local governments to absorb the fiscal impact of the change, and we shall discuss each in turn.

A BASIC SHELTER EXEMPTION GRANT

96. In Chapter 11, we discussed why our basic exemption on the first $2,000 (up to 50 per cent) of the equalized value of farm and residential properties should be accompanied by a provincial grant. We rejected the alternative, which was to have local taxpayers themselves pay the cost of the exemption, because this would

make the property tax shoulder the task of the consequent redistribution. Fiscal redistribution is not properly the function of a tax that lacks a base in the principle of ability to pay. Since our basic exemption is designed precisely to reduce the severe regressiveness of what amounts to a tax on shelter, we consider it entirely appropriate that the consequent revenue loss should be made up from the general revenues of the Province, which reflect in large part ability to pay. We deem it entirely feasible for the Province to pay annually a Basic Shelter Exemption Grant to each tax-levying local authority in Ontario, whether a municipality or, if our other recommendations are implemented, a regional government or school board. The grant can be readily calculated by applying to the total value of the residential and farm assessment exemptions within the boundaries of a local authority the mill rate struck by that authority. *We therefore recommend that:*

> ***The Province pay to each tax-levying local authority a Basic Shelter Exemption Grant calculated annually by applying the authority's mill rate to the aggregate of the basic shelter exemptions applicable to residential and farm properties within its boundaries.*** **21:24**

A NEW UNCONDITIONAL GRANT FOR MUNICIPALITIES

97. The second major change we propose in property taxation involves the abolition of the split mill rate. If this change is to be absorbed equitably, we deem it most important that none of the provincial support now given to residential and farm taxpayers through the split mill rate be sacrificed, and also that these taxpayers bear none of the burden of relieving commercial property of its higher mill rate. Accordingly, the Province, which created the split mill rate in the first place, should now absorb the consequences of its abolition. For school boards, this can be accomplished as one of the direct consequences of the substantially increased level of provincial aid we have recommended, a level that will result in a single school mill rate that brings relief to all taxpayers. Where property taxation for municipal purposes is concerned, the corresponding effect can only be achieved by a new unconditional grant designed for the purpose. As calculated by us, the level of this grant should be according to the formula presented in Table 21: 3. As shown in the Table, the new grant provides to each municipality an initial rate of $7.00 per capita for the first 2,500 of population, an increase of 50¢ per capita for the next 2,500 of population, and an additional increase of 50¢ for each subsequent doubling of the population.

98. Basically, the new unconditional grant is designed to give to all property, whether farm, residential or commercial, the same relief as was reserved for residential and farm property exclusively under the existing Municipal Unconditional Grants Act. Like the old grant, therefore, the new subsidy provides additional aid as population increases. But in keeping with principles and recommendations already outlined in this Report the new grant eschews reference to municipal status and involves no differential between municipalities in southern and northern Ontario. A final significant difference from the existing unconditional

TABLE 21:3

A NEW UNCONDITIONAL GRANT TO MUNICIPALITIES: PROPOSED RATE SCHEDULE

Population	*Grant*			
Under 2,500	$ 7.00 per capita			
2,500- 4,999	$ 17,500 plus	7.50 per capita over	2,500 pop.	
5,000- 9,999	36,250 plus	8.00 per capita over	5,000	
10,000- 19,999	76,250 plus	8.50 per capita over	10,000	
20,000- 39,999	161,250 plus	9.00 per capita over	20,000	
40,000- 79,999	341,250 plus	9.50 per capita over	40,000	
80,000- 159,999	721,250 plus	10.00 per capita over	80,000	
160,000- 319,999	1,521,250 plus	10.50 per capita over	160,000	
320,000- 639,999	3,201,250 plus	11.00 per capita over	320,000	
640,000-1,279,999	6,721,250 plus	11.50 per capita over	640,000	
1,280,000-2,559,999	14,081,250 plus	12.00 per capita over	1,280,000	

grant is that rising per-capita payments apply on marginal increases in population rather than on the population of the municipality as a whole. This departure is not only more in keeping with our view of equity than is the existing schedule; it also has an important practical advantage which we shall discuss presently. So that the Province will absorb the fiscal consequences of abolishing the split mill rate, *we recommend that:*

There be paid annually to all municipalities now receiving assistance under The Municipal Unconditional Grants Act a new unconditional grant providing, for the relief of all property taxpayers, an initial rate of $7.00 per capita for the first 2,500 of population, an increase of 50¢ per capita for the next 2,500 of population, and an additional increase of 50¢ for each subsequent doubling of the population. **21:25**

99. We wish now to comment on what we consider to be an important practical advantage of the grant schedule we have designed. Because, under this schedule, rising per-capita payments apply on marginal increases in population rather than on the population as a whole, less drastic fiscal consequences will attach to small changes in population than do at present. To take an example, whether, under our scheme, a municipality has a population of 9,999 or 10,000 is a matter whose total fiscal consequence amounts to $8.50. Under the existing unconditional grant, whether say, a town or village in southern Ontario has a population of 9,999 or 10,000 is a matter of $2,505. This, of course, is because under the present schedule the town or village that numbers 9,999 receives $5.00 per-capita on its entire population; the one that numbers 10,000 receives $5.25, again on its entire population.

100. Because small shifts in population have such drastic consequences under the unconditional grants now in force, the Province, not surprisingly, has had to place a premium on closely authenticated population counts. Accordingly, the

existing unconditional grant has been payable only on the municipal population reported in the last quinquennial census, with no adjustment unless the municipality can satisfy the Province that its population has grown in the meantime by 7 per cent or more. Surely such an inflexible safeguard is no longer necessary under the scheme we propose. We submit that, where the fiscal consequences of less than perfect accuracy are greatly reduced, the Province should base its unconditional grant on the annual population reported by the municipality for assessment purposes, with appropriate checks by the Province on the calculations. Thus unconditional grants can reflect year-to-year changes in that most important determinant of municipal expenditure: population. *We therefore recommend that:*

> ***The unconditional grant be based on the population reported annually by the municipality for assessment purposes.*** **21:26**

101. In that we recommend a Basic Shelter Exemption Grant and a new unconditional grant as part and parcel of the measures we propose to enhance the equity of the property tax, we do not wish to create the impression that we see no further role for unconditional grants. On the contrary, we believe that there is a very strong case for consolidating into a further unconditional subsidy a number of conditional grants whose continuation we have recommended as an interim measure. In 1958 under The Local Government Act, the Government of the United Kingdom replaced no fewer than eleven conditional grant programs with a single unconditional grant to local governments. The largest single conditional grant replaced by this subsidy was that for education, which accounted for about 80 per cent of expenditure under the displaced grant programs. Given what must be the continued existence of independent school boards, at least at the elementary level, an unconditional grant of this magnitude could not be implemented in Ontario. But under certain circumstances, it would be readily possible to devise an unconditional grant that would replace conditional subsidies for welfare, health and related expenditures, and perhaps even those for secondary education. The grant could be devised to take account of both fiscal capacity and expenditure need. In addition, it would provide the Province with a most useful tool for influencing local revenue and expenditure in accordance with the dictates of general economic policy.

102. The circumstances under which such unconditional transfers would be feasible are now very far from realization. It is patently impossible to devise a general grant formula to take rational account of the some nine hundred totally disparate entities that are now called municipalities in Ontario. We therefore reject any claims for additional unconditional aid until this situation can be rectified. We sympathize with many of the special pleas made to us, not least with those on behalf of municipalities on the fringes of metropolitan areas. But the remedy is to be found in restructured boundaries followed, where necessary, by additional provincial grants, not the other way round. Reform at the local level of government is a prerequisite of full fiscal equity in the Province. Furthermore, such reform should have its counterpart at the provincial level. At least as important as a rational

local government structure is the capacity of the Province to co-ordinate and implement, on a continuing basis, well-devised local grant and fiscal policies, a subject to which we now address ourselves.

THE ADMINISTRATION OF GRANT POLICIES

CO-ORDINATING GRANT PROGRAMS

103. If nothing else, the unfathomable maze of grant programs examined in this chapter is testimony to the fact that no co-ordination of provincial fiscal transfers to local government has ever been attempted. Grants are administered by a plethora of departments, with each paying but little attention to what the others are doing, let alone to the fiscal impact on municipalities. During the research phase of our work, we undertook a statistical exercise whose purpose was to discover whether grant payments to municipalities bore any relation to local fiscal conditions. Did provincial grants have a detectable impact on over-all local spending? Did they favour, on balance, smaller or large municipalities, richer or poorer municipalities, optional or mandatory services? The results of the exercise showed that, taken as a group, grant payments bore little relation to anything.[10]

104. We consider the establishment of machinery to co-ordinate grant programs and assess their impact on local finance to be a matter of the highest and most urgent priority. Other than to assert that this machinery must involve the highest policy-making level of government, we are not prepared to say exactly how it might be structured. Perhaps the Cabinet sitting as a whole is the most suitable organ. On the other hand, responsibility might devolve upon Treasury Board, the Committee on Fiscal and Economic Affairs, or a new committee of Cabinet appointed for the purpose. Whatever its exact form, there should be a Cabinet-level body to review annually the grant expenditure of all government agencies. The review should extend to all proposed changes in grant formulas, and to any new grant programs. As a vital step toward the co-ordination of provincial-local finance in Ontario, *we recommend that:*

> ***The Province, through Cabinet or an appropriate organ thereof, make a comprehensive annual review of provincial-local finance and give yearly approval to all grant programs.*** **21:27**

105. In recommending the establishment of a Cabinet-level body to co-ordinate provincial grants, we envisage much more than a clearing-house for departmental proposals. We look to a body that will consciously make grant decisions on the basis of the over-all impact of provincial transfers on local finance. Such decisions cannot be made without a balanced consideration, based on adequate research, of the local revenue, expenditure and economic scene. For this reason, we deem it imperative that the Cabinet-level review of provincial-local finance be backed by an expert staff responsible for producing annual studies of provincial grants in relation to local finance. *We therefore recommend that:*

[10]Dupré, *Intergovernmental Finance in Ontario.*

In instituting a comprehensive annual review of provincial-local finance, the Province assign an expert staff to conduct continuing studies of the fiscal and economic condition of local governments. **21:28**

106. If it is to discharge its responsibilities properly, the Cabinet-level body entrusted with an annual review of provincial-local finance will require comprehensive data on local revenue and expenditure, grant contributions and economic conditions. A number of the recommendations we have made elsewhere in this Report, among which a uniform fiscal year for the Province and local authorities is most important, will facilitate the assembly of the needed data. Taken altogether, the data examined by the Cabinet-level body, its decisions, and the reasons for these decisions, should produce a most enlightening review of local fiscal conditions in Ontario. We suggest that this review should be published, and tabled annually in the Legislature as a general report. Accordingly, *we recommend that:*

The Province publish and table in the Legislature a report on its annual review of provincial-local finance, giving special emphasis to the fiscal and economic condition of local governments. **21:29**

PROVINCIAL GRANTS AND FISCAL POLICY

107. If provincial grants to local governments are closely co-ordinated and subject to annual review, it is but a simple step to integrate them with broader considerations of fiscal and economic policy. This can and should be accomplished to the limit of its feasibility. With reference to counter-cyclical fiscal policy we have pointed out earlier in this Report that, given the very large outlays of Ontario municipalities, there are obvious advantages to modifying the timing of their expenditures in order to achieve a stabilizing influence on the level of economic activity. The five-year capital budgets we recommend in our treatment of municipal debt will make it possible for the Province to identify projects that can be started earlier than planned. Thereupon the Province should, where appropriate, meet the entire cost of whatever temporary borrowing is necessary to start the projects. The task of identifying the projects and advancing the funds can properly be undertaken as part of the continuing review of provincial-local finance we espouse. *We therefore recommend that:*

The Province, upon reviewing the five-year capital budgets of municipalities and prevailing economic conditions in Ontario, be authorized to meet all of the interest and other costs of temporary borrowing required to advance the initiation of municipal capital projects. **21:30**

108. Just as the Province can supply assistance to local government in the context of counter-cyclical fiscal policy, so also should it take conscious account of the need to devise grant policies that will be conducive to sound economic

growth. The property tax, however greatly it can be improved, remains a tax whose yield has only a limited capacity to rise with income. Provincial grants must therefore be counted upon to give to local authorities the income-elastic revenues based on ability to pay that a balanced fiscal system demands. Again, provincial grants are the key to the development of public policies grounded in equity and general economic considerations. Admittedly, it would be naive to expect too much in the way of grant decisions annually based on these considerations so long as local authorities, including school boards and special purpose units, number in the thousands. Here we again confront the fact that the fiscal soundness of the Province hinges upon far-reaching reform in the structure of local government.

Chapter 22

Municipal Debt

INTRODUCTION

1. Local governments in Ontario, as elsewhere, conduct their financial transactions and report on their financial affairs in conformity with a number of conditions prescribed by the Province. We have already noted elsewhere that, among the requirements laid down by the Province, a clear separation must be made in municipal accounting between transactions on current account and those to be financed through borrowing that extends beyond the operations of any one fiscal year. Presumably, the reason for this and other required practices is the responsibility the Province feels to keep local government finances under constant surveillance and to exercise quite extensive supervision and control over the financial operations of the local authorities. Only so, it is argued, can the Province fulfil its stewardship over local government.

2. It is perhaps in the sphere of borrowing that provincial supervision and control over local governments is most complete. The starting point is the Province's mandatory distinction between transactions on current and on capital account. To set the stage for our recommendations, we shall begin by describing the conditions that together determine the borrowing requirements, first on current

account and then on capital account. There is, of course, a continuing relationship between the two since local authorities are not allowed to engage in capital borrowing without provision for orderly debt repayment and annual responsibility for interest on such debt, both from current revenue sources. Following each statement on borrowing requirements, we shall describe the forms that borrowing commonly takes and the nature of the existing controls.

BORROWING REQUIREMENTS, PROCEDURES AND CONTROLS

BORROWING REQUIREMENTS ON CURRENT ACCOUNT

3. Municipal corporations and their associated local boards are expected each year to draw up estimates of their expenditures on current account and of total revenues needed to balance the budget. The balancing item, after deducting expected revenues from provincial grants and sundry local sources, is a combination of real property and business taxes. A mill rate is struck which, if the estimates are accurate, will bring revenues and expenditures as nearly into balance as possible. Of course, such accurate forecasting is impossible. But in line with the stated objective The Municipal Act thereupon provides that the first item to be brought into the estimates of the new fiscal year is the (presumably small) surplus or deficit that has in fact resulted from the prior year's operations.

4. Under Ontario law, formal preparation of the annual estimates is not expected to begin until the new year. Completion of the task requires the incorporation of data from the current-year estimates of local boards for which the council must provide money from its rates or other sources. At present, the council cannot require receipt of the estimates from such bodies earlier than March 1. This being so, the annual estimates of most Ontario municipalities are not finalized, and hence the tax rate cannot be struck, before the beginning of April. Many municipalities complete the task in May or June and some even later.

5. The chief borrowing requirement on current account is for funds to meet the on-going costs of government pending the receipt of taxes. Once a mill rate is struck, dates can be set for the receipt of taxes and tax bills can go out accordingly. The borrowing needs of a municipality, therefore, are greatly influenced by certain essential features of the tax billing and collection system, including the following:

(1) whether or not effective inducements are offered for prepayment of taxes;
(2) whether advantage has been taken of the provision allowing pre-budget levies of as much as 50 per cent of the previous year's levy;
(3) the number and timing of tax instalments following the striking of the mill rate;
(4) the encouragement given by offering discounts or like inducements for the prompt payment of taxes; and
(5) the effectiveness of proceedings to enforce payment of taxes when due.

6. The annual estimates must provide for payment of interest and the instalments of principal that fall due in the year with respect to the capital borrowing operations of the municipality. In municipal accounting, payments of debenture

interest and instalments of principal are together referred to as debt charges. Where debt charges become payable early in the current year, they may constitute an expenditure that must be temporarily financed from current borrowing.

7. Capital outlays can be brought into current expenditures in two other ways. Provision may be made to pay for capital items out of current funds in the first instance, in which case the required amounts are included in the annual estimates, as passed initially or as later amended. Borrowing for capital purposes can also be avoided by placing money from current revenues in a reserve fund for later spending. For the most part, reserve fund requirements do not necessitate temporary borrowing on current account since the money need not be set aside until the end of the year. Sometimes capital purchases from revenue can be similarly delayed to avoid the necessity of temporary financing on current account.

8. How much temporary borrowing a municipality requires on current account will also depend on the nature and extent of any reserves it has accumulated. Until 1957, municipalities could make provision through reserves for only two eventualities, namely, uncollected or uncollectible taxes. Yet in practice, as the Department of Municipal Affairs acknowledged,[1] "many well-managed municipalities owed their strong financial position to the fact that they had ignored the lack of permissive authority and established various types of reserves which had enabled them to almost eliminate temporary bank borrowings and thus benefit their ratepayers by reducing interest charges." The enabling legislation, thereupon sponsored by the Department of Municipal Affairs, authorized the accumulation of reserves for a variety of purposes including a reserve for working funds. In the same memorandum the Department described the purpose of this general financial reserve as "to maintain the revenue fund in a sound financial position so that there will be less necessity for the municipality to borrow for current purposes and pay interest charges pending the collection of taxes."[2]

9. The Department's policy has been to allow yearly contributions to the various authorized reserves up to a total of 5 per cent of the annual municipal levy, including for this calculation the estimated mining payments and payments in lieu of taxes. Except with the specific permission of the Department, accumulated reserves may not at any time exceed 40 per cent of the latest levy and the other related payments. Presumably that figure is regarded as ample to cover both the needed working funds and the smaller more specialized reserve requirements.

CURRENT BORROWING PROCEDURES AND CONTROL

10. The Municipal Act makes specific provision for the form and extent of temporary borrowing on current account by municipalities.[3] Such current borrowings must be authorized by council by-law, must be carried out by the head of the council and the treasurer, and must be secured by promissory note. Bank loans

[1]Memorandum to Municipal Clerks, Treasurers and Auditors, Amendment to Section 297 of The Municipal Act re Reserves, October 5, 1960.

[2]*Ibid.*

[3]The Municipal Act, R.S.O. 1960, c. 249, ss. 329-31.

have formed the traditional source of temporary accommodation, while within the past decade some use has been made of a developing short-term money market.

11. A statutory limit is set on the total current borrowings of a municipality, which can only be exceeded with the approval of the Municipal Board. The statutory maximum is 70 per cent of the uncollected balance of the estimated current revenues. Before the annual estimates have been adopted, the limit is to be calculated from the estimated revenues of the previous year and that figure will be reduced by the amount of revenues for the current year that have already been received. Any member of a council who knowingly votes for current borrowing in excess of the maximum amount authorized by statute or by Municipal Board action is disqualified from holding any municipal office for two years—a severe penalty indeed.

12. Presumably the 70 per cent limit for current borrowings is regarded as adequate for the great majority of municipalities in this province. Where tax collection is slow it affords great latitude in the borrowing limit. Certainly it constitutes a looser control than the one imposed on the accumulation of reserves. Since the timing and other conditions governing tax collections leave municipalities a wide choice, current revenues from taxation may remain largely uncollected throughout a large part of the year. In fact, some rural municipalities send out their first tax bills in December with due dates as late as December 31. And to the extent that current tax revenues remain outstanding, municipalities have statutory authorization without further approval for temporary borrowing on a mammoth scale. It would be quite possible for a municipality to pay virtually all current expenditures in the first instance from a combination of provincial grant revenues and temporary borrowing. A municipality that did so would not be compelled, or even strongly encouraged, to reduce such heavy dependence on borrowing either by altering its tax collection arrangements or through the creation and accumulation of working-fund reserves.

13. The only comprehensive information on current borrowing that is readily obtainable is extracted from municipal audits and presented in the Annual Reports of Municipal Statistics of the Department of Municipal Affairs. It shows current borrowing at what ought to be the low point for the year, December 31. We can only guess how much larger borrowing is at the peak by the 70 per cent maximum that appears in the statute. And this does not tell us much. For one thing, the limit it sets varies according to the proportion of current revenues remaining unpaid. For another, the percentage has remained unchanged over many years despite intervening changes in the conditions determining the need for current borrowing.

14. Year-end information on current borrowing is presented in Table 22:1. As a percentage of total revenues, temporary borrowing at the year end continues to be sizeable, although it has dropped off remarkably from the peak position reached at the end of 1956. At the close of 1964, current debt outstanding as a

TABLE 22: 1

ONTARIO MUNICIPALITIES
BORROWING ON CURRENT ACCOUNT OUTSTANDING AT YEAR END
Compared with Taxation and Total Revenues for the Year
1950-65

	Consolidated current municipal revenues for the year		*Bank overdrafts and temporary loans outstanding at year end*	
Year	*Taxation*	*Total revenues*	*Amount*	*As percentage of total revenues*
	(thousands of dollars)			%
1950	188,405	254,269	13,987	5.5
1951	226,283	300,325	19,858	6.6
1952	260,052	343,028	24,869	7.2
1953	279,974	374,794	26,866	7.2
1954	306,119	422,993	27,188	6.4
1955	336,273	473,751	34,557	7.3
1956	382,371	532,124	44,801	8.4
1957	431,512	604,630	37,443	6.2
1958	465,828	667,636	34,084	5.1
1959	525,587	748,432	38,243	5.1
1960	586,895	827,590	50,795	6.1
1961	641,310	900,730	43,335	4.8
1962	690,007	975,282	36,694	3.8
1963	745,898	1,051,329	41,258	3.9
1964	805,882	1,126,007	39,044	3.5
1965	878,613	1,232,945	57,742	4.7

Source: Department of Municipal Affairs, Annual Reports of Municipal Statistics.

percentage of the year's current revenue was the lowest over all the years covered in the Table. The improved position doubtless reflects, among other things, the increased accumulation of working-fund reserves.

BORROWING REQUIREMENTS ON CAPITAL ACCOUNT

15. A different control over long-term borrowing as compared with current borrowing has for many years been given expression in The Municipal Act by the words "any debt the payment of which is not provided for in the estimates for the current year".[4] In 1961 an amendment was inserted into the immediately following subsection which said: "A corporation shall not be deemed to be incurring a debt, the payment of which is not provided for in the estimates of the current year, when it is a debt payable within the two-year term for which the council was elected at a biennial election. . . ." (This extension to the two-year period does not apply where half the members of council are elected each year for overlapping two-year terms.) In 1966, the Act was further amended to extend the same privilege where a new council is elected for a three-year term. For convenience, we shall refer to borrowing beyond the current year, but give the expression the extended meaning

[4]The Municipal Act, s. 286(1).

conveyed by the statute. The first limitation on borrowing beyond the current year is that the borrowing must be for authorized municipal purposes. The same effect is, of course, achieved with respect to current borrowing by limiting that operation to the financing of current expenditures, which in their turn must be for authorized municipal purposes.

16. No statutory provision exists that distinguishes capital and current items of municipal expenditure for all purposes and then limits borrowing beyond the year to capital purposes. In exceptional circumstances, a municipality might indeed be permitted to finance an unforeseen non-capital expenditure through borrowing beyond the current year. In the depressed thirties some relief expenditures were funded, and even today one can envisage an occasional situation where a municipality might be allowed to spread certain of its current costs over several future years in order to cope with a temporary increase in the expenditure load that would otherwise dictate a shocking increase in the tax rate. But such happenings are certainly rare. In addition, some of the statutes require a distinction to be drawn between capital and current purposes for the determination of provincial grant payments and this differentiation helps to ensure that borrowing beyond the year will be for capital purposes.

17. The purposes for which a municipality can borrow do not include the re-funding of a debt contracted some years earlier. Limitations on the form of the debt, together with authority vested in the Municipal Board to specify an appropriate plan of repayment, ensure that directly or indirectly debt beyond the year will be paid off by instalments. The only exception to this rule in practice would be where the Ontario Municipal Board intervenes in the hope of preventing a municipality from defaulting or to effect refinancing when a municipality has defaulted.

18. A number of conditions under which local government is conducted combine today to encourage quite heavy dependence upon capital borrowing. The position contrasts sharply with the end of World War II, by which time municipalities had made a virtue of the necessity of postponing capital works by scaling down capital debt to abnormally low levels. Over the intervening years, local authorities have endeavoured to catch up on the backlog of capital requirements and to assume in addition the further capital outlays needed to accommodate rapid population growth and a remarkable shift in land use from rural to urban.

19. We have already mentioned the tendency for municipal budgeting to focus on the resulting mill rate with a consequent tendency to avoid capital expenditures from current revenues. The position of the elected representative serving on a municipal council whose chief revenue source is the property tax contrasts sharply with that of the representative in a parliament or legislature whose funds come primarily from income taxes. In the absence of rate changes, personal income taxes yield more in constant dollars as a consequence of inflation. Under conditions of continuing inflation the property tax affords a shrinking yield in terms of constant dollars unless reassessment, never a popular move, is carried out to offset the loss.

20. Local authorities are not compelled to meet any capital requirements in the first instance from current funds. A procedure has been established for the approval of borrowing, and a pattern of borrowing on a large scale has become deep-rooted. A final encouragement to borrowing is the fact that, with respect to capital school costs, even the Province's share has been expected to be met in the first instance through debenture borrowing by the municipality. Again, limits have been set, with some reason, on the amount of capital spending for secondary school and public library board operations that can be financed from revenue. Library boards are composed of appointed persons exercising policy control over spending. High school district boards are similarly constituted. The controls ensure that people who do not have to answer directly to an electorate will not disregard their responsibility to present taxpayers and undertake an undue expansion of pay-as-you-go financing of capital undertakings.

21. In practice, local governments have undertaken a limited proportion of capital spending from current funds. In 1965, capital expenditures from current funds by all Ontario municipalities constituted 4.7 per cent of total current spending other than for education. This figure also excludes the transactions of self-sustaining enterprises for which no comprehensive data are available. For school boards, during 1965 capital expenditures from current revenues amounted to 4.6 per cent of total current spending. Both the municipal and school percentages reflect some recent expansion in the use of this form of capital financing. What proportion, then, of capital expenditures is being financed through payments from current funds? Taking still another and earlier source, we find that in 1963, capital expenditures from current funds paid for 9.6 per cent of the total capital expenditures of Ontario municipalities and school boards. Thus the lion's share of capital expenditures continues to be met from borrowing.

22. Finally, local governments are charged with service responsibilities which include a substantial emphasis on capital construction. The nature of municipal capital responsibilities is indicated by the information presented in Table 22: 2. It shows the breakdown of capital borrowing approvals by the Municipal Board for five recent years. Roads, schools, watermains and sewers, and other utility enterprises are the major items. It should be recognized that the amount to be borrowed for school purposes includes the capital costs of debentured projects which will eventually be met by the provincial Department of Education.

23. Table 22: 2 reveals that what is classified as debt for general purposes continues to embrace the largest proportion of total capital requirements. It is clear, however, that while such capital borrowing approvals for each category fluctuate from year to year the general trend is towards increasing total expenditures. From 1960 to 1965, such borrowing approvals rose by 43 per cent for general purposes, 87 per cent for education and 79 per cent for utilities and enterprises.

24. The present degree of municipal dependence upon capital borrowing and the remarkable change from the end of World War II are both made clear in the series of tabular presentations that follow. Table 22:3 shows the amount of

TABLE 22: 2

ONTARIO MUNICIPALITIES
CAPITAL EXPENDITURE APPROVALS
MADE BY THE ONTARIO MUNICIPAL BOARD
1960-65

	1960	*1961*	*1962*	*1963*	*1964*	*1965*
General Purposes:			*(thousands of dollars)*			
General government	4,436	4,037	24,505	21,721	11,844	22,598
Protection	3,714	2,339	5,681	2,444	3,538	2,966
Roads, conservation and waterways	55,766	69,118	54,099	111,760	164,619	99,418
Watermains and storm sewers	42,009	32,401	48,956	46,223	54,903	52,984
Sanitation and waste removal	42,130	30,947	51,585	42,360	31,499	43,500
Health	16,527	13,514	22,510	5,182	5,273	15,692
Social welfare	7,532	7,067	8,629	13,632	8,279	5,150
Recreation	7,022	4,563	9,203	7,738	12,890	14,456
Community services	5,635	7,566	11,863	3,966	14,141	7,430
Total General Purposes	184,771	171,553	237,031	255,026	306,986	264,194
Education						
Elementary	57,856	35,374	38,949	55,695	62,980	69,281
Secondary	46,297	35,108	96,385	46,864	65,723	124,943
Total Education	104,153	70,482	135,334	102,560	128,703	194,224
Utilities and Enterprises	29,017	32,098	18,668	25,328	41,105	51,719
GRAND TOTAL	317,940	274,133	391,033	382,913	476,794	510,137

Source: Ontario Municipal Board, Annual Reports.
NOTE: Figures may not add to totals owing to rounding.

borrowing by Ontario municipalities from outside sources on capital account. The totals include borrowing operations conducted through the Ontario Municipal Improvements Corporation but not the capital advanced by the Ontario Water Resources Commission or by the two federal sources of capital, the Municipal Development and Loan Fund and the Central Mortgage and Housing Corporation. We have calculated that the amount lying outside our tabular presentation ran to perhaps $200 million as of the end of December 1964, or an addition in that year to the total of a little more than 10 per cent. A further explanation of these sources of borrowing will be given later in this chapter.

25. The growth of municipal capital debt since World War II is indeed remarkable. From the end of 1947 to the close of 1965 the outstanding net debt multiplied more than ten-fold. The total at the end of the period was a sobering $2,016 million after deducting the amount held in sinking funds. It compared with a total tax levy by all Ontario municipalities for 1965 of $878 million—that is for every dollar of tax levied for the year, $2.30 of debt was outstanding at the year end. These totals for the province do not show the differing rates of debt

TABLE 22: 3

ONTARIO MUNICIPALITIES
NET DEBT* ON CAPITAL ACCOUNT AT YEAR END
1947-65

Year	*Net debenture debt outstanding*	*Temporary loans and overdrafts†*	*Net debt*
		(thousands of dollars)	
1947	193,148	4,055	197,203
1948	225,335	14,166	239,501
1949	262,342	12,288	274,630
1950	331,354	14,077	345,431
1951	425,406	11,587	436,993
1952	484,604	13,689	498,293
1953	587,906	14,440	602,346
1954	680,572	18,617	699,189
1955	761,539	21,503	783,042
1956	873,962	36,024	909,986
1957	1,005,397	50,243	1,055,640
1958	1,148,534	43,211	1,191,745
1959	1,272,141	30,011	1,302,152
1960	1,412,844	26,473	1,439,317
1961	1,511,954	29,261	1,541,215
1962	1,612,233	27,661	1,639,894
1963	1,715,356	41,378	1,756,734
1964	1,838,196	64,991	1,903,187
1965	1,936,565	79,701	2,016,266

Source: Department of Municipal Affairs, Annual Reports of Municipal Statistics, 1947-1965.
*Includes debt contracted on behalf of all local boards except the separate school boards.
†Figures are somewhat low because some municipalities have failed to supply the necessary information.

increase that arise among local governments. For example, of $218 million in new debenture issues by all municipalities in 1965, nearly $127 million was issued by Metropolitan Toronto alone. As a result, the ratio of new debt incurred to debt retired in 1965 of 4.7 for Metropolitan Toronto was significantly higher than the ratio of 1.4 for all other Ontario municipalities taken together.

26. In Table 22:4, capital debt is classified by main purposes for which it was incurred for selected year ends from 1945 to 1965. School debt is separated from the remaining debt payable out of taxation. Borrowing for utilities and other enterprises, which are in general expected to be self-sustaining, is the third major classification. Sinking-fund totals are deducted from the combined amounts to produce total debenture debt on a net basis, since deduction of the sinking-fund amounts by purpose is not readily possible. The net debt of municipalities in the Metropolitan Toronto area has been added to this Table to illustrate further the significance of such borrowings in the total municipal borrowings in the province.

TABLE 22:4

ONTARIO MUNICIPALITIES
MUNICIPAL DEBENTURE DEBT OUTSTANDING AT YEAR END
SELECTED YEARS 1945-1965

Year	Gross				Sinking funds	After deduction of sinking funds	
	General purpose	Schools	Utilities and enterprises	Total		All municipalities	Metro Toronto municipalities
	(thousands of dollars)						
1945	123,954	43,042	63,911	230,907	35,394	195,513	——
1955	291,513	238,284	237,548	767,345	5,806	761,539	314,837
1962	751,595	586,761	361,872	1,700,228	87,995	1,612,233	698,432
1963	828,320	629,493	373,096	1,830,909	115,553	1,715,356	754,523
1964	951,802	671,192	362,062	1,985,056	146,860	1,838,196	828,991
1965	1,018,876	697,495	397,675	2,114,046	177,481	1,936,565	898,553

Source: Department of Municipal Affairs, Annual Reports of Municipal Statistics.

27. In Table 22:5, municipal debt is once again presented by main purpose for selected years since World War II. Here, however, the amounts have been calculated on a per-capita basis by classes of municipalities. The final column shows the growth of debt in percentage terms over the post-war years. While the classification by status partially masks the significant trends, several points do emerge. For all classes, the rate of school debt increase has considerably exceeded those of the other categories. In towns, villages and townships it is now the largest debt component by a wide margin. Again, excluding Metro Toronto, the rate of debt increase over the period has been fastest in townships, followed in order by villages, towns and cities. If, however, the townships are divided at the 5,000 population level, a new point emerges. In 1965, the per-capita debt level of the more heavily populated townships ($177) was almost twice as heavy as for the remainder ($99).

CAPITAL BORROWING PROCEDURES AND CONTROL

28. Capital borrowing is effected by the municipal council on its own behalf and for the purposes of all associated local boards with the exception of separate school boards.[5] These boards have authority under The Separate Schools Act to borrow money by mortgages, debentures or other instruments. All other bodies, including such local authorities as public and secondary school boards and boards of education, parks and library boards and public utility commissions, must apply to the appropriate municipal council for approval and execution on their behalf of all borrowing beyond the year. The borrowing is done in the name of the municipality, whether debentures are issued or not.

[5]The Municipal Act, s. 251.

TABLE 22:5

ONTARIO MUNICIPALITIES
GROSS DEBENTURE DEBT PER CAPITA OUTSTANDING AT YEAR END
BY DEBT AND MUNICIPAL STATUS CLASSIFICATIONS
SELECTED YEARS 1945-1965

	1945	1955	1962	1963	1964	1965	Percentage Increase 1945-65
Metropolitan Toronto Area							
General purpose	$59	$80	$226	$247	$294	$313	
Education	20	53	134	145	154	156	
Utilities and enterprises	43	108	134	133	118	133	
Total	$122	$241	$494	$525	$566	$602	393%
Cities and Separated Towns							
General purpose	$42	$80	$142	$146	$150	$150	
Education	14	37	73	77	78	75	
Utilities and enterprises	13	40	46	47	46	45	
Total	$69	$157	$261	$270	$274	$270	291%
Towns							
General purpose	$27	$47	$55	$56	$59	$60	
Education	11	74	103	103	105	104	
Utilities and enterprises	11	28	38	39	39	39	
Total	$49	$149	$196	$198	$203	$203	314%
Villages							
General purpose	$ 1	$25	$25	$23	$25	$24	
Education	10	63	85	82	83	80	
Utilities and enterprises	13	38	28	25	24	22	
Total	$24	$126	$138	$130	$132	$126	425%
Townships and Improvement Districts							
General purpose	$8	$15	$29	$28	$30	$31	
Education	3	40	72	75	78	84	
Utilities and enterprises	3	9	15	15	18	18	
Total	$14	$64	$116	$118	$126	$133	850%
Aggregates							
General purpose	$34	$55	$119	$128	$144	$151	
Education	12	48	93	98	102	103	
Utilities and enterprises	18	47	60	60	57	61	
Grand Total	$64	$150	$272	$286	$303	$315	392%

Source: Department of Municipal Affairs, Annual Reports of Municipal Statistics.

29. School boards and public library boards differ from other local boards in that they are not totally dependent upon municipal councils for approval of the capital borrowing they wish undertaken for them. If the council denies a school

board's or a public library board's request for borrowing beyond the year, the board can appeal over the head of council by way of referendum to those qualified to vote on money by-laws. If the referendum carries, the council must proceed with the borrowing, assuming that the required provincial approvals can be obtained.

30. The referendum at one time operated as a standard step in the procedure by which capital borrowing was sanctioned. Even today, the wording of The Municipal Act reflects the earlier position. It commences with the general provision that borrowing must be authorized by a council by-law that has received the assent of the electors. Subsequent provisions of The Municipal Act and The Ontario Municipal Board Act, however, list a substantial number of exceptions to the rule. The Municipal Act enumerates twenty-five major purposes covering the bulk of borrowing requirements where the vote of the electors may be dispensed with, either on the basis of the essentiality of the project or the inconvenience of conducting a referendum. The listed purposes and conditions would, we suggest, require some amendment for full consistency. The point is not too significant, however, because the Municipal Board can dispense with the vote of the electors if it sees fit and replace the vote with a public hearing. Furthermore, the hearing may in its turn be dropped if in the opinion of the Board insufficient objection has been filed with the Board to require it. Given the present state of the law, the money by-law referendum has become virtually inoperative, expect where a school board or library board makes use of it to challenge the stand taken by a municipal council. In addition, the public hearing will probably be used quite sparingly.

31. The debt contracted beyond the year, which is almost always for capital purposes, can take two forms, namely, floating debt and term debt. Regardless of the form of the debt, every dollar that is to be borrowed requires the prior approval of the Ontario Municipal Board. The Board has the responsibility of reviewing the municipality's financial situation and, if that is found satisfactory, of approving the amount of the proposed debt and a plan of repayment. If the municipality that has been granted the right to borrow has an immediate need for funds, it will probably borrow temporarily from the bank or some other short-term lending institution. If the period over which the money is needed is short, bank borrowing may suffice altogether. Occasionally, also, larger municipalities have effected short-term borrowing by means of short-term notes marketed through one of the major investment dealers. Hamilton and Kitchener have on occasion taken this approach.

32. The greatest part of all capital borrowing is effected by the issue of instruments known as debentures. The Dominion Bureau of Statistics defines a debenture as "a documentary promise to pay a specified sum of money, at a fixed time or times in the future, and carrying interest at a fixed rate payable at certain stipulated dates".[6] The municipal debenture is the equivalent of a bond issued by senior levels of government, but Canadian municipalities have retained the older and more precise name.

[6]Dominion Bureau of Statistics, *Municipal Finance Reporting Manual*, Third Edition, Ottawa: Queen's Printer, p. 279.

33. Municipal debentures can take two forms. First, there are sinking-fund debentures where the entire debt comes due at a single terminal date, requiring provision to be made meanwhile for accumulation in a sinking fund of the amount needed for repayment. The second and much more common type is the serial debenture. Here the due dates of a single issue of debentures range through the years, beginning probably with the first anniversary of the issue date. Either form of debenture requires the issuing municipality to assume responsibility for the payments for interest and debt retirement required to be made in each year, that is, for the yearly debt charges. Although serial bonds require redemption of the same issue in parts, an equivalent result using term sinking-fund bonds is not permitted without Ontario Municipal Board approval. Sinking-fund moneys accumulated by a municipality can only be invested in the same debenture issue or another issue of the same corporation with Board approval. Thus, the common business practice of purchasing debentures on the market in satisfaction of sinking-fund requirements is discouraged for municipalities. In times of high interest rates and low debenture prices, the municipality is thereby denied the advantage of redemption of debentures at less than face value and the market loses a potential buyer when support is most needed.

34. The Ontario Municipal Board performs one further function in the process of municipal capital borrowing. It is empowered "to certify to the validity of debentures issued under the authority of any by-law of a municipality that the Board has approved".[7] Through this operation, the Board completes its close surveillance of capital borrowing, including a review of the plan of repayment.

35. In some cases, before the Ontario Municipal Board is asked to consider a municipality's request for approval of borrowing on capital account, another department of government will, for grant purposes, have reviewed and given its approval to the proposed undertaking. The two departments chiefly concerned are Education and Highways. But other departments such as Lands and Forests, Public Welfare, and Public Works are similarly involved, although to a much lesser extent. In at least one instance—the construction of jails—three departments of the provincial government, Reform Institutions, Treasury and Public Works, will have dealt with a grant application before the Ontario Municipal Board considers authorization of any resulting requirement for capital borrowing.

36. In our description of current borrowing, we laid some stress on the relationship of the borrowing limit to the annual estimates. Traditionally, borrowing beyond the year has had no such ties. Until quite recently, a municipality could arrange its long-term borrowing project by project without undertaking any form of capital budgeting. Provided the debt position of a municipality is well within safe limits, the Municipal Board is still prepared in some cases to deal piecemeal with applications for borrowing approval. But the position is changing.

37. It is now the Board's practice to expect running five-year forecasts to be furnished in support of applications for approval of capital borrowing by municipalities comprising Metropolitan Toronto, all Ontario cities outside Metro, and all

[7]The Ontario Municipal Board Act, R.S.O. 1960, c. 274, s. 53(1)(e).

remaining municipalities where the ratio of their debt to taxable assessment equalized on the old basis would, after the borrowing, exceed one to five, or 20 per cent. The equivalent ratio on the new basis of equalization would be 7 per cent of equalized taxable assessment. Once a municipality has begun submitting a five-year capital forecast, it is encouraged to continue the pattern. In addition, some municipalities that are not instructed to prepare a capital budget as a condition of debt approval have done so on invitation of the Board. For those municipalities that file five-year forecasts yearly, the Board is able to decide at the beginning of each year the amount of new debt that each such municipality can safely assume. Within this limit or quota, the municipality may then plan its capital projects knowing that as the time for clearance comes along approval will be granted with a minimum of administrative delay. At the end of 1965, 310 municipalities were operating on quota, an increase of 142 over the previous year.

SOURCES OF BORROWED FUNDS

SENIOR GOVERNMENTS

38. The need for capital borrowing in relation to the total cost of capital undertakings is determined by the proportion of capital costs met at the outset from current revenues and the extent of capital grants provided by the Province. In addition to the funds supplied by the Province from its own revenues, money is channelled through the Province from the Government of Canada. The two most important forms of federal capital grant assistance in recent years have been in construction of vocational schools and in cost sharing of winter works undertakings. The municipal winter works incentive program has operated since December 1958. Vocational training has been accorded federal assistance for many years, but capital grants on a large scale for the construction of technical and vocational school facilities are more recent, dating from 1960. The federal government indicated at the federal-provincial conferences held in October 1966 that it intends to extend the vocational school capital grants program for an additional period beyond March 31, 1967, but to impose a per-capita limit on the size of the grants.

39. In addition to capital grant payments, both the Province and the Government of Canada have lent capital for local government undertakings. By this action, a municipality's dependence on the ordinary market sources for capital funds has been considerably reduced. We shall review briefly the two federal and the three provincial programs in this important area.

The Municipal Development and Loan Act (Government of Canada)

40. In 1963, the federal government introduced the Municipal Development and Loan Act under which approved municipal works qualify for assistance through the Ontario government's municipal works assistance program. The federal legislation appropriated $400 million to be lent to provincial governments between October 31, 1963, and March 31, 1966. The share of this amount that Ontario was entitled to draw on was $137 million, of which $125 million had been allocated to specific projects by the end of 1965. The rate of interest was 5¼ per cent. Where the work was completed by September 30, 1966, 25 per

cent of the loan was to be forgiven. The forgiven amount is in effect a conditional grant that reduces the amount of the capital debt of the municipalities. Whether the 25 per cent grant was earned in full on an individual project or not the municipality was itself required to borrow one-third of the approved expenditure either through normal market channels or, if the project so qualified, from one of the two Ontario agencies that at the start of the program were lending money to municipalities: the Ontario Municipal Improvement Corporation and the Ontario Water Resources Commission.

41. The Municipal Development and Loan Act was not accorded as enthusiastic a response as was anticipated, and it is not expected that the legislation will be renewed or replaced. In this connection, the Government of Canada has had prior experience with a municipal loan fund which was also disappointing. The earlier fund was suspended during World War II and never revived.

Central Mortgage and Housing Corporation

42. The Central Mortgage and Housing Corporation, a federal agency, administers the federal-provincial partnership arrangements for the provision of public housing at moderate rents. Capital costs are shared 75-25 by the federal and provincial governments. In Ontario, the Province pays 17½ per cent and the local authority the remaining 7½ per cent. Operational deficits or surpluses are shared on this same basis.

43. Amendments to the National Housing Act in June 1964 introduced an alternative way to help finance public housing. The Central Mortgage and Housing Corporation was authorized to make loans to provinces, municipalities or their housing agencies of 90 per cent of the cost of providing existing or new public housing and of the cost of land acquisition and servicing for public housing purposes in advance of the development of the project itself. Up to 50 per cent of operating losses on public housing will be absorbed by the Corporation under the new legislation. It also provides for the construction of hostel or dormitory accommodation subject to the same conditions that apply to other forms of housing.

44. Assistance in the redevelopment and rehabilitation of urban renewal areas in accordance with an approved plan is also administered by Central Mortgage and Housing Corporation. A province or municipality may apply for a federal contribution of 75 per cent of the cost of carrying out a city-wide urban renewal study to identify areas of blight. Since June 1964, the federal government has agreed to pay 50 per cent of the cost of preparing and implementing an urban renewal scheme. Additionally, C.M.H.C. is now authorized to lend a province or municipality two-thirds of the provincial or municipal share of the funds needed to implement such a scheme. Renewal projects authorized in Ontario in 1964 involved a net federal contribution of $117,000 to the City of Kingston, $4 million to the City of Toronto and $4.4 million to the City of Hamilton.

45. Under a 1960 amendment to the National Housing Act, sewage collection and treatment projects may be financed by loans to provinces, municipalities or their agencies, through Central Mortgage and Housing Corporation. Work com-

pleted by March 31, 1967, qualifies for a rebate of 25 per cent of the amount of the loan. The term of the loan may be as long as fifty years. In 1965, fifty-two loans were made in Ontario municipalities taking advantage of this scheme, for a total federal commitment of $11.1 million or 41 per cent of the total amount of such loans made throughout Canada in 1965.[8]

The Ontario Municipal Improvement Corporation

46. In 1950, the Province established The Ontario Municipal Improvement Corporation. The function of this agency is to purchase debentures from Ontario municipalities, issued for certain approved capital projects that are deemed to have a high degree of essentiality, and thus to permit municipalities to borrow without the necessity of public offerings. The projects that when approved are eligible for this form of financing are:

(1) waterworks and water supply distribution systems;
(2) sewage works, treatment works and sewer systems;
(3) plants and works for the incineration of garbage, refuse and wastes;
(4) drainage works under The Municipal Drainage Act; and
(5) school board undertakings.

47. The Corporation is expected to serve the needs of municipalities that for one reason or another might experience difficulty in the public marketing of their debentures, except at very high rates of interest. In other words, the Corporation is to be regarded as a lender of last resort. For this purpose, O.M.I.C. has statutory authority to utilize up to $150 million of borrowed provincial funds. The Corporation's rates, which are set by the Provincial Treasurer, currently stand at 7 per cent. Normally they are set slightly above the current market rate. Since 1950, however, there have been occasions when the Corporation's rate changes have lagged behind market fluctuations so that the intended interest rate relationship has not always been precisely maintained.

48. Rates charged by the Corporation since it began lending money to municipalities are shown in Table 22: 6. They reveal considerable experimentation in the process of arriving at a settled interest rate policy, although the concept of a high interest rate in comparison with the market has always been adhered to. The change to a flat rate regardless of term is not as different from the former policy as one might suppose because loans have taken the form of serial debenture issues.

49. Municipalities that sell their debentures to the Ontario Municipal Improvement Corporation are not spared the responsibility of applying to the Ontario Municipal Board for approval of their intended borrowing. Nor is the Board expected to assent to any borrowing through O.M.I.C. that would otherwise be denied.

[8]Central Mortgage and Housing Corporation, *Canadian Housing Statistics*, Ottawa: Queen's Printer, 1965, p. 55.

TABLE 22:6

ONTARIO MUNICIPAL IMPROVEMENT CORPORATION
LENDING RATES

Period Ending	*1-5 yrs.*	*6-10 yrs.*	*11-15 yrs.*	*16-20 yrs.*	*Any approved term*
April 23, 1951	3 %	3¼ %	3½ %	3¾ %	
June 30, 1951	3½	3¾	4	4½	
Dec. 31, 1951	4	4½	5	5½	
Nov. 18, 1956	5	5¼	5½	5¾	
Aug. 31, 1959	5¾	6	6¼	6½	
Oct. 1, 1959					6½ %
Oct. 12, 1960					7
April 24, 1963					6¾
April 22, 1964					6
Dec. 2, 1965					6¼
Dec. 11, 1965					6¾
Oct. 1, 1966					7

Ontario Water Resources Commission

50. The Ontario Water Resources Commission has undertaken the capital financing of municipal water and sewer projects in order to expedite undertakings that are important to the health of the local inhabitants and of other communities relying upon the same lakes, rivers, streams or drainage areas. Where the Commission steps in, the municipality obtains certain benefits but accepts other conditions that may be less happily regarded. The interest rate charged by O.W.R.C. is the actual cost of the borrowing by the Province on behalf of the Commission. It is lower, therefore, than a municipality, particularly a small one, can obtain on its own. No payments are made to the Commission by the municipality for any purpose until the project is in operation. Even then the initial debt charges may be deferred up to five years longer. During the term of the debt, the Commission assumes responsibility for the operation and maintenance of the works and the municipality is allowed merely a consultative relationship to the water pumping station, sewage disposal plant or other part of the water and sewerage system over which the Commission has operating authority. When the debt to the O.W.R.C. has been entirely paid off, the municipality can take over the operational responsibilities. However, as another water or sewer project may be launched with the assistance of the O.W.R.C. before an existing debt is fully paid off, the Commission could remain in control indefinitely.

51. In 1964 a new policy was announced under which the Ontario Water Resources Commission proposed to construct certain facilities that were designed to serve municipalities but were intended from the beginning to remain under provincial ownership and operation. Specifically, through a project involving a seventy-two-inch intake pipe from far out in the lake, a twelve-million-gallon reinforced concrete ground storage reservoir and a thirty-mile pipeline, the Commission proposed bringing water from Lake Huron to London. The total estimated

cost was between $15 million and $20 million. In August 1965 another proposed project was announced for the Peel-Halton area which would involve provincial ownership of both water and sewerage facilities. The London and Peel-Halton plans represent but two of a group of projects for which the Commission has authorized, and perhaps by now obtained the results of, engineering and feasibility studies. Precise features of this new form of O.W.R.C. services have yet to be worked out and given a firm policy footing. Broadly speaking, the intention is to lengthen the term of capital financing to forty years and to develop contractual arrangements that will be subject to review and modification in order to assist municipal development while, over the long term, the municipalities will repay the Province's full cost.

52. At the beginning of January 1966, the Ontario Water Resources Commission had participated in 340 projects serving 204 municipalities and costing about $133 million. In total, 89 projects were in the course of construction and the remaining 251 in operation.

The Ontario Education Capital Aid Corporation

53. The Canada Pension Plan is providing a new and significant source of capital available to the provinces, and in Ontario through the Province to the local level of government. The extent of these funds cannot, of course, be precisely predicted. Estimates would indicate,[9] however, that for a limited period, well over $400 million a year will be turned over to the nine provinces that participate in the federal-provincial scheme. The use that will be made of these funds differs widely from province to province. For example, Alberta will put the total amount into the Alberta Municipal Financing Corporation, whereas Manitoba will stress school finance and industrial development projects. Ontario has chosen to use the entire receipts from sale of its bonds to the Canada Pension Plan for school and university financing and has set up a corporation for each such purpose. The body to provide school financing through purchase of municipal debentures is called the Ontario Education Capital Aid Corporation.

54. The Ontario Education Capital Aid Corporation was set up under legislation passed at the 1966 spring session of the Legislature. Its operations have been described and discussed in Chapter 20, on school finance. The Corporation is expected to have sufficient resources to purchase all new debentures for school, including separate school, purposes for a number of years to come. Like the O.W.R.C. but unlike O.M.I.C., the O.E.C.A.C. will charge interest at a rate equivalent to Ontario's cost of obtaining the money in this instance from the federal pension source. More recently the O.E.C.A.C. source of low-interest loans has been made available for public library purposes.

Significance of the Government Loan Funds

55. The five governmental sources from which Ontario municipalities and separate school boards borrow for capital purposes together play a decidedly

[9] R. M. Burns, *Provincial and Municipal Governments in the Capital Markets: The Implications for Monetary and Fiscal Policy*, Queen's University, 1967—A study commissioned by Cochran, Murray & Co. Ltd., Toronto.

significant role in municipal borrowing. They account among them for loans running into the hundreds of millions of dollars, and their lending activities will increase greatly as school borrowing requirements are met by O.E.C.A.C. Except for the borrowing through the Ontario Municipal Improvement Corporation and the Ontario Education Capital Aid Corporation, borrowing from government agencies is in addition to the debenture debt of Ontario municipalities. O.M.I.C. and O.E.C.A.C lend their money by buying municipal debenture issues. It should of course be appreciated that government sources of capital do not take business away from the bond market; they merely channel it through the Province or the Government of Canada rather than the municipalities. The loan funds all serve to facilitate capital borrowing in some degree. By the same token, they tend to increase somewhat the total amount of municipal borrowing. Again, government lending arrangements encourage particular municipal undertakings to which the senior governments attach a high priority. Some government loan funds enable municipalities to borrow at a lower interest cost. Others impose what might be called a penalty interest rate compared with the ordinary market. For housing loans, the local authorities are enabled to obtain a longer term for repayment than is open to Ontario municipalities. The forty-year term proposed by the O.W.R.C. might appear to have the same effect, but the Ontario Municipal Board is empowered by statute to fix a term as long as forty years for such projects and, we understand, has on occasion done so.

THE MARKET-PLACE ALTERNATIVE

56. Ontario municipalities that have debentures to sell on the market have two ways of disposing of their new issues. They can sell them privately to individual investors, which is rare, or dispose of the whole issue to one or a syndicate of financial institutions, such as investment dealers, banks and insurance companies. A municipality can also sell most of an issue to one or more dealers and keep a small residue for private sale.

57. Municipalities can circulate their intention to float a debenture issue to a number of financial institutions and dispose of the issue through competitive bidding. Alternatively, a municipality may name a particular institution as its fiscal agent and place all its issues through it. After a debenture issue has been sold to a financial institution or syndicate, it will be re-marketed in part to small investors and in part in block lots to other financial institutions. Some may remain in the portfolio of the marketing institution.

58. The number of new municipal issues and the amount of trading done in marketing these issues is insufficient to stimulate a trading market. Among Ontario municipalities, Metropolitan Toronto is perhaps the sole municipal corporation that can claim daily trading for its debentures.

59. At times, the Canadian market does not show as active an interest in purchasing new offerings of Canadian municipalities as one might wish. Particular difficulty may develop in selling with equal ease the long-, medium- and short-term debentures included in a serial issue. These marketing problems have produced two reactions of some significance in recent years, which we shall describe in turn.

60. The first reaction has been a revival in the use of the New York market especially by the larger municipalities and often with the help of Canadian financial institutions with representation in New York. Table 22: 7, showing the gross debenture debt of Ontario municipalities by place of payment, reveals a steadily increasing proportion of marketing abroad along with the sizeable growth in gross debenture debt outstanding. In more recent years the position has levelled off, in part because the Municipality of Metropolitan Toronto has been keeping clear of the New York market.

61. The other change has been the revival of sinking-fund debentures. The power of Ontario municipalities to issue sinking-fund debentures was made subject to Ontario Municipal Board approval in 1936. Eight years later the right to issue this type of debenture was withdrawn, and remained so until 1955. In that year, a request from the Municipality of Metropolitan Toronto was met by granting it the right to issue sinking-fund debentures. The legislation provided for management of the necessary sinking fund through a committee composed of the Metropolitan Treasurer and two persons appointed by the Lieutenant Governor in Council. Other Ontario municipalities were thereupon allowed to revert similarly to sinking-fund type debentures. Their annual sinking-fund contributions, however, were to be made payable to the Treasurer of Ontario for provincial management of the accumulation of funds for repayment of the debt.

EVALUATION OF CURRENT BORROWING CONTROLS

62. We return now to a consideration of current borrowing operations. Two conditions must be fulfilled, we suggest, to produce a satisfactory situation, from the viewpoint of the municipality, with respect to current borrowings. First, the flow of current revenue should be made to match current expenditure requirements as closely as possible, consistent with a sound approach to revenue raising and collection. Secondly, working reserves should be available in sufficient amounts to reduce current borrowing requirements to the extent that this can be accomplished without leaving the municipality with substantial idle funds for extended periods.

63. The accomplishment of a suitably patterned flow of revenues depends upon several things:

(1) the kinds of taxes and other locally derived revenues on which the municipality depends and the extent of that dependence;

(2) the possibility, and the desirability or otherwise, of securing a continuing flow of tax revenues throughout the year; and

(3) the feasibility of provincial scheduling of local grant payments on current account in such manner as to help keep revenues and expenditures in balance.

64. Elsewhere in this Report we make recommendations concerning the essential make-up of the revenue system of Ontario municipalities and improvements in the methods and timing of tax collection operations. What we propose in these respects would, if adopted, spread the flow of locally derived revenues

TABLE 22:7

ONTARIO MUNICIPALITIES

GROSS DEBENTURE DEBT AT YEAR END
BY PLACE OF PAYMENT
1947-63

	(thousands of dollars)			
Year	*Canada only*	*New York only*	*Other**	*Total*
1947	176,639	—	50,992†	227,631
1948	215,706	—	38,542‡	254,248
1949	269,912	—	22,630	292,542
1950	331,229	15,000	17,349	363,578
1951	400,760	43,561	14,185	458,506
1952	458,832	43,561	19,599	521,992
1953	540,126	82,296	9,923	632,345
1954	638,566	83,584	8,399	730,549
1955	721,930	81,173	5,923	809,026
1956	802,545	128,364	4,586	935,495
1957	885,781	190,948	3,117	1,079,846
1958	991,693	252,386	4,155	1,248,234
1959	1,089,185	307,008	3,309	1,399,502
1960	1,210,283	345,236	2,714	1,558,233
1961	1,366,881	334,226	540	1,701,647
1962	1,481,216	350,223	733	1,832,172
1963	1,631,198	341,660	662	1,973,520

Source: Dominion Bureau of Statistics, Financial Statistics of Municipal Governments, and *Municipal Government Finance, 1963.*

*Includes Canadian and various foreign options, London and other foreign markets.

†Includes 9,240 unclassified in 1947.

‡Includes 12,199 unclassified in 1948.

through the year. It would also make local governments more dependent upon transfers of revenues from the Province. Again, in Chapter 21, we make recommendations that would result in some simplification of the highly complex grants system and lead to the development of a co-ordinated approach to the Province's grant-making responsibilities.

65. We have already indicated an interest in the timing of provincial grant payments. The increasing dependence upon transfers of funds from the Province accentuates the importance of careful scheduling of all such payments. Even if the flow of locally derived revenues were levelled out throughout the year, the current revenue position could be rendered unsatisfactory by the late receipt or uncertain timing of provincial grant revenues. Accordingly, as an aspect of a co-ordinated provincial grant system, *we recommend that:*

> ***Payment of provincial grants be scheduled throughout the year to help ensure an orderly flow of funds to meet the expenditure patterns of the recipient local authorities.*** **22:1**

66. The management of current municipal operations also permits some degree of flexibility in the timing of certain current expenditures. Debt charges and capital expenditures from revenue are probably the prime examples. Here the responsibility lies with the municipal treasurer who may request advice from specialized personnel in the Department of Municipal Affairs.

67. If municipalities can improve their tax collection systems and the timing of their current expenditures and if the Province can schedule grant payments to better advantage, a much lower borrowing limit would become feasible and a somewhat different form of control over temporary borrowing desirable. In Chapters 14 and 23 we comment on the size of local government units and the relationship of that size to tax instalments and similar matters. We recognize that it would be unreasonable to require small local municipalities to establish a multiple instalment system of tax collections. On the other hand, such municipalities can take steps to introduce a pre-budget levy or to encourage the prepayment of taxes. Where, however, a municipality does not accomplish the receipt of substantial tax revenues early in the year, it should in our opinion be expected to adopt other measures to reduce its dependence on current borrowing. A municipality with delayed tax collections needs sizeable working funds and should be required to accumulate them. Our objective is to establish a pattern where, under normal conditions, municipalities achieve either a reasonably steady flow of current revenues to match current expenditures fairly closely or a sufficient accumulation of working funds to avoid recourse to heavy current borrowing. If for some reason tax collection falls off suddenly or sharply, a municipality will certainly have to find funds to carry on; but the provincial authorities, charged with the maintenance of a sound system of local government, should speedily be made aware of any such developing problem of current revenue raising.

68. In accordance with these concepts, the present right to borrow heavily on current account without the Province's knowledge need not continue. In place of the current limit of 70 per cent of uncollected revenues, a new limit should be feasible, geared to the expectation of a continuing flow of income or the existence of working funds that offset any deficiency in revenue timing. This lower limit of borrowing should be available to a municipality throughout the year, regardless of the amount of current revenue that remains to be collected. Under such conditions most municipalities ought not to require more current borrowings than perhaps 15 per cent of estimated revenues. And certainly a limit of 25 per cent would meet most of their needs. Where it fails to do so, the Province should be made aware of the nature of the problem that exists and should be given authority to institute remedial measures. Borrowing beyond the 25 per cent limit should be permitted only with provincial approval, with effective sanctions to ensure that such approval is obtained. *We therefore recommend that:*

The present limit on municipal borrowing for current purposes be replaced by new provisions **22:2**

(a) setting new statutory limits based solely on the last adopted estimates of revenue for a full year;

(b) permitting borrowing without prior approval within the limits of 15 per cent of such revenues without notice, and of 25 per cent with a full explanation given to the Province within 30 days of the borrowing;

(c) permitting borrowing in excess of 25 per cent of such revenues only with prior approval of the Province, and, if municipal councillors undertake such borrowing without provincial approval, applying the present penalty of disqualification from holding office for two years; and

(d) empowering the Province to require municipalities that borrow in excess of 15 per cent of revenues to create and maintain a working-fund reserve through a contribution of up to 3 per cent of the current levy.

69. At present the statutory control over current borrowing is lodged with the Ontario Municipal Board. Control over capital and current borrowing should, we believe, be exercised, as it now is, by the same provincial agency. Whether or not the combined responsibility should remain with the Ontario Municipal Board will be considered later in this chapter.

EVALUATION OF CAPITAL BORROWING CONTROLS

70. Capital borrowing by municipalities is of far greater significance than current borrowing and seems likely to remain so. We propose, therefore, to examine the exercise of control over capital borrowing in some detail. We shall approach our subject by asking and endeavouring to produce answers to the following seven important questions:

(1) How much should municipalities borrow?
(2) Where there is excessive reliance on capital borrowing, what is a sound plan for reducing such dependence?
(3) How should the debt level of a municipality be defined?
(4) What elements are essential to a sound screening of proposed borrowing?
(5) What provincial authority should exercise control over borrowing?
(6) What should be the form and extent of provincial and federal lending?
(7) Can steps be taken to improve debenture marketing?

Each of these subjects will occupy a succeeding section of this chapter.

HOW MUCH SHOULD MUNICIPALITIES BORROW?

71. Since World War II, Ontario municipalities have greatly increased their capital indebtedness in relation to the size of their current operations. Looking back to Table 22: 4, we note that net debenture debt outstanding at the end of 1965 was almost ten times as great as at the end of 1945. Even on a per-capita basis, gross debenture debt had multiplied nearly five times. The increase in net indebtedness would be only slightly smaller. In both these comparisons we must

of course recognize that debenture debt was unusually low at the end of World War II and that our dollar has been shrinking in value.

72. In the course of our research, we also attempted a comparison of municipal debt per capita with municipal taxation and personal disposable income per capita. While a case can by this measure be made that debt increases are not too startling, it is difficult to find one basis for comparison that would be acknowledged as fair because disposable income, municipal taxation and debt have fluctuated quite differently over the past twenty years. In other chapters dealing with debt, emphasis has been placed upon provincial domestic product as a yardstick of debt-carrying capacity. The suitability of such a measurement depends, however, on the forms of taxation through which debt must be repaid. Quite possibly the real property base will grow more slowly than provincial domestic product. In that event, the local government debt-carrying capacity as evidenced by total taxable assessment will become less, relative to provincial domestic product, despite the expectation that realty taxes will be paid from income. If the importance of real property is reduced, both as an income generator and as a repository of wealth, the relationship between property ownership and capacity to pay taxes from income becomes less direct and less certain. Under existing economic conditions, municipal indebtedness equal to 9 per cent of provincial domestic product is probably satisfactory. It is by no means clear that it will remain so.

73. Perhaps it is unnecessary, however, to pursue the changing relationships between municipal debt and selected financial or economic indicators in order to reach the opinion that the present debt level is a matter for some concern. Table 22: 8 indicates the relative weight of three broad categories of debt charges to the size of the total tax levy of Ontario municipalities from 1951 to 1963 inclusive. The expectation is of course that the debt charges payable on behalf of utilities and other municipal enterprises will be financed out of rates or fares and not from taxation. At that, the Table shows that in 1963 more than one-fifth of tax revenues was committed in advance to the payment of debt charges and that this represented a very considerable growth in pre-committed taxes compared to the position ten years earlier. Because this kind of comparison is not readily obtainable from provincial sources, we have not been able to produce more recent figures.

74. A number of arguments can be advanced in support of the existing and long-established practice of most Ontario municipalities of relying heavily upon debenture borrowing to pay for their capital assets. First of all, such assets usually represent community improvements with a relatively long life and a utilitarian purpose. They are expected to serve the inhabitants of a municipality for many years to come. Why then should the present citizens and taxpayers not borrow for the creation of all such assets so long as the debt against each will be paid off well within the certain useful life of the asset? Reference again to Table 22: 8 reminds us of a further point. A sizeable proportion of the debt thus incurred will not affect taxation since we may expect it to be repaid from the revenue of enterprises that the municipality operates and seeks to keep self-sustaining.

TABLE 22:8
ONTARIO MUNICIPALITIES
DEBT CHARGES AS A PERCENTAGE OF TOTAL TAX LEVY
1951-63

Year	*General purpose and local improvements*	*Schools*	*Utilities and municipal enterprises*	*Total*
1951	9.6%	5.2%	4.7%	19.5%
1952	9.9	5.5	3.7	19.2
1953	9.5	6.1	4.0	19.6
1954	10.0	6.8	4.8	21.6
1955	10.8	7.0	5.7	23.5
1956	10.4	7.4	5.1	22.9
1957	8.5	7.8	5.3	21.7
1958	11.2	8.6	5.6	25.5
1959	11.8	8.9	5.4	26.1
1960	10.8	9.5	5.1	25.3
1961	10.8	9.9	5.1	25.7
1962	11.0	10.3	5.0	26.2
1963	12.5	10.0	5.1	27.6

SOURCE: Compiled from Dominion Bureau of Statistics, Financial Statistics of Municipal Governments, and *Municipal Government Finance, 1963*.
NOTE: Figures may not add to totals owing to rounding.

75. There is another strong argument for heavy municipal borrowing. The Province of Ontario has been experiencing sustained and substantial growth over a long period of years. The communities where capital investment is most needed are those caught up in the fastest growth rate. What they finance today through debenture borrowing will be repaid by a municipality with an ever-broadening tax base and an increasing volume of utility customers. Rapid growth facilitates repayment of debt with little strain. An element of gradual inflation serves to ease further the task of debt repayment.

76. The creation of social capital—facilities such as new schools, improved roads, and safe community water and sewerage facilities—affords an important and indeed an essential stimulus to community expansion. Without the capacity to create essential facilities as they are needed, a municipality has a poor growth prospect. Borrowing to provide social capital, therefore, might even be viewed as a necessary element in the competitive effort to achieve community expansion. When municipalities shun capital borrowing, they are perhaps accepting and applying to municipal public finance an old-fashioned and unrealistic kind of thrift.

77. The Canadian economy requires a steady rate of expansion in order to provide additional jobs for a growing labour force. The alternative to municipal borrowing on a reasonable scale and subject to acceptable timing, therefore, is either a compensating higher level of spending in other sections of the economy or a moderation in the rate of growth within the province and throughout our whole country. If municipalities abstain from borrowing and finance their expansion

through heavier taxation, the effect is in part to reduce the level of private savings and in part to encourage an increase in private borrowing. Any borrowing transferred to the private sector of the economy will take place, to a large degree, at higher rates of interest than the municipalities are required to pay.

78. But now let us look at the counter-argument. If a strong case can be made in favour of heavy municipal borrowing, equally impressive arguments can be advanced for the exercise of considerable restraint in municipal borrowing. We express the opinion in Chapter 3 that the economic impact of borrowing and of pay-as-you-go financing are very similar since human and material resources for any project must be contributed by the current generation at the time of construction. It is true that there will be a different impact on individuals depending on the course chosen. Moreover, even if some of the burden is shifted to the future, the actual taxpayers in a community remain substantially the same from year to year. Some are incorporated businesses which continue in existence, perhaps under the same family's management, from one generation to another. The choice for such taxpayers is not whether they pay now for something that others will use in the future or spread the cost over present and future users, since they themselves expect to be users of community assets for years to come. As the sponsors of a community government, today's taxpayers must decide the extent to which they want to introduce interest as a cost of government by relying heavily upon borrowing as their means of acquiring capital assets. Nor is the alternative a mere choice between public and private borrowing. There are a whole series of choices for taxpayers with a long-term stake in their community. Should the taxes in the particular municipality be pushed a little bit higher in order to avoid an interest cost? Are there some other municipal economies that can be practised to facilitate capital expansion on a partial pay-as-you-go basis? If taxes are a little higher, will this push up personal borrowing, reduce personal savings or require personal economies in spending on other things?

79. Another point to remember is that the assets created today may not serve as far into the future as we like to think. While their physical life is fairly predictable, obsolescence is much harder to measure and constitutes a frequent reason for replacing public buildings or for effecting improvements in roads, sewer systems and the like. Existing capital assets are often scrapped with much life left in them. So long as debenture financing plays a significant part in meeting the cost of capital assets, future taxpayers are being made to share the burden. But at the rate at which Ontario municipalities have borrowed, it may well be that too great a cost is being shifted to future taxpayers when we include full recognition of obsolescence resulting from bad design or poor planning.

80. Heavy capital borrowing by a municipality, like high taxation, can have a depressing effect upon local property values. Tax levels needed to meet built-in debt charges and current operating expenditures can become so high in relation to property values as to be genuinely disturbing. Such excesses tend to frighten off prospective purchasers of property in a particular municipality.

81. While capital investment is a necessary aspect of community growth, it can also be contended that competition between municipalities does not favour a policy of all-out capital borrowing. Growth must be accomplished under conditions that do not repel potential industrial or commercial taxpayers. Thus a debt-heavy municipality may fail to interest an industry in locating within its boundaries despite ample provision of essential capital works. The industry may be more strongly attracted to another municipality with a reasonable debt load and a planned program of capital improvements to be made in the future.

82. Again, if a municipality relies wherever possible upon borrowing, is it not exposing its taxpayers to excessive risk? Suppose the manufacturing plant on which the municipality depends for local employment and a good share of its tax income should suddenly close. Major retrenchment might be necessary when the scope for retrenchment is slight. Again, a municipality that has resorted to borrowing for every capital purpose may have the bad fortune to be faced at some stage with an unexpected and very expensive capital requirement, for example, the construction of a new sewage plant ordered by the provincial health authorities or replacement at one time of two or more older schools that have been declared unsafe.

83. A municipality that goes heavily into debt reduces the flexibility of its financial position. Such a municipality has little choice in the time when it will market debentures and so must expose itself to every change in effective interest rates on debenture borrowing. It must be borne in mind too that municipalities are expected to base the term of each issue on the length of time over which financing is needed. They are not permitted to move in and out of the market in an effort to pare down interest costs. That interest costs do change substantially over periods of years is well illustrated by Table 22:9, which shows the borrowings undertaken by four different municipalities and the interest cost involved throughout the years 1950 to 1964. The figures reveal striking changes in the interest level over the fifteen-year period. It can be seen, moreover, that the same municipality has experienced quite marked differences in effective interest rates on successive issues within a single year.

84. Provincial control over municipal borrowing is rendered much more difficult when a municipality is pressing the limit of its credit capacity. It is far easier to exercise a check-rein on borrowing while a municipality has some room left for manoeuvring and some ability to finance capital requirements from current revenues. The Province may have to reject the application of one municipality to borrow for a most essential purpose because it has exhausted its credit potential. A second municipality which has not used borrowing so freely can be permitted to proceed with a similar essential undertaking even though the effect will be to raise its debt level significantly. The two provincial organizations that lend money to Ontario municipalities for high priority purposes would have little reason to exist if all municipalities needing capital had planned their requirements carefully and had kept their debt levels well below a safe borrowing limit. Conversely, the knowledge that borrowing can be effected through a provincial corporation tends

to increase the total level of borrowing, and especially so where municipalities that borrow from the Province can obtain the money at preferred interest rates.

TABLE 22:9

FOUR REPRESENTATIVE ONTARIO MUNICIPALITIES
DEBENTURE BORROWING AND EFFECTIVE INTEREST RATES
1950-64

Year	*Metropolitan Toronto**		*City of Oshawa*		*City of Barrie†*		*Township of Nepean*	
	Borrowings	*Effective interest rate*	*Borrowings*	*Effective interest rate*	*Borrowings*	*Effective interest rate*	*Borrowings*	*Effective interest rate*
	(thousands of dollars)	%	(thousands of dollars)	%	(thousands of dollars)	%	(thousands of dollars)	%
1950	9,165	2.76	7,000	2.92	601	3.13	—	—
	843.3	2.35	2,936	3.50	160.8	3.19	—	—
	15,000	2.76						
1951	20,000	3.49	8,561	3.48	580	4.44	94	4.55
	5,568	3.79						
1952	10,774	3.98	505	3.95	218.9	4.63	70	4.87
			2,032	4.20				
1953	12,000	4.24	3,417	4.08	148.2	4.60	258	4.96
	12,610	4.50					75	4.90
1954	30,235	3.63	4,304	3.22	324	4.23		
	26,155	3.56			136	3.65	180	4.04
1955	31,714	3.58	2,219	3.88	110.3	4.27	—	—
	26,694	5.10	10,761	4.99				
1956	28,580	4.58	8,058	4.12	800	4.78	—	—
	36,454	4.48						
	39,372	5.20						
1957	20,090	5.43	3,365	5.45	455.5	6.02	45	5.12
1958	29,640	4.13	3,676	4.55	753	5.51	253	5.65
	39,587	4.85	6,206	5.09				
1959	26,259	5.47	17,364	5.69	526	6.60	—	—
	39,982	5.22						
	24,357	6.46						
1960	41,318	5.25	17,474	5.73	912.5	5.93	364	5.94
	24,256	6.03						
	29,350	5.68						
1961	34,147	5.81	15,765	5.49	918.0	5.40	577	5.81
	33,265	5.67						
1962	30,063	5.67	4,898	5.51	—	—	2,391.9	5.50‡
	20,189	5.60						
	30,209	5.66						
1963	30,634	5.46	16,039	5.49	765	5.54	906	5.60
	28,809	5.34						
	30,976	5.57						
1964	32,298	5.69	2,855	5.62	1,250	5.70	4,928.5	5.95
	31,813	5.67	4,796	5.49				
	33,513	5.59						
	28,169	3.88						

Source: Department of Economics and Development, Financial Research Branch, *Financial Conditions*, Toronto: Queen's Printer, 1965.

*City of Toronto, 1950-53. †Town of Barrie, 1950-58. ‡U.S. issue.

85. Canadian provinces exercise control over the capital borrowing of their local governments in part for the provinces' own protection. The depressed thirties have not receded so far into the past that we cannot recall that thirty-nine Ontario municipalities were then in default. An interrelationship exists between the credit standing of a province and the standings of the municipalities for which it is responsible. To illustrate, more than a century ago our Province felt obliged to take over railway debt incurred by its municipalities, in order, among other reasons, to preserve its own good name in the London money market.

86. Provinces for their part can go heavily into debt and still remain solvent because of their access to preferred revenue sources and their right to use deficit financing as the means of weathering temporary financial strains. But while municipalities remain under their existing operating rules, they have far less resiliency than the Province. This is true of even the largest municipalities. Interest levels on municipal issues are, of course, higher than on provincial issues, even for the largest and strongest municipalities. The spread between provincial and municipal rates is rarely less than 0.25 per cent and may range up to a full percentage point. In these circumstances, it makes little sense, where the choice lies between provincial and municipal borrowing, to encourage heavy borrowing at the municipal level of government. The Province of Ontario today requires its municipalities to borrow money which the Province will in due course contribute towards school construction costs. Although a precise estimate is not obtainable, the amount involved is sizeable, running into the hundreds of millions of dollars. The Province's O.E.C.A.C. will now purchase the resulting debentures; yet they will remain nominally a local government obligation. The local school authorities are tagged with debt that could easily be designated as provincial, since the Province will serve as the immediate source of funds instead of the ordinary debenture market.

87. Several further points can be advanced on the side of some reduction in capital borrowing. One is that the Canadian market for municipal debentures is not very active and, while this situation continues, it is just as well for municipalities to avoid such dependence upon debenturing that they cannot always time their entry into the market so as to ensure a good reception for new issues. Where the asset is paid for through a debenture issue, part of the investment may come from outside the country and will most assuredly do so if the issue is floated in the New York market. The relationship between Canadian and foreign investment in Canada is, of course, a complex and controversial issue. It would nevertheless seem desirable to free local governments from the necessity of borrowing outside the country and so incurring the risk of exchange fluctuations during the term of debt repayments. Finally, if municipalities are to play any part in cyclical budgeting that involves an acceleration of the timing of capital projects, a margin of unused municipal borrowing capacity is one prerequisite.

88. Having reviewed both sides of the question, where should we stand on capital borrowing? As we see it, it would be quite wrong to condemn a substantial measure of such borrowing, which is an accepted feature of local government

financing. At the same time, reliance upon borrowing to the limit as the means of paying for capital assets can scarcely be regarded as the most desirable policy position. And yet the pressures under which local governments operate today are apt to push the local authorities into a position of maximum dependence upon borrowing unless the Province imposes regulations dictating a more moderate course. Those municipalities that have voluntarily observed a policy of restraint will not find regulations of this type restrictive or onerous. For local government as a whole, the result will be to restore flexibility in an area where it is clearly desirable and proper. A municipality with elbow-room for debt enlargement can on occasion be permitted an extraordinary debt expansion, provided it is thereafter required to achieve a gradual restoration of its former position.

89. In advocating controls to reduce local government dependence on borrowing, we have no thought of encouraging a sudden shift towards pay-as-you-go financing of capital undertakings. The local authorities can adopt one or several measures whose effect will be to whittle down debt gradually over a number of years. Such a change can in time be accomplished without either imposing sharp increases in taxation or severe cut-backs in spending. What is more, a shift in position can be accomplished with less disturbance in those municipalities where the councils hold office for two years. The lengthening of the permitted term to three years—mandatory for Metropolitan Toronto and permissive for other municipalities—will make the debt load adjustment easier still.

HOW CAN MUNICIPALITIES BEST REDUCE DEPENDENCE ON BORROWING?

90. Having taken a stand in favour of moderation in municipal capital borrowing, we now ask whether any rules might be devised that could be used to translate attitudes relating to this borrowing into a reasonable and consistent policy position.

91. Before reviewing the various moves in the direction of pay-as-you-go financing that have been employed at one time or another by Canadian municipalities, we suggest that borrowing to pay for each particular fixed asset should never be allowed to extend for a longer term than the useful life of the asset. In setting that limit, ample allowance should be made for the fact that under modern conditions certain assets may be expected to be replaced before they have depreciated physically because they have become obsolete. The statutory provisions in Ontario fix maximum terms for only certain capital assets and for the rest give a discretionary responsibility to the Ontario Municipal Board. If there is value in establishing safe debt limits for any particular capital asset, there is virtue in making the list as complete as possible. There should be either a comprehensive list for use by the screening body or no list at all. It would, in our opinion, facilitate the fixing of maximum terms for borrowing if the responsible provincial authority would prepare and publicize definitive information on the subject. Since a list of assets will require periodic revision and there is some reluctance to change lists contained in the statutes themselves, we think that the maximum borrowing period for each type of asset should be set out in a schedule to a Regulation prescribed by statute. *We therefore recommend that:*

The maximum term of capital borrowing for each type of asset, based upon a realistic concept of its anticipated useful life, be set out in a schedule to a Regulation prescribed by The Municipal Act, in lieu of the present provisions of the Act fixing, or empowering the Ontario Municipal Board to fix, the term of capital debt. **22:3**

92. Besides a maximum term for capital borrowing for each type of asset, there is need to devise some restraint on the extent to which a municipality finances its over-all capital expenditures by borrowing. This objective could be met quite simply by reducing the term for capital borrowing for each type of asset by a uniform proportion. Thus, if the useful life of an asset were twenty years, the term could be set at, say, ten years. In this way, the debt would be retired earlier, and the over-all debt of the municipality could be kept to a lower level. On the other hand, that particular approach may not be the best means of reducing municipal dependence upon capital borrowing. With the object of devising a propitious arrangement, we shall consider alternative ways of counteracting the pressures for maximum reliance upon borrowing in favour of an increased measure of pay-as-you-go financing.

93. Before doing so, one further point should be noted. Even if dependence upon borrowing is scaled down for all Ontario municipalities through general legislation or regulations, there will still, in our opinion, be a need to control the borrowings of individual municipalities in order to ensure that in their capital operations they do not depart from sound financial management.

Shortened Term

94. The first of eleven approaches used at one time or another to increase pay-as-you-go financing is the one that has already been mentioned: reducing the term of the debt considerably below the anticipated useful life of the asset. However the control is exercised, the term limits can be shortened either mandatorily by the Province or voluntarily by the borrowing municipality. Either way, a step is taken toward pay-as-you-go financing.

Reducing Debt Charges

95. Commonly, the due dates of serial debentures are arranged to provide for approximately equal annual debt charges with increasing yearly instalments of capital as the amounts of interest decline. Taking a different approach, the borrowing municipality could agree to pay equal instalments of principal which, coupled with reducing amounts of annual interest, would result in gradually declining over-all debt charges. In this way, a larger share of the debt would be paid off in the earlier years and less use would be made of borrowed money. This technique has not been widely employed by Canadian municipalities.

Sinking-fund Surpluses

96. When municipalities issue sinking-fund debentures, the expected earnings on their sinking-fund investments are controlled by statute. The statutory maxi-

mum of interest earnings is 3 per cent, which today is much below the earnings that could reasonably be anticipated. As a consequence, surpluses are piled up in sinking funds and may be the means of either paying off debt ahead of time through redemption of debentures acquired on the market or avoiding new borrowing by utilizing the accumulated surplus as a fresh source of capital funds. Here again, a move has been made in the direction of reduced dependence upon borrowing. The problems of managing the sinking funds, however, have tended to limit the use of this type of debenture.

Use of Reserve Funds

97. The Municipal Act authorizes municipalities to create and maintain reserve funds into which amounts included in the estimates are paid and accumulated for the purpose of meeting future expenditures including capital expenditures. Establishment of such a fund, except where required by statute, must be authorized by a two-thirds vote of council. Similarly a local board may establish such a fund upon a two-thirds vote of its members. However, if approval of the municipal council is required by law for a capital expenditure or the issue of debentures of or on behalf of the local board, the approval of council must be obtained for including in the estimates of the local board any provision for a reserve fund for the expenditure. The amount set aside each year must not be used for any purpose other than that for which the fund was established without the approval of the Department of Municipal Affairs. Thus, where a municipality undertakes an off-street parking development, the net profit from the operation must be set aside in a reserve fund. Similarly, cash imposts received from land developers are required to be paid into a reserve fund.

Narrow Definition of Capital Items

98. According to the D.B.S. definition contained in its uniform accounting terminology, capital expenditures are "expenditures that result in the acquisition of or additions to fixed assets".[10] These assets include movable items such as motor vehicles and furniture, as well as land and buildings. Assets that do not cost a great deal or that do not last very long could be excluded by Ontario from its schedule of capital expenditures that may be financed through borrowing. Individual municipalities could also narrow the list of fixed assets that they are prepared to finance through borrowing.

Capital Items From Revenue

99. A significant and growing number of Ontario municipalities include some provision in their annual estimates for capital expenditures out of revenue. The practice is most common among the large urban municipalities. In 1965, the local municipalities and counties of Ontario invested over $36 million in capital expenditures out of current revenue. This figure represents the transactions of municipal corporations proper. For the same year, the comparable figure for Ontario school boards, including separate school corporations, was almost $38 million. In addition, substantial amounts were spent in this manner by public utilities and other local boards. As already indicated, certain local authorities are not permitted to budget

[10]Dominion Bureau of Statistics, *Municipal Finance Reporting Manual*, p. 277.

current funds for capital purposes without limit. None the less, the inclusion of a specific program of capital items in the current budget of a local authority is an important form of pay-as-you-go financing which could be expanded.

100. While some municipalities include provision in their current account estimates for specific capital expenditures to be made out of revenue, others undertake to set aside a definite amount of revenue for capital purposes year by year coupled with the development of specific plans to utilize the funds for capital purposes. Under this latter arrangement, the amount to be channelled to capital purposes is ordinarily expressed in mill-rate terms. A mill-rate levy for capital purposes has been imposed by a number of Ontario municipalities and school boards in recent years. The outstanding example is the Municipality of Metropolitan Toronto. Commencing in 1957, it has each year levied two mills for municipal capital purposes and beginning in 1959 a further mill for school capital purposes. In the nine years to the end of 1965, Metropolitan Toronto had raised $85 million for capital uses through its general levy, of which $57 million was earmarked for subway construction, and a further $28 million for school purposes. In 1959, the City of Hamilton introduced a capital levy of 1½ mills which it increased to 2½ mills in 1960 and to 3½ mills in 1965.

Down Payments

101. It is also possible for municipalities to undertake a down payment from current revenues towards the cost of each capital item to be financed through borrowing. A municipality could decide, for example, that a 10 per cent contribution towards the estimated cost of an asset must be available from current revenue or from an authorized reserve-fund source before authority will be sought to borrow the remainder.

New Definition of Borrowing Beyond the Year

102. The change in The Municipal Act in 1961 that removed borrowing within the two-year term of a council from the definition of borrowing beyond the year enabled municipalities with a two-year council to formulate plans for spreading the cost of capital assets over two years without resort to capital borrowing over the longer term. Legislation introduced in 1966 lengthened the term of office of council in Metro Toronto to three years and enabled councils elsewhere to adopt a similar length of term. Where the term of office is so increased to three years, the term of current borrowing will likewise be lengthened. A two-year term enables a sizeable amount of money to be assembled for a chosen capital purpose without strain; a three-year term considerably expands the potential. The added flexibility thus afforded can be used to cut back capital borrowing even further. It is possible for a municipality to carry out certain capital projects in two or more separate stages each of which can then be paid for from current funds within successive two- or three-year terms.

Use of Reserves

103. Municipalities that have created and built up reserves as working funds and for like purposes can reduce such reserves by as much as 10 per cent in any one year or by whatever larger percentage the Department of Municipal Affairs

authorizes in writing. Here is another source of funds that may on occasion be drawn upon for specific capital purposes. Even if the reserve is not matched by liquid assets, the undertaking can proceed on the basis of current rather than capital borrowing.

Commuted Local Improvement Levies

104. The Local Improvement Act enables a municipal council to prescribe by by-law the terms upon which local improvement rates may be commuted for a payment in cash.[11] Since there are no provincial restrictions, the municipality can if it chooses make the terms sufficiently generous to encourage a high proportion of those property owners who must pay for local improvements to put up the money in a lump sum. If the terms are sufficiently attractive, some owners may themselves borrow in order to commute their required municipal payments to a lump-sum basis. Here is another way, albeit not the most enticing, by which a municipality can avoid taking on new debt.

Non-recurring Revenues

105. The eleventh and last of the methods described for reducing dependence on borrowing is the use of non-recurring or windfall items for capital purposes rather than for current expenditures. An example of this sort of item would be the proceeds from the disposal of buildings or the sale of land taken for unpaid taxes. There is good reason to apply such proceeds toward financing capital expenditures because of their uneven and often unpredictable nature that makes it difficult to make accurate allowance for them when setting mill rates, and because such receipts are often of a capital nature.

Our Selected Method

106. In reflecting on the alternative ways of increasing the extent of partial pay-as-you-go financing, our concern is to recommend a form of mandatory control that will ensure an orderly and continuous effort by municipalities without reducing unnecessarily the choices they now enjoy in the management of their current and capital operations. For these reasons, we hesitate to suggest that they be required to shorten the term of any particular debt below the estimated useful life of the asset. It seems quite legitimate for a municipality under some circumstances to choose, when borrowing, to utilize the maximum allowable term. Similarly, we hesitate to suggest the arrangement of reducing the debt charge since in some situations equal annual debt charge payments may be more easily fitted into the long-term financial plans of a municipality. Again, the limited popularity of sinking-fund debentures leads us to reject mandatory reliance upon sinking-fund surpluses as a standard feature of province-wide capital planning. Similarly, it would be undesirable to require all municipalities to create reserve funds, since the purposes for which such funds could be used would have to be defined rigidly, and thus might be unsuitable for some communities. In the absence of a statutory requirement, few councils would set money aside in a reserve fund. Likewise, a municipality may wish at one time to pay for equipment such as motor vehicles

[11]The Local Improvement Act, R.S.O. 1960, c. 223, s. 55(3).

from current revenues and at another to make use of borrowing. Why should that choice be eliminated? New definitions of borrowing beyond the year are acceptable for this purpose but of limited practical value for achieving any significant increase in pay-as-you-go financing. Commuted local improvement loans are likewise of little practical import for achieving the desired goal.

107. On the face of it, the mill-rate capital levy appears to be the simplest device for a compulsory shift towards pay-as-you-go financing. It suffers, however, from one weakness. A specified mill-rate contribution towards capital requirements bears no consistent relationship to the total expenditure level either as between municipalities or within the same municipality from one year to another. The method we favour, therefore, is the compulsory allocation to capital purposes of a designated proportion of annual current expenditures. To be fully effective, such a plan should be applicable to all parts of local government: municipal corporations, school boards, public utilities, and other boards, commissions and authorities coming under the definition of "local boards". It is no easy matter to settle upon an appropriate long-term goal for partial pay-as-you-go financing. First of all, one must gauge the effects of applying any given percentage both to the municipal corporations and to a variety of local boards many of which do not have co-terminous boundaries with the municipalities. Next, the selection of a particular percentage level—or even an initial level, if implementation is to proceed by stages as we think it perhaps should—is a policy matter on which opinion is bound to differ. Many Ontario municipalities are already financing more capital expenditures from current revenues than would be required by any reasonable mandatory provision. Our concern is to ensure that this desirable practice of numerous municipalities, including some experiencing rapid growth, be adopted by all municipalities whose five-year capital budget includes expenditures that remain to be financed. *We therefore recommend that:*

Municipal corporations and each of their associated local boards be required to provide in their annual estimates amounts for capital purposes equal to the lesser of: **22:4**

(a) the amount of capital expenditures in their five-year capital budget that remains to be financed, and

(b) a statutorily specified percentage of their estimated current expenditures.

108. The intention of the above recommendation is to ensure that money is channelled to capital purposes for use now or in the future. Whatever portion of the required percentage contribution from revenue for capital purposes is not needed for capital expenditures planned for the year would be placed in a reserve fund for future capital expenditures. Any legislative provision to implement the recommendation should include precise definitions of "amounts for capital purposes" and "estimated current expenditures". The first of these expressions might be defined so as to include

(a) all amounts included in the annual estimates for capital expenditures payable out of revenue less provincial grants to be received in respect of such expenditures, and

(b) all amounts budgeted for contributions to reserve funds for capital expenditures.

The "estimated current expenditures" might be defined as the total of the expenditures in the annual estimates including the deficit, if any, from the prior year, less estimated revenues from provincial grants excluding grants in respect of capital expenditures not provided for in the estimates and less amounts included in the annual estimates for

(a) debt charges,

(b) reserves and allowances required or approved under The Municipal Act,

(c) amounts for capital purposes defined as already suggested, and

(d) amounts budgeted on behalf of other local boards that have made the required provision for capital expenditures out of revenue in their annual estimates.

109. The position we take on capital financing leads us also to reject the idea of a limit on capital expenditures payable out of revenue such as exists today with respect to secondary school and library board budgets. All that is necessary, in our opinion, is to ensure that any proposed capital expenditure from revenue is made public before the estimates are adopted. *We therefore recommend that:*

A municipality or local board be permitted to make provision without limit for capital expenditures from revenue, provided that each such provision is clearly identified in the annual estimates of the body concerned at the time that they are adopted. **22:5**

HOW MIGHT THE MUNICIPAL DEBT LEVEL BE DEFINED?

110. As pointed out earlier, a municipal corporation borrows on its own behalf and on behalf of school boards, utility commissions and all other local boards except separate school boards. Because separate school boards undertake to obtain their own borrowing approvals and to conduct their own borrowing operations directly, the borrowing beyond the year to which they become committed is not included in the Province's Annual Report of Municipal Statistics. Their debt position is shown in the Report of the Minister of Education; however, this information takes longer to be released. Separate school operations can bulk very large in certain Ontario municipalities and are significant in almost all of them. Presumably where separate schools exist the Ontario Municipal Board takes note of their transactions in its consideration of the capital borrowing applications of the municipalities they serve. And yet in the formal presentations of municipalities to the Board no account is taken of separate school debt. The amount of such debt may not even be known.

111. As mentioned earlier, the debenture debt for all school purposes, including public, separate and secondary, covers the combined capital commitment of the local authorities concerned and the provincial Department of Education. Under certain circumstances, the share of the debt charges for which the Province will in fact assume responsibility can change from year to year. An example would be the transfer of school property from one school board to another where the new school authority qualifies for a different rate of grant. It is possible, on the other hand, to estimate the share of provincial responsibility for debt with reasonable accuracy according to the circumstances that apply at the time. In a preceding chapter, we included a recommendation that the Province change the form of school grants for capital purposes to lump-sum contributions. Meanwhile, we are of the opinion that those who provide information on school debt should estimate and proportion the liability as between the Province and the municipalities and then deduct the Province's share of the debt in calculating total municipal indebtedness. The same information ought to appear in the Province's Annual Report of Municipal Statistics.

112. Another form of municipal long-term indebtedness that is not adequately reported in the Annual Report of Municipal Statistics is the obligations to the Ontario Water Resources Commission. Such debt is included in the capital and loan-fund balance sheet statement under the heading "Other Liabilities". The amounts due to the O.W.R.C. are accorded a separate listing in a voluminous series of footnotes. In other words, the method of reporting is cumbersome and the information is apt to be overlooked. Those municipalities that prepare five-year capital budgets include in them the debt to the Ontario Water Resources Commission. For other municipalities, however, the relationship of O.W.R.C. debt to the debt-carrying capacity of the municipality may be less clear. There is a further point. The Ontario Water Resources Commission is in the process of developing systems for the supplying of water and disposal of sewage for certain Ontario municipalities on a continuing wholesale basis. The O.W.R.C. intends to remain the owner of the capital plant for such services. It will construct the necessary works and assume the required operating responsibilities under long-term agreements with contracting municipalities designed to achieve full cost recovery on each undertaking. In our opinion, a debt equivalent should be calculated for each municipality that proposes to sign such a contract. The amount of this debt equivalent should be included in the calculation of capital indebtedness of the municipality, and the provincial authority responsible for approving borrowing beyond the year should be required to approve each prospective contract. We trust this is the intent.

113. Another form of borrowing that is not directly reported or emphasized in the analysis of municipal finance is the borrowing through Central Mortgage and Housing Corporation for housing projects in which municipalities have a prime interest, despite the fact that the activity is carried on through a housing authority or corporation.

114. To overcome the deficiencies of the present situation, *we recommend that:*

For the purposes of the Annual Report of Municipal Statistics and preparation by council and assessment of municipal capital budget submissions prerequisite to provincial approval of borrowing, the capital debt of a municipality be deemed 22:6

(a) to include the proportion of the debt for which it or its ratepayers are responsible that has been incurred by the Ontario Water Resources Commission, the Central Mortgage and Housing Corporation, a public or separate school board, or any similar local authority, commission or corporation, and

(b) to exclude school debt to the extent that the debt charges on such debt are being met by provincial grant.

WHAT CONSTITUTES SOUND SCREENING OF PROPOSED BORROWING?

115. Although we favour action that would effectively keep municipal dependence on capital borrowing below the maximum level, we believe that considerable choice should remain with municipalities as to how they will conduct their capital transactions: when they will borrow, in what amounts, and for what purposes. But if municipalities are to have this degree of freedom of action, it appears essential to continue, and indeed to strengthen, the requirement that all borrowing, except current borrowing within specified limits, must be cleared beforehand with a supervisory agency at the provincial level.

Government Screening

116. The Ontario Municipal Board, the agency at present charged with approving municipal borrowing, employs certain tests to determine the level at which borrowing by a particular municipality becomes a cause for concern or the limit that ought not to be exceeded. The most basic and widely publicized test employed by the Board is a debt-to-assessment ratio. This ratio is, we understand, calculated on equalized assessment, using the equalization factors prepared by the Department of Municipal Affairs for calculation of school grants and for other purposes. The equalization cannot, of course, be very precise, and this one test alone is not in any event sufficient.

117. When the Board proceeds further with the analysis of municipal financial operations for the purpose of gauging a municipality's "credit worthiness", its position as a quasi-judicial body influences its course of action. The Board can demand information and explanations from the municipalities whose affairs are under scrutiny and it does so regularly. It may be fortified with further information gleaned from hearings and can interpret the temper of local opinion in so far as a hearing or a referendum vote brings this out. If, on the other hand, the referendum is bypassed and there is insufficient demand to warrant a public hearing, the Board cannot regard such lack of public expression as evidence that the municipality's financial position is satisfactory. The Board receives reports from various depart-

ments and agencies of the provincial government that are concerned with a particular borrowing undertaking, including the Ontario Water Resources Commission, the Ontario Municipal Improvement Corporation and the Department of Municipal Affairs. From the latter Department, the Board can, and we presume does, obtain broad background information. On the other hand, the Ontario Municipal Board maintains no research staff and, as we understand it, initiates no inquiries beyond its expected solicitation of information and reports from other branches of government.

Underwriters' Screening

118. When Ontario municipalities seek to float new debenture issues, the prospective bidders or underwriters carry out their own analyses of the credit worthiness of the prospective borrower. They do so notwithstanding the fact that municipalities must come to them armed with Municipal Board approval.

119. An early leader in the development of criteria by which to judge the worth of a prospective municipal issue was the late Thomas Bradshaw, at one time treasurer of the City of Toronto and later president of a major life insurance company. In 1936, Mr. Bradshaw wrote a statement entitled "Determining Factors of Municipal Credit". Among the devices for conducting a quick check of a municipality's position, Mr. Bradshaw favoured:

(1) the inclusion of differing per-capita assessment limits depending upon the size of the municipality,
(2) a gross-debt-to-assessment ratio,
(3) per-capita gross debt limits also varying with the size of municipality, and
(4) corresponding net debt limits.

Mr. Bradshaw also advocated systematic consideration of:

(1) the present value of municipal assets,
(2) the size of the annual tax levy, and
(3) the extent of tax arrears and other such information.

120. In the course of our work, we have placed considerable emphasis on the subject of municipal borrowing. In addition to representations made to us and studies carried out for us on the subject, we have talked with provincial officials, municipal treasurers, investment dealers, university teachers and others. We followed up the question of the underwriter's criteria for bidding on new issues by obtaining an up-to-date statement from the insurance company referred to above. From its memorandum, we have confirmed that the present practice of those interested in municipal underwriting is to continue the kind of examination of a municipality's financial operations that was begun in the thirties and to take account also of other broader influences on the municipality's credit strength, including the nature and breadth of the community's economic base, the desirability of its location from a marketing viewpoint, the availability of raw materials in the area, the existing forms of transportation, the size and make-up of its labour supply, the range and calibre of its educational and community service facilities, and the

reputation of its civic administration. The reason dealers in municipal issues are able to carry out such complete studies as a prerequisite to bidding on issues is that their analysts can draw on ever-broadening sources of published material and they accumulate a storehouse of useful information on most of the larger municipalities that merely needs to be brought up to date from time to time.

The Value of Each

121. Other evidences of credit worthiness warrant consideration besides those stressed by the Ontario Municipal Board in its public utterances or by municipal debenture purchasers and underwriters. We think, for example, of the year-by-year weight of annual debt charges in relation to current revenue expectations of the municipal corporation or local board primarily responsible for meeting the charges. We might pursue the subject further but perhaps it is enough to state what we have already implied: both those who plan and those who oversee municipal borrowing require as broad and balanced a knowledge of the implications of each borrowing proposal as possible in order to judge the capacity to borrow and the merits of doing so.

122. As a consequence of our inquiries we have reached two conclusions. First, the test of the market-place is well worth preserving because municipalities are forced to give careful consideration to the factors that interest dealers in bidding on their issues and underwriters in the preparation of a prospectus to accompany each new issue. Secondly, it seems most desirable to continue to conduct a broad appraisal of municipal operations in the provincial screening process and, indeed, to extend it through the enlargement of cumulative research material.

123. In adopting the latter position, we may seem to be opposing local autonomy in an area where it is both desirable and feasible. Would it perhaps be better if municipalities had authority to borrow within defined limits without any prior provincial approval? We think not, for several reasons. In appraising the merit of any borrowing proposal, the purpose for which the money is to be employed is customarily taken into consideration. This is done in order to weigh the essentiality of the project, the likelihood of offsetting revenues, and the value received for the dollars spent. A control that considers purpose is weakened if certain expenditures can be made regardless of purpose. Further, to allow a proportion of free spending would go counter to the whole emphasis on five-year running forecasts. The exclusion of information on the form certain spending will take would greatly reduce the usefulness of the partial information that is forthcoming. Again, the lack of advance notice of certain capital spending intentions would frustrate the ambition of the screening body to make itself thoroughly familiar with the affairs of each municipality coming under its surveillance. Finally, the provincial body charged with the responsibility of approving the borrowing reviews in a single budget the capital requirements of the municipality and the school boards and other special-purpose bodies serving the same community. It must therefore set priorities on the capital requirements of these several bodies, each of which has some degree of autonomy. At one time, the pressing need may be school construction, at another, road building and at still another, a water pumping station. The provincial authority

must be enabled to make decisions based upon its own determination of priorities. This authority will be even more necessary if, as we are disposed to favour, greater independence should be given to school boards. And so we support the present plan under which each capital expenditure involving borrowing beyond the year requires prior provincial clearance. We do, however, see an opportunity to reduce greatly the number of borrowing approvals through universal introduction of long-term capital budgeting procedures.

Referendum Approvals

124. It is obvious to us that the referendum is not employed often enough or with sufficient consistency to make it an effective element in the control of municipal borrowing for the great bulk of Ontario's municipalities. Either the referendum should be restored to full use, paralleling the widespread practice in the United States, or dropped altogether, conforming with the situation in England. We think it likely that the money by-law voter is usually not sufficiently informed to register an opinion on the borrowing intentions of his municipality either project by project or through a referendum on a composite list of projects that constitute in effect a capital budget. Yet we are suggesting neither that the local citizen be kept in the dark about what is happening nor that he be denied the right to express his opinion on such matters. Public reporting of financial operations fills part of this need, including the public consideration of municipal estimates. But while emphasis is thus placed upon current expenditures, which may include some capital items to be paid for from revenue and perhaps also an appended list of capital undertakings, less attention has customarily been given to capital programs because capital budgets have not been required and, until recently, have not been produced by most municipalities.

125. The practice of preparing five-year budgets would be more useful if property owners in the municipalities concerned were told when they were to be considered by the responsible municipal councils, and had an opportunity to express their views. Similar treatment should be afforded to the people other than owners who are now qualified to vote on money by-laws—tenants with long leases who are responsible for paying taxes. These people have a much greater interest in the level of taxes than do ordinary tenants who have no lasting commitment to the community. As long as adequate notice of meeting is given, through advertisement or direct mail at least three weeks before the meeting, and provided that an opportunity is given for interested people to speak, the provision for a referendum may safely be abandoned. Similarly, an opportunity should be given to these people to be heard before the provincial authority responsible for approving borrowings decides on an application.

126. In view of the foregoing, *we recommend that:*

The provision for referendum on money by-laws be abolished and instead: **22:7**

(a) the provincial authority responsible for approving borrowings be required to give electors or persons

qualified to vote on money by-laws an opportunity to speak at a hearing prior to making a decision on an application; and

(b) municipal councils be required to give owners and other persons qualified to vote on money by-laws notice of, and an opportunity to speak at, any council meeting at which it is proposed to discuss expenditures that will be financed through borrowing beyond the year.

WHAT PROVINCIAL AUTHORITY SHOULD CONTROL BORROWING?

127. Canadian financial institutions, including investment dealers, chartered banks, insurance companies and other financial institutions, have created and maintain a high reputation for themselves in the service of marketing municipal debentures. Not only are municipal treasurers assisted in the technical aspects of the operation, but municipal representatives and officials are advised as to the borrowing policies they ought to pursue. At the same time, investment dealers operate competitively. It is therefore too much to expect them to furnish the strict check on municipal capital activities that is needed to prevent deteriorating situations that could lead to eventual trouble. A provincial authority can step in quietly and effectively at an early stage to head off over-expansive tendencies and to advise on the best means of effecting a suitably controlled expansion of a particular community. The role that is called for requires the continuing accumulation of a store of information on the financial and related affairs of every Ontario municipality that from time to time is expected to engage in capital borrowing. A strong upper-tier government, such as the Municipality of Metropolitan Toronto, has itself the capacity for research that can support its sponsorship of municipal capital borrowing. The formation of any new regional government units could reduce and simplify the Province's task. For most municipalities, however, the main responsibility must continue to rest with the Province.

128. We are impressed with the progress the Ontario Municipal Board has made towards the development of capital budgeting by Ontario municipalities. This one step alone constitutes an important safeguard of the municipal credit standing of this Province. The need exists, however, to extend the capital budget requirement to those municipalities that are not yet producing such information. Long-term capital budgets would be a prerequisite to any provincial subsidy of short-term borrowing designed to advance the timing of municipal capital projects. Further, if all local governments that are empowered to undertake capital borrowing are required to prepare and maintain running forecasts of their requirements extending five years ahead or longer, the process by which the Province approves such borrowing can be greatly simplified. Under such an arrangement, each municipality (or other body in partially organized territories) would be expected to submit annually a capital budget. This would incorporate information from its previous year's submission with any changes necessary to reflect new proposals, deletions of completed or abandoned proposals, and changes in estimated costs. Upon obtain-

ing the Province's approval, the municipality would then proceed with the undertakings approved for commencement in the succeeding twelve months without further clearance. The Province should, of course, be notified when each new borrowing undertaking is embarked upon. *We therefore recommend that:*

(a) Every municipality be required each year to submit for provincial approval a capital budget for a period of at least five years; **22:8**

(b) upon approval of such capital budget or any amendment thereto, a municipality be permitted to effect without further approval the borrowing required for the proposals scheduled therein for commencement in the first year; and

(c) upon effecting any borrowing so permitted, the municipality be required to notify the Province forthwith.

129. The Department of Municipal Affairs has for a considerable time maintained an Accounting Branch, which reviews municipal financial operations across the province and prepares the Annual Report of Municipal Statistics. While much progress has been made, including restricting municipal audits to persons licensed by the Department as municipal auditors, it is necessary to expand statistical reporting and to increase the analytical review of municipal audits so that the findings can be utilized in the advice and supervision given by the Branch. Several years ago, the Department organized a Finance Branch with the object of strengthening this aspect of its work. This Branch's responsibilities have specifically included consideration of the implications of capital borrowing and the publication of municipal financial statistics. More recently, a Municipal Subsidies Branch was formed to administer the Department's grant programs. The latest such development is a Research Branch which will conduct its own studies and co-ordinate the research work of the other Branches. At the same time, the roles of two other established Branches—Assessment, and Municipal Organization and Administration—have been enlarged and strengthened. The benefits of all these sources of financial and related information should be made fully available to the provincial authority charged with the responsibility of reviewing and approving municipal capital borrowing. So should the knowledge garnered by the Community Planning Branch and other units of the Department. It would constitute pointless duplication for the Ontario Municipal Board to develop similar research and information facilities of its own.

130. If the Ontario Municipal Board is to continue as the overseer of municipal capital borrowing, our opinion is that it should make full use of the expanding research and information potential of the Department of Municipal Affairs. It ought, moreover, to direct the expansion of certain operations into channels that will afford greater support to the exercise of the borrowing control responsibility. We question, however, whether it is appropriate to expect a semi-judicial body, much of whose time is taken up with the holding of hearings on municipal boundary

and status questions, municipal arbitrations and other such matters, to delve into the affairs of Ontario municipalities to the extent required for adequate control of borrowing.

131. Eight years ago, the Committee on the Organization of Government in Ontario recommended that "certain of the functions in the municipal field now performed by the Ontario Municipal Board should be transferred to a reorganized and expanded Department of Municipal Affairs".[12] Among the functions recommended for transfer was the responsibility for approving municipal borrowing. Meanwhile, a considerable reorganization and expansion of the Department of Municipal Affairs has in fact taken place, including the incorporation into the Department of its present Community Planning Branch. We support in general the differentiation the former Committee made between the Municipal Board's quasi-judicial functions and their other responsibilities. With the latter we would group borrowing controls. We note, moreover, that at present the only appeal, beyond another hearing by the Board, is to the Lieutenant Governor in Council. If the Department were to assume responsibility for borrowing approvals, there would be no significant change in the right of appeal on these matters.

132. For the above reasons, *we recommend that:*

The responsibility for giving all approvals of municipal borrowings required by statute be transferred from the Ontario Municipal Board to the Department of Municipal Affairs. **22:9**

WHAT BORROWING SHOULD BE EFFECTED THROUGH GOVERNMENT AGENCIES?

133. The underlying principle governing the Province's control over municipal borrowing is that all proposed borrowing will be thoroughly considered in advance and advice will be tendered and rulings given to safeguard and strengthen municipal operations and development. The provincial authority controlling borrowing is expected to adopt a uniform approach in dealing with the financial problems of municipalities. It must strive hard to be impartial, since it would be disastrous for a body that controls borrowing to play favourites. This basic policy position must, we suggest, govern the Province's entire involvement with municipal borrowing, whether the funds come through a government agency or the open market. In pursuing the subject we shall for the moment reserve discussion of the place we anticipate for O.E.C.A.C. in school financing.

134. There are, from time to time, situations that make it highly desirable for municipalities to obtain new capital facilities even though they lack the necessary borrowing capacity. In addition to the special borrowing arrangements effected through the Ontario Municipal Improvements Corporation or the Ontario Water Resources Commission, a number of special situations have been dealt with directly by the Province. We give two examples. In 1961, the Province undertook to purchase debentures of the Municipality of Metropolitan Toronto to the value of $60 million over a four-year period. The purpose was to accelerate construction

[12]Committee on the Organization of Government in Ontario, *Report*, 1959, p. 45.

of the Bloor-Danforth-University subway without creating an offsetting reduction in public debenturing by Metro for other purposes. The second example of special provincial intervention occurred in 1965 when the Province advanced approximately $300,000 towards the provision of an adequate water supply to certain unorganized areas in the vicinity of Kapuskasing. The Province also expected to make further loans for the purpose of improving local service in the area in conformity with its policy of intervention when necessary to ensure that crucially essential works are carried out.

135. Plainly, the Province has a responsibility to ensure that its system of local government enables communities to remain financially viable as long as there is reason for their existence. In fulfilment of that objective, there will doubtless continue to be a limited lending role for both the Ontario Municipal Improvement Corporation and the Ontario Water Resources Commission as well as occasional situations when the government deems it necessary to provide capital not appropriately channelled through either of these bodies. The O.W.R.C. will doubtless continue to own and operate large-scale inter-municipal water and sewer services. Yet, at all times, the dominant objectives should be to hold special borrowing to a minimum, to foster municipal reliance upon the ordinary borrowing procedures and market channels, and thus to strengthen the capacity of municipalities to meet their needs without special help. Hence these avenues of special help should not hold out any financial advantage over the ordinary borrowing operations. Nor should the O.W.R.C.—which, unlike O.M.I.C., involves an extension of provincial operations into traditionally municipal fields—be able to offer better rates of interest than O.M.I.C. We are not, of course, referring here to projects that O.W.R.C. constructs, owns and operates permanently. Accordingly, *we recommend that:*

> ***The effective interest rates on all forms of provincial lending to municipalities be reviewed regularly and maintained at a uniform level at a small margin above the ordinary market rate.*** **22:10**

136. If we regard the policy differences between O.M.I.C. and O.W.R.C. as a matter for some concern, the anticipated place of the newly formed O.E.C.A.C. must be seen as raising more fundamental issues. The Ontario Education Capital Aid Corporation is offering a complete source of funds at a standard preferred rate of interest for all school borrowing. In doing so, O.E.C.A.C. will end O.M.I.C.'s rescue role in school financing. More important, it will make it much more difficult for both the provincial agencies and the municipalities that review proposed school borrowing to maintain any effective screening process. We make the point notwithstanding the responsibility assigned to the Finance Branch of the Department of Municipal Affairs for day-to-day administration of the program. Taking all the known conditions into account, what will O.E.C.A.C. mean? The capital requirements of school boards will gain permanent preference over all remaining capital requirements at the local level. Notwithstanding the importance that is rightly accorded today to public education, the prospect is disturbing. We make two

further points. In its favour, O.E.C.A.C. would remove the need for separate school boards, which are sometimes small and not too well known, to find a market for their debentures. Similarly, it would assist school boards in areas without municipal organization. On the other hand, the available funds generated by the Canada Pension Plan may be expected to shrink as people become eligible for full pensions, whereas school borrowing needs will expand. After an initial period, the pension source will no longer supply sufficient funds to meet the total demands of school boards. The Province may well feel forced to procure money elsewhere in order to continue what has by then become a well-established arrangement.

137. For a considerable period of time, the Province could utilize the same volume of pension funds for school finance as now planned without creating a full-scale sheltered borrowing arrangement with all its attendant dangers. The pension funds provide an opportunity to pay school grants for capital purposes, as we have recommended in Chapter 20, through sharing the capital expenditures at the time undertaken rather than sharing the debt charges. Additionally, at such time as the financial markets made it feasible to do so without incurring higher borrowing costs, the Province could acquire currently outstanding debentures issued for school purposes as they become available and deliver them to the issuing municipality, school board or separate school board for cancellation, thereby eliminating the portion of the debt that is in reality a provincial responsibility. If these two measures are offered in place of the present O.E.C.A.C. financing, local authorities might be expected to be reasonably receptive.

138. *We therefore recommend that:*

On changing the system of grants so as to pay school boards the provincial share of capital costs instead of debt charges, the practice of lending through the Ontario Education Capital Aid Corporation be abolished. **22:11**

139. The principles that we suggest should govern the use of provincial sources for municipal borrowing ought to be equally applicable to borrowing through federal agencies. The Government of Canada has not found it entirely satisfactory to act as a lender of last resort for Canadian municipal governments. Certain of its lending activities are combined with grant arrangements where the grants constitute the prime purpose for the proffered service.

140. The offer of longer terms for borrowing for particular purposes should not constitute a genuine attraction to the Province on its municipalities' behalf. If the term is within reason, it ought to be available to Ontario municipalities under provincial statutes. Ontario municipalities and their associated local authorities should not be permitted to borrow through a federal agency for a term that is excessive by Ontario standards.

141. *We therefore recommend that:*

The Province periodically review federal borrowing arrangements open to Ontario municipalities with the object of **22:12**

either obtaining the elimination of the borrowing aspects from what are essentially conditional grant programs or opting out of the arrangements altogether.

CAN WE IMPROVE DEBENTURE MARKETING?

142. As we have already noted, the Canadian market for municipal debentures affords little opportunity for daily trading in these securities, with the sole exception of the Municipality of Metropolitan Toronto. Metro borrows on behalf of all its constituent municipalities as well as for itself. Metro's unique position can be appreciated when we see that at the end of 1965 the net debenture debt outstanding for Metro and the area municipalities, some of whose debt has yet to be redeemed, constituted over 46 per cent of the total for all Ontario municipalities.

143. It was the limitations of the Canadian debenture market that led Metro to press for the reintroduction of sinking-fund type issues in this province. The same considerations have led a sizeable number of the larger and medium-sized municipalities to place issues in the New York market from time to time. Some would argue that we ought to deny Ontario municipalities access to the New York market because of the potential adverse effects of exchange fluctuations. To us this seems like an unnecessary limitation. The perils of going to the New York market ought, of course, to be made clear to Ontario municipalities.

144. Separate school boards have traditionally been permitted to issue their own debentures except when they are in financial difficulties requiring that their affairs be brought under provincial supervision. We cannot see merit in continuing such a practice. It is essential to include separate school borrowing proposals in five-year budgets. Once that move is made, it becomes a simple matter to effect the necessary statutory amendments and transfer the debenturing responsibility to the municipal corporation. *We therefore recommend that:*

Municipal corporations be required to carry out capital borrowing for separate school boards in the same manner as for other school boards. **22:13**

145. In our view, some positive action is required to stimulate a wider market for municipal debenture issues. From all appearances, most municipal issues are taken up by institutions, with very little participation by individuals. It has been suggested that, in determining the need for provincial and municipal issues in a portfolio, institutional "investment policies have tended to be rigidly traditional, usually to the advantage of public borrowers as a group".[13] Whether this advantage will continue should new forms of issues be developed with variable interest offering investors some protection against the steady depreciation in money's value, or should federal borrowing competition for available funds in the long-term market increase substantially as it has before, we do not know. However, if stiffer competition for available money resources should occur, we see no reason for complacency with present marketing arrangements.

[13]Burns, *Provincial and Municipal Governments in Capital Markets.*

146. We suggest that the Province might well lend its assistance in the establishment of a central bureau, perhaps by the Investment Dealers Association of Canada, for the collection and recording of complete information with respect to existing and prospective security issues of all Ontario municipalities and for the compiling and dissemination of all offers to buy and sell municipal debentures held by investment dealers and brokers. Ready access to such information would undoubtedly improve the cost and availability of credit to municipalities competing in the Canadian capital market. A further strengthening of the competitive position of municipal securities could be achieved if municipalities, instead of issuing serial debentures, were permitted to issue debentures that require the issuers either to call annually for redemption, or to acquire on the open market for cancellation, a fixed amount of each issue. Even the removal of the need for Ontario Municipal Board approval of investment of sinking-fund moneys in the same issue would help. These suggestions would provide a measure of market support and thus tend to foster broader distribution. As a practical matter, however, sinking-fund debenture issues probably would have to be confined to larger local government units. While the issuing of sinking-fund debentures would provide a broader market, there are other considerations relating to their use by municipalities that deter us from suggesting that all municipalities be encouraged to issue them.

147. The initial attractiveness of securities is vitally affected by the nature of the secondary markets in which they may be subsequently traded. The Royal Commission on Banking and Finance points out that "the existence of this market, by enhancing the transferability of securities and serving as a guide to values, makes the primary new issue market a larger and lower-cost market than it would be in the absence of such after-trading."[14] The present secondary market for municipal securities in Canada is very thin and poorly organized, with the result that such securities represent a highly illiquid type of asset. One explanation is that municipal debentures are usually bought by long-term holders not interested in short-term trading, but serial provisions, odd denominations and relatively small issues all add to the lack of trading and consequently of liquidity. It is difficult to see any ready or complete solution to this particular problem.

148. *We therefore recommend that:*

The Department of Municipal Affairs give study to ways in which a broader and more active market might be developed for municipal debentures. **22:14**

[14]Royal Commission on Banking and Finance, *Report*, Ottawa: Queen's Printer, 1964, p. 315.

Chapter 23

Reconciling Structure with Finance

INTRODUCTION

1. Lest our critics invest us collectively with the title reserved for those who rush in where angels fear to tread, let it be a matter of record that it was not until after many months of deliberation that we decided that an excursion into the field of governmental structure was an unavoidable part of our assignment. Four distinct and powerful considerations led us to this decision. The first, already evident to those who have perused our earlier chapters on the property tax, is that efficiency in the raising of revenue by this mode of taxation demands assessment and collection on a regional basis. A second, patently apparent from our discussion of provincial grants for municipal and school purposes, is that equity in local finance can hardly be achieved under the structure of our present municipal institutions. A third is that municipal capacity to develop non-property sources of tax revenue, whether individually or in partnership with the Province, is severely circumscribed by limited territorial jurisdiction. These three considerations meant that we could not hope to fulfil our mandate of producing a "tax and revenue system [that] is as simple, clear, equitable, efficient, adequate and as conducive to the sound growth of the Province as can be devised" without recommending

changes in the existing structure of local government. The fourth and final consideration, brought home to us with increasing forcefulness, was that the existence of this Committee has coincided with what is undoubtedly the period of greatest ferment, both practical and theoretical, in the recent history of local government in Ontario. A veritable deluge of legislation, provincial and municipal reports, and proposals from private and professional groups, all bearing on local reform and reorganization, has of late descended on our province. A taxation report that did not take account of such circumstances would surely become obsolete within a few years of publication.

2. We cannot pretend, in the course of this chapter, to anticipate all future developments in the local government of Ontario. But we do wish to assess some of the more suggestive reform proposals currently being put forward, particularly with respect to their implications for the tax and revenue system. And we even dare to hope that we can provide, through our findings and conclusions, a measure of impetus to the cause of local reform.

3. In our view, current proposals for local reform can be conveniently broken down into two categories, one having to do with the territorial extent of local government, the other with its internal structure. The former involves such questions as the desirability of local municipal enlargement and regional government development, while the latter encompasses proposals having to do with representation, forms of organization, size of councils and so forth.

4. The territorial extent of local government, with its obvious implications for the equity and efficiency of the tax and revenue system, is of more direct concern to us than internal structure, and will accordingly receive the main emphasis in the discussion that follows. But internal structure, to be sure, cannot be totally divorced from questions of territorial extent. The size of the geographical area covered by a municipality or school district, for example, has a bearing on the form of council that is appropriate. For this reason, we shall have a word to say about the internal arrangement of local government.

THE TERRITORIAL EXTENT OF LOCAL GOVERNMENT

REGIONALISM AND LARGER LOCAL UNITS

5. Those who advocate reform in the territorial extent of local government normally tend to take one or the other of two alternative paths to their goal. The first involves the enlargement of existing school areas and local municipal units—that is, cities, towns, townships and villages—to a size that would be considered optimal at any given time for the provision of major local services. For the sake of convenience we shall refer to this first alternative as lower-tier reform, having in mind the fact that the governments affected are at the lowest level of territorial jurisdiction in a Canadian hierarchy whose apex is the federal government. The second approach either de-emphasizes or bypasses lower-tier problems and looks instead toward the development of regional governments as an intermediate tier between the Province and its local municipalities and school boards. In Ontario such

regional governments might come about through modification of the existing county structure and its extension into northern Ontario, or through the creation of wholly new and different entities.

6. We suggest that lower-tier reform and regional government are far from mutually exclusive. Indeed, we are of the opinion that the two alternatives can be made to complement one another as part of a joint development. We intend to justify this view on both theoretical and practical grounds at appropriate points in the discussion that follows. For the moment, it is enough to note that post-war changes in the structure of local institutions in this province have looked both toward the reform of the lower tier and toward the provision of certain services on a regional basis. A survey of these changes, together with other proposals that have been put forward but not yet acted upon, provides background information.

POST-WAR DEVELOPMENTS IN ONTARIO

The Structure of Local Government

7. A pressing cause of local reorganization throughout the post-war world has been the drastic shift of a growing population to urban and metropolitan centres. Ontario has proved no exception, and its common response, elsewhere than in Toronto, has been to authorize the territorial enlargement of its cities through annexations or amalgamations. Table 23:1 summarizes the resulting increases in the total acreage of Ontario cities. The reader will note that of the thirty-two cities listed in the Table, only two, Eastview and Port Arthur, retain the same acreage as in 1945. On the other hand, an overwhelming majority of cities, twenty-six to be precise, have at least doubled their acreage, and of these eight have recorded territorial gains of unusual magnitude, that is to say of more than 500 per cent.

8. Annexation statistics offer impressive evidence of public willingness and ability to cope with rapid urban growth. It must be admitted, of course, that the timing of annexations has often lagged behind need and that the acreage annexed to any given city has not necessarily coincided with the exact location or extent of population growth. None the less, post-war increases in the territorial extent of Ontario cities show that lower-tier evolution has been substantial. And the enlargement of cities is not the whole story. Two municipalities, Burlington and Oakville, have realized mammoth enlargements in both area and population while retaining their status as towns. Half a dozen more towns have likewise been greatly expanded, while a host of other towns and villages have obtained some added acreage through annexation. Furthermore, the multiplication of small units of local government has been partially checked by recent legislation. As of 1965, no new police villages may be formed in Ontario, and the Ontario Municipal Board may dissolve existing police villages in conjunction with the division or redivision into wards of the townships where police villages are situated.[1] Finally, the Minister of Municipal Affairs has seen fit to be represented at certain recent Municipal Board hearings as an advocate of local units of adequate size.

[1] *The Municipal Amendment Act, 1965*, c. 77.

TABLE 23:1

POST-WAR ENLARGEMENT OF ONTARIO CITIES OTHER THAN TORONTO

Municipality	*Total Acreage* 1945	1966	*Percentage Increase*
			%
Barrie	2,150	4,781	122
Belleville	1,800	7,655	325
Brantford	3,292	11,335	244
Brockville	1,374	6,024	338
Chatham	1,900	5,350	182
Cornwall	825	19,200	2,227
Eastview	660	660	no change
Fort William	9,355	23,199	148
Galt	1,922	8,298	332
Guelph	3,014	16,031	432
Hamilton	10,316	31,725	208
Kingston	2,965	15,691	429
Kitchener	3,477	11,410	228
London	6,873	42,550	519
Niagara Falls	1,934	24,083	1,145
North Bay	2,100	2,260	8
Oshawa	3,660	14,000	283
Ottawa	6,009	30,482	407
Owen Sound	2,909	3,018	4
Peterborough	3,568	10,326	189
Port Arthur	15,632	15,632	no change
Port Colborne	1,308	5,984	357
St. Catharines	2,400	17,000	608
St. Thomas	1,898	4,540	139
Sarnia	1,479	11,672	689
Sault Ste. Marie	6,188	60,016	870
Stratford	2,835	3,263	15
Sudbury	2,713	32,711	1,106
Waterloo	2,921	5,293	81
Welland	1,100	8,358	660
Windsor	8,251	31,584	283
Woodstock	1,525	3,456	127

Source: Derived from Submission of the City of Toronto to the Royal Commission on Metropolitan Toronto.

9. Meanwhile, in the domain of education, possibly one of the most signal reforms of this century came to pass by legislative action in 1964.[2] All incorporated townships, save those with a population exceeding 10,000, became school areas. This reform at one stroke abolished more than 1,500 rural public school boards and reduced the number of boards operating public schools in the province from over 2,500 to slightly less than 1,000. To further encourage the consolidation of school areas, the same statute provided for the appointment of county consultative committees and of similar committees in northern Ontario to study the feasibility of combining township school areas into still larger units. The consultative committees have been authorized to present recommendations to the appropriate authorities for consideration and possible action.

[2]*The Public Schools Amendment Act, 1964*, c. 95.

10. Also in 1964, The Secondary Schools and Boards of Education Act was amended[3] to require the extension of the system of high school districts to all areas within southern Ontario not forming part of an established district. Areas under the jurisdiction of boards of education are defined as high school districts under this Act.

11. Whether in education or in municipal matters generally, then, provincial willingness to encourage and even, sometimes, to compel lower-tier reform is a matter of record. Developments at the upper tier have not progressed as far. Efforts have been made to extend the county services. Action has been taken and encouragement given to consolidate other functions through *ad hoc* authorities. With one notable exception, new multi-purpose regions remain in the talking stages. The notable exception, of course, is the Municipality of Metropolitan Toronto, whose creation in 1953 has since been hailed throughout North America, and indeed in much of the world, as a signal and original response to the peculiar problems that beset the particularly large urban or metropolitan area. Perhaps a trifle less satisfactory at home than glamorous abroad, Metro in any event has achieved high standards of success in its twelve years of existence. That not a single submission to the Royal Commission on Metropolitan Toronto failed to praise a generous portion of Metro's achievements is ample testimony to the constructive value of this development. The fact that the ensuing legislation both streamlined and enhanced the responsibilities of Metro is further evidence of its continuing acceptance.

12. Whether or not as a result of the Toronto experiment, it is becoming increasingly apparent that the spread of regional government to other parts of Ontario is a matter of considerably more than academic interest. The implementation of the 1965 report on Metropolitan Ottawa, commissioned a year earlier by the Minister of Municipal Affairs, would add a second regional unit to the inventory of governments in this province. Two further local government reviews covering the Niagara Peninsula and the Counties of Peel and Halton have been published recently, while a study of the Lakehead area is in progress. That the Department of Municipal Affairs is actively interested in still more widespread consideration of the regional device is attested to by the fact that the Minister has given encouragement to the launching of major studies of six additional areas in Ontario.[4] The areas in question are the Kitchener-Waterloo-Galt complex, Brantford-Brant, Greater Hamilton, London-Middlesex, Ontario County and Muskoka. Whatever the outcome of the study of any particular area, it seems safe to predict that regional government in some form will be advocated for a number of areas and implemented in more than one.

Provincial and Grass-Roots Interest

13. Within the provincial government, interest in regionalism at the departmental level appears to be more than matched within the legislature. Early in

[3] *The Secondary Schools and Boards of Education Amendment Act, 1964*, c. 106.
[4] Legislature of Ontario, *Debates*, 27th Leg., 3rd sess., 1965, pp. 1604-5.

1965, the Select Committee on The Municipal Act and Related Acts (the Beckett Committee) issued its final and in some ways most remarkable report. The Committee's leading recommendation is that the entire province be divided into "larger units of local government, designated as 'regional', . . . with suitable boundaries having consideration to population, assessment, logical planning areas, watersheds and economic and social conditions".[5] "As a practical start", the Committee suggests that the existing counties "in whole or in part or with additions thereto",[6] be adopted as the basic unit of regional government. All cities and separated towns, with the sole exception of Metropolitan Toronto, would henceforth be included within the governments of their respective regions. Membership on the regional council would be determined by direct popular election on a ward basis, the wards to be as nearly equal in population as possible. Regional functions would include all of the following: assessment, planning, public health, hospitals, welfare, policing and arterial roads—that is, the present "county" and "suburban" roads. In addition, any regional government would be free to assume storm and sanitary trunk sewers, sewage treatment plants, trunk watermains, water purification plants, regional parks, and fire equipment and services, from all or some of the municipalities within its territories. Taxes for regional services would be levied and collected by the regional government.

14. Thus does the Beckett Committee wholeheartedly embrace the development of strong regional units as a major key to the reform of local government in Ontario. To its credit, of course, that Committee does not advance regionalism as an all-embracing panacea for present difficulties. The Committee, acknowledging the problems created by local units of a very small scale, clearly endorses the desirability of continued lower-tier reform. And that it fully appreciates the long-run dimension of municipal problems is apparent from its final recommendation that the Province establish a Continuing Committee to keep municipal affairs and provincial-municipal relations under constant research and review. This Continuing Committee, composed of government appointees selected "on the basis of their practical and special knowledge of municipal affairs",[7] would be attached to the Office of the Prime Minister.

15. On the basis of the above points, it is amply evident that advanced thinking on the desirability of territorial reform permeates the provincial government, both at the departmental and the legislative level. Many other examples could be pointed out and will indeed be cited as a discussion of specific government functions is undertaken later in this chapter. For the moment, we shall simply note as a final point that the Prime Minister of Ontario himself has recently chosen to discuss the merits of regional government in several speeches, both inside and outside the Legislature.

16. Serious provincial concern over any particular problem with wide public

[5]Select Committee on The Municipal Act and Related Acts, *Fourth and Final Report*, Toronto, March 1965, p. 185.
[6]*Ibid.*, p. 185.
[7]*Ibid.*, p. 189.

repercussion seldom comes about spontaneously. That this should be so is fully to be expected in a democratic state such as ours. It is more than encouraging to note that provincial interest in local reform conforms in every way to the expected pattern. Individual local entities, county and municipal associations and public-spirited citizens' groups have of late been pressing for local reform in larger numbers and with growing intensity. We cite but a very few examples. More than a decade ago, the County of Peel commissioned the Executive Director of the Ontario Welfare Council to study its welfare services with a view to their co-ordinated development.[8] This was the beginning of a movement of gradually growing strength seeking the consolidation of local welfare functions at the county level. The development has been supported since 1958 by legislation[9] permitting the county to assume responsibility for general welfare assistance. Some seven years ago, also on its own initiative, York County commissioned a study on the amalgamation of local policing services within its boundaries.[10] In this connection, we note that in its 1965 session the provincial legislature amended the Police Act to provide the authority necessary for the voluntary amalgamation of police forces by two or more municipalities.[11] Meanwhile, among municipalities in the Niagara Peninsula, the initiative of local reeves and councillors brought about the creation, in 1963, of the Niagara Peninsula Municipal Committee on Urban and Regional Research. This Committee, with the aid of a grant from the Canadian Council on Urban and Regional Research, commissioned a pilot study of municipal government in Lincoln and Welland Counties. Undertaken by Professor Henry B. Mayo, this study provided the basis for the major review of the Niagara Peninsula mentioned earlier in this chapter.[12]

17. Grass-roots action in the Peel, York and Niagara areas constitutes only a small part of a larger canvas of province-wide pressure for local reform. Thus an *ad hoc* meeting of seven counties, called in 1959 at the behest of the County of Wentworth, blossomed within a year into a full-fledged Association of Ontario Counties, committed to the re-ordering of county government. Officially formed in October 1960 with a membership of twenty-two counties, the Association now includes as paid-up members thirty-three of the thirty-eight administrative counties in Ontario. It provides for an inter-county exchange of views together with an educational program, and it has submitted several strong briefs to the provincial cabinet on behalf of regional government.

18. Not to be outdone by mere newcomers, the long-established and much respected Ontario Municipal Association has become a prestigious advocate of intensive regional studies. Spearheaded by the Urban Rural Municipalities Section of the O. M. A., interest in regional government spread quickly to the Town and Village and the Welfare Officers' sections of the Association and to the parent

[8]Bessie Touzel, *Welfare Services in Peel County 1954 and Recommendations for Their Development*, Toronto: Ontario Welfare Council, 1955.
[9]*The General Welfare Assistance Act*, R. S. O. 1960, c. 164, s. 5(3).
[10]*Report on the Amalgamation of York County Police Departments*, York County, November 1960.
[11]*The Police Amendment Act, 1965*, c. 99.
[12]Niagara Peninsula Municipal Committee on Urban and Regional Research, *Preliminary Report*, October 1964.

organization. In 1962, the O. M. A. included the following sentence in its second consecutive presentation to the Cabinet urging serious study of both lower-tier reform and regional government.

> We believe that the future of the county, the procedures open to those who seek or oppose local boundary changes, the relationship of the city or separated town to the county or other regional unit of government and the desirability or otherwise of consolidating or refashioning other units of local government *should be taken up as a subject of prime importance and early priority by the Ontario Government.*[13]

19. To the above evidence of municipal willingness, indeed eagerness, to countenance profound changes in local institutions, we might add the fact that our own Committee received a number of highly impressive submissions on behalf of local reorganization. That these were forthcoming not only from municipal bodies but from well-known associations of professional and business people testifies strongly to the fact that the need for reform has come to permeate the thinking of many influential private citizens. A rising interest in reshaping the fabric of local government is thus everywhere apparent; and the flow of ideas and suggestions it has created has at once encouraged us to take up the subject and provided guidance to our own efforts.

20. Much of the present discussion of local reorganization is befittingly couched in broad and far-reaching terms. Our own immediate interest in this subject, by contrast, stems from relatively narrow considerations: the equity, efficiency and general soundness of the revenue system. But must we therefore limit ourselves to a correspondingly restricted approach to local change, merely designating this or that aspect of revenue raising as one requiring enlarged local municipalities or some sort of regional units of government? We think not. That the base of our interest in the problem is specialized does not justify our retreating to a vague expression of opinion that can all too readily be brushed aside. Indeed we have come to conclude that any approach to local reform must be comprehensive rather than piecemeal. To explain this more fully requires an excursion, however brief, into the realm of political science.

SOME THEORETICAL CONSIDERATIONS

21. No approach to local reform should begin without recourse to the basic principles that justify the existence of local government. This, of course, is simply because a prime motive of reform is always to preserve and ameliorate the object to be reformed. Reformation is in large part preservation, otherwise it would not be reformation at all, but abolition.

22. Why have local government? The simple and correct answer is that local government will exist in any given jurisdiction and at any point in time because it fulfils certain general objectives or values of a political community. These objectives or values will determine not only the existence of local government but the nature of local institutions. Thus a totalitarian régime, eager to consolidate

[13]Ontario Municipal Association, *1962 Submission to the Executive Council of the Province of Ontario*, p. 12, (our italics).

its position and propagate its values, may have resort to a tightly disciplined, hierarchically controlled local unit—the Chinese commune, for instance. A highly egalitarian and democratic society, on the other hand, in furtherance of its quite different objects, may foster a multiplicity of small local governments where policy decisions can be deliberated and made by the entire adult population as, for example, in the traditional New England town meeting.

23. What are the prime values for whose fulfilment local government exists in a constitutional democracy such as Ontario? We are prepared to state that there are two such prime values. One we shall call *access*, the other *service*.

24. By *access* we mean the most widespread participation possible on the part of all or virtually all individual citizens. Access to government, in terms of capacity to influence public policy decisions and to enforce responsive and responsible administration is, of course, fundamental to any democratic government. But that local government is peculiarly conducive to the realization of the access value has been recognized by political philosophers at least since the time of Plato. The central reason is that the capacity of government to promote access is in part an inverse function of size. The local government that is sufficiently small to enable all citizens to participate directly in public affairs—in short, the town-meeting government—is that local government which is capable of realizing the access value most fully.

25. Perhaps no political philosopher has waxed more eloquent on this subject than the great Alexis de Tocqueville.

> . . . municipal institutions constitute the strength of free nations. Town meetings are to liberty what primary schools are to science; they bring it within the people's reach, they teach men how to use and enjoy it. A nation may establish a free government, but without municipal institutions it cannot have the spirit of Liberty.[14]

26. Not far behind the town meeting in ensuring widespread citizen access to government is the representative form of local institutions with which we are familiar in Ontario. As the nineteenth-century English philosopher John Stuart Mill stated:

> . . . in the case of local boards, besides the function of electing, many citizens in turn have their chance of being elected, and many, either by selection or by rotation, fill one or other of the numerous local executive offices. In these positions they have to act for the public interests as well as to think and to speak.[15]

27. If local government is highly conducive to popular access in a democratic society, it is also an important service instrument. By *service* we mean not only the economical discharge of public functions, but the achievement of technical adequacy in due alignment with public needs and desires. Thomas Jefferson, himself no

[14]Alexis de Tocqueville, *Democracy in America*, edited by Phillips Bradley, New York, 1945, Vol. I, p. 61.

[15]John Stuart Mill, "Representative Government", *Utilitarianism, Liberty and Representative Government*, Everyman edition, London, 1910, p. 348.

mean apologist of local government as a guarantor of popular access, also stressed its service value ". . . in government, as well as in every other business of life, it is by division and subdivision of duties alone, that all matters, great and small, can be managed to perfection."[16] Government is besieged, echoed John Stuart Mill, by "so great and various an aggregate of duties that, if only on the principle of the division of labour, it is indispensable to share them between central and local authorities."[17]

28. We see, then, that local government primarily serves two values critically important to our society, access and service. The first value is fundamental to the very existence of our democratic system; the second must in large part be the logical outcome of the first: we, as a people, demand efficient—if you will, serviceable—government. But while the two values are complementary as well as desirable, each can potentially come into conflict with the other. So it is with other political values we cherish, for example, liberty and equality. Just as liberty if pursued to an extreme would make a mockery of equality by creating an anarchy of the survival of the fittest, so also would the unrestrained pursuit of equality sooner or later preclude liberty by reducing all men to some lowest common denominator. So it is with access and service: a maximum dose of the former, calling for autonomous government by each city block so that all could participate, would totally preclude economy and efficiency in the discharge of local functions. Conversely, were service the only value to be maximized, each separate function of government might claim a territorial jurisdiction of its own, whose size would be tailored exactly to the area in which the service in question could be discharged most efficiently. Furthermore, with such a multiplicity of service areas, efficiency could only be maintained through a technocracy prepared to function without awaiting direction from a confused and faltering public. In such circumstances, access would be virtually non-existent.

29. This should make clear, we trust, that neither access nor service can be pursued in isolation if the over-all goal is a healthy democratic society. In approaching the subject of local reform from our terms of reference we are, of course, concerned most immediately with the need for an equitable and effective revenue structure to lend financial support to the service objective. But we could ignore access only at the peril of producing recommendations that would be at once unrealistic and at odds with the political values of our society.[18]

ACCESS, SERVICE AND THE SIZE OF LOCAL GOVERNMENT

30. It is an oft-cited axiom of traditional democratic theory that where public access is a prime consideration, local governments must be small. On the other hand, an equally commonplace dictum of administrative theory holds that the provision of fully efficient services demands local government of a size sufficient

[16]Quoted in Samuel P. Huntington, "The Founding Fathers and the Division of Powers", *Area and Power* (ed. Arthur Maass), New York: Free Press of Glencoe, 1959, p. 164.
[17]Mill, "Representative Government", p. 347.
[18]For a stimulating discussion of the relation between the service concept and other governmental values see Arthur Maass (ed.), *Area and Power.*

to take full advantage of the economies of scale available within existing technical possibilities. The resulting conflict as to what constitutes the optimum size of local government has long been apparent.

31. When the present pattern of local government was laid out in Ontario in the early nineteenth century, it was the good fortune of the times that access and service were relatively easy to reconcile. Such factors as a simple economy, rudimentary technology and a low level of demand for public services combined to make possible the discharge of local functions by small units of government with at least minimally acceptable efficiency. Popular access to government was accordingly assured without major sacrifices in service. In the twentieth century, on the other hand, a complex industrial economy, highly sophisticated technology including means of rapid transportation, and greatly expanded demand for very costly public services have altered conditions sharply. In the absence of difficult and delicate adjustments, the once happy balance between access and service is collapsing around our heads. An acute British observer, H. G. Wells, noted this development in his own nation with startling insight more than sixty years ago.

> The areas within which we shape our public activities at present derive, I hold, from the needs and conditions of a past order of things. . . . They have been patched and repaired first to meet this urgent specific necessity and then that, and never with any comprehensive anticipation of coming needs, and at last they have become absolutely impossible. They are like fifteenth-century houses which have been continuously occupied by a succession of enterprising but short-sighted and close-fisted owners, and which now have been, with the very slightest use of lath-and-plaster partitions and geyser hot-water apparatus, converted into modern residential flats. These local government areas of today represent for the most part what were once distinct, distinctly organized, and individualized communities, complete minor economic systems, and they preserve a tradition of what was once administrative convenience and economy. Today, I submit, they do not represent communities at all, and they become more wasteful and more inconvenient with every fresh change in economic necessity.[19]

32. In the closing years of the last century and throughout the first half of this century, a typical response to the irreversible forces that have buffeted established units of local government was the attempt to divorce access from service and to pursue the two objectives separately. Whether in the United States or in Canada, including, in its own way, Ontario, popular access was somehow deemed secured through the maintenance of relatively intact areas of municipal jurisdiction. The service objective, for its part, would be sought through the creation of new authorities designed to discharge specific functions on an *ad hoc* basis whenever it became glaringly apparent that a particular service had evolved beyond the reach of traditional local government.

33. Examples of *ad hoc* authorities exist all about us. Health units, city-county suburban road commissions, conservation authorities and high school districts are among the more familiar specimens in Ontario. Usually under appointed

[19]H. G. Wells, "A Paper on Administrative Areas", reprinted in Maass (ed.), *Area and Power*, p. 209.

or at best indirectly elected boards, and empowered to requisition operating funds from municipalities, these devices have doubtless generated improved levels and standards of service.

34. But a disjointed pursuit of access and service—the one through the maintenance of traditional municipal areas, the other through the creation of *ad hoc* authorities—can be even more pernicious than an approach to local government that would completely eschew one objective in favour of the other. This is because there results an illusion that access and service are somehow balanced when in fact they are not. The true state of affairs is instead likely to be one of grinding friction between *ad hoc* authorities whose responsiveness thereby suffers and municipal institutions to which access becomes increasingly devoid of meaning. Commenting on the present situation in the United States, a leading authority has stated that "the fragmentation of governmental activities while governments were growing in functional importance has greatly increased the difficulty of citizen control, and, in fact, has made it almost impossible."[20]

35. It is doubtless the recognition of these conditions that has prompted the recent dramatic rise in public concern for local reform in Ontario. The lesson that emerges, as we read it, is this: that a true reconciliation of service and access must be the fundamental concern of those who would restructure our local institutions, and that the size of local government areas is an important, but none the less partial consideration. To put it in a slightly different way, the key to successful and lasting reform lies in seeking to consider service and access together in tailoring units of appropriate size and pattern to serve both objectives jointly. In this manner, the achievement of balance between service and access becomes the principal criterion against which the appropriateness of any given size will be judged.

36. At this point it should be stressed that if service and access are not automatically compatible, they can indeed be blended in a state of equilibrium. When in proper balance, each value will tend to reinforce the other. The notion of service, as we have said, includes not only economy and efficiency in the narrow administrative sense but also full utilization of the latest techniques in order to produce results most in keeping with public needs and expressed wishes. Hence well-developed public access, in terms of widespread popular participation, will help to enhance the serviceability of government. Conversely, the very participation that makes access meaningful can hardly be anticipated on a continuing basis unless government is indeed fulfilling its service objective and constitutes a solid focus of public interest.

37. While access and service can assuredly support and enhance one another, it is extremely doubtful that they can do so through a multiplicity of overlapping governmental authorities. It was, as we mentioned earlier, the undoubted good fortune of our mid-nineteenth-century ancestors in Ontario that a combination of circumstances seemingly enabled them to secure by statutory enactment an equilibrium between service and access for the most part at a single level of local

[20]John C. Bollens, *Special District Government in the United States*, Berkeley: University of California Press, 1957, p. 253.

government. By contrast, the present age of extremely costly and complex government functions might at first blush appear to call for the creation of several levels of local government, each geared to a size, in terms of both population and territory, determined by primarily administrative considerations. Yet equilibrium between access and service would be virtually impossible to achieve through a variety of districts designed to perform isolated functions. For one thing, public confusion would be bound to result from the ensuing dispersion and multiplication of public officials. For another, the efficiency of local government would be jeopardized through the ensuing lack of a focal point at which activities could be co-ordinated and priority-setting decisions made among competing functions.

38. Given the above reasons, and also the existence, beyond and yet related to local affairs, of the federal and provincial levels of government, the number of levels of local government at which an equilibrium between service and access can be sought is severely restricted. It may well be that the ideal to be pursued, even amidst the complexities of the present, is a single such level. But with due regard to both theoretical and practical considerations, we have formed the opinion that in most circumstances two levels of government can be both manageable and appropriate to current service needs. It is our considered opinion, therefore, that in most areas of the province, the twin objectives of service and access can be realized in optimal balance through a full-fledged regional level of government and a streamlined lower-tier level.

BALANCING ACCESS AND SERVICE: CRITERIA FOR REGIONAL GOVERNMENT

39. The pursuit of access and service at a given level of government involves a concrete consideration of the implications of each objective for the size and form of the governmental unit in question. This is particularly important in the light of our contention that it is an appropriate blending of the two objectives that should determine size. We believe that certain criteria flow logically from each of our twin objectives of access and service and provide an important guide to the delineation of regions.

40. Beginning with access, which by nature involves widespread popular participation in government, it is reasonable to deduce that a regional unit should possess that attribute which political philosophers have long recognized as a bulwark of government: community. Community can be defined as a sense of shared interest, and while community arises from such elusive factors as history, geography, economic relations and sociological traits, it plays a concrete and essential role in making a governmental unit viable. Popular participation in government, then, demands the existence of a sense of community. When a new unit of government is to be created, such as a region, it is of course more than likely that a full-blown sense of community will not immediately be achieved. This is because there exists a reciprocal relation between popular participation and community. Participation cannot exist without community, but it serves to develop community. Summing up, a first criterion in pursuing access in a regional government can be formulated as follows: *A governmental region should possess, to a reasonable*

degree, a combination of historical, geographical, economic and sociological characteristics such that some sense of community already exists and shows promise of further development subsequent to the creation of the region.

41. Participation in government is many things. It is the voter casting his ballot and writing or visiting his representative. It is the effort to persuade an individual to stand for office in the competitive arena of politics. It is the citizen who joins with like-minded fellows in a group or association to press a particular point of view on government. A prime determinant of such activities is every citizen's capacity, either as an individual or as part of a group, actually to influence the political process. This, however, will depend to an important extent on the existence of a reasonable balance among diverse interests within a governmental jurisdiction. A region that is numerically dominated by farmers, or by city dwellers, or by suburbanites, to take a few examples, may engender feelings of defeatism among those left in a hopelessly small minority. The result will be one of political alienation for those so affected, with a consequent lessening of popular participation in government. Accordingly, a second criterion for the structuring of regional government flows from the quest for access: *A region should be so structured that diverse interests within its boundaries are reasonably balanced and give promise of remaining so in the foreseeable future.*

42. Just as with access, so criteria flow logically from a consideration of the service objective. An indisputably important index of the ability of any government to discharge its service objective is financial capacity. A region must therefore possess an adequate tax and revenue base. More specifically, because a region constitutes an intermediate level of government between the Province and the lower tier of local government, a region should itself have the financial capacity to achieve a substantial measure of equalization in the services it provides to its constituents. Presuming a continuing heavy reliance upon the property tax, a region should contain a blend of commercial and residential assessment providing reasonable financial strength. In a province as diverse as Ontario, some local discrepancies in fiscal capacity are bound to remain; but these can be dealt with by provincial policy, and will be easier to overcome if the regions are properly delineated from a financial standpoint. Service considerations accordingly give rise to the following financial criterion: *Every region should possess an adequate tax base, such that it will have the capacity to achieve substantial service equalization through its own tax resources, thereby reducing and simplifying the provincial task of evening out local fiscal disparities.*

43. At this point, consideration of what public functions should be allocated to a regional level of government is appropriate. If a region should have the capacity to achieve substantial service equalization, it follows that the functions it is called upon to discharge should be functions whose costs should equitably be shared by all inhabitants of the regions and whose benefits are accordingly region-wide. Furthermore, the functions and regions should be so tailored to one another that a high level of efficiency results. Here we believe that three standards of efficiency are particularly applicable. The first is economy of scale directed toward

the provision of the highest possible standard of service at any given expenditure level. The second is specialization in terms of the capacity of a region, through the extent of its territory and population, to employ professional skills and provide specialized services of a type not otherwise within the economic capacity of local government. The third is the application of modern technology: regions should be so designed, and their functions so allocated, that the most efficient use of present and future technologies can be brought to bear in the discharge of regional responsibilities. Such technologies would include, by way of example, automatic data processing, transportation facilities, engineering plant and the like. All of the above can be distilled into the following criterion: *Every region should be so constituted that it has the capacity to perform those functions that confer region-wide benefits with the greatest possible efficiency, efficiency being understood in terms of economies of scale, specialization and the application of modern technology.*

44. It should be recognized that the above criterion does not necessarily dictate that each and every region have identical functional responsibilities. Some variation may be warranted by such factors as differences in territorial extent and population size. The subject will be pursued further in the context of a specific scheme of regional government for Ontario.

45. However great the care taken in delineating regions and allocating functions, it will remain true that some governmental responsibilities simply cannot be accommodated fully by a single regional government. To select one example, the planning of hospital facilities may not be entirely within the scope of individual regions because hospital use patterns reflect, among other things, a highly selective distribution of the most sophisticated facilities among a small number of teaching hospitals. To take another, the conservation function necessitates co-ordination on the basis of entire drainage basins, which need not provide the most suitable boundaries for other purposes and whose rivers may in fact constitute natural boundaries between governmental regions. It is therefore apparent that yet another criterion is necessary if the service objective is to approach fulfilment, one that looks toward the possibility of effective interregional arrangements. We accordingly offer a final criterion which we enunciate as follows: *Regions should be so delineated and their governments so organized that the co-operative discharge of certain functions can readily become an integral part of their over-all responsibility.*

REGIONAL GOVERNMENT FOR ONTARIO: A SUGGESTED SCHEME

46. We believe that a viable scheme of regional government can only be devised through conscious recognition of the two most basic objectives of local government, access and service. We reiterate our view that in promoting these objectives, complementary yet not automatically compatible, the two must be kept in reasonable balance. Consideration of each of these objectives has led us to formulate five criteria from which to construct a regional system. We now proceed to propound a concrete scheme of regional government for Ontario in the belief that nothing short of a specific and reasonably detailed proposal can test the validity of our criteria and arouse the public interest and debate that constitute the necessary prelude to action.

47. A set of twenty-two regions for southern Ontario is outlined in Map I. Three rather distinct classes of region will be observed, the first of which we have chosen to call *metropolitan,* the second *urbanizing,* the third *county.* Postponing momentarily our justification for this three-fold classification, we simply enumerate and describe briefly the regions in each class. For each defined region in both northern and southern Ontario the approximate population has been calculated from the assessors' estimates published in 1965.

48. In the metropolitan category, we list seven regions in descending order of population:

(1) *The Metropolitan Toronto Region,* coinciding with the present Municipality of Metropolitan Toronto (approximately 1,725,000).

(2) *The Metropolitan Ottawa Region,* based generally upon the report of the Ottawa, Eastview and Carleton Local Government Review (approximately 370,000).

(3) *The Metropolitan Hamilton Region,* similar in extent to the commonly accepted definition of Greater Hamilton (approximately 335,000).

(4) *The Metropolitan Niagara Region,* embracing generally Lincoln and Welland Counties and approximating the area studied by the Niagara Peninsula Local Government Review (approximately 300,000).

(5) *The Four Cities Metropolitan Region,* taking in Kitchener, Waterloo, Galt and Guelph and their outer urban fringes (approximately 220,000).

(6) *The Metropolitan Windsor Region,* to include the newly-enlarged City of Windsor and the flanking urban and suburban areas (approximately 210,000).

(7) *The Metropolitan London Region,* confined to the City of London and its immediate fringe developments (approximately 185,000).

The reader will note that these seven regions correspond to the seven largest urban concentrations in Ontario. Their boundaries, like those of other regions sketched on the map, are not intended as final. They are subject to alteration in the light both of more intensive study and of major shifts in growth patterns. For example, the industrial development now being planned near St. Thomas may warrant the inclusion of that city and its environs within the Metropolitan London Region.

49. Turning to the urbanizing regions, there are three such which we again list in descending order of population:

(1) *The Inter-Metro Region,* embracing all the urbanizing areas between the Metropolitan Hamilton Region and the Four Cities Metropolitan Region on the west and northwest, and the Metropolitan Toronto Region on the east (approximately 275,000). Comprised generally of the southern portion of Peel County, all of Halton County, and small portions of the Counties of Wellington and Wentworth, the Inter-Metro Region offers very

special problems in that it is currently and will be increasingly influenced by demographic and land-use pressures emanating particularly from the Hamilton and Toronto regions. The Inter-Metro Region is closely related to another area studied by a local government review commission.

(2) *The Metropolitan Highlands Region*, directly north of the Toronto and Inter-Metro Regions (approximately 170,000). This region, embracing eastern portions of Wellington and Dufferin Counties, the northern part of Peel County, the southern section of Simcoe County, York County excluding Metropolitan Toronto, and the northwestern fringe of Ontario County, is in a cross-current of influences emanating from Oshawa, Toronto, Hamilton and Guelph.

(3) *The Oshawa Central Region*, extending across the southern portions of Ontario County and the southwest portion of Durham County (approximately 150,000). This area has peculiar characteristics in that it is subject both to indigenous growth forces and to the easterly expansion of Metropolitan Toronto.

50. We come now to twelve county regions, which the reader can most conveniently follow on the map in geographical sequence: Beginning directly north of the Metropolitan Highlands Region and, as before, noting population parenthetically, we come in turn to:

(1) *The Champlain Region*, including the northeastern portion of Dufferin County, all of Simcoe County save its southern extremity, the District of Muskoka and the southeastern portion of Parry Sound (approximately 160,000).

(2) *The Upland Region*, embracing all of Bruce and Grey Counties, the northern portion of Wellington and the northern fringe of Waterloo, and the western part of Dufferin (approximately 140,000).

(3) *The Maitland Region*, taking in all of Huron and Perth Counties together with the western fringe of Waterloo County (approximately 125,000).

(4) *The West County Region*, comprising Lambton County in its entirety and those parts of Middlesex north and west of Metropolitan London (approximately 130,000).

(5) *The Upper Erie Region*, including Essex County south and east of Metropolitan Windsor, all of Kent County and the western portion of Elgin County (approximately 150,000).

(6) *The Talbot Region*, embracing the eastern part of Elgin County and the fringe of Middlesex to the east of Metropolitan London, all of Oxford County and the western portion of Norfolk (approximately 145,000).

(7) *The Grand River Region*, including the eastern part of Norfolk, Brant and Haldimand Counties in their entirety, and perhaps small non-metropolitan portions of Wentworth and Lincoln Counties (approximately 155,000).


SUDBURY
140,000
NIPISSING
75,000
Algonquin Park
OTTAWA VALLEY
100,000
METRO OTTAWA
370,000
BORDER COUNTRY
145,000
LAKE HURON
CHAMPLAIN
160,000
RIDEAU LAKES
170,000
KAWARTHA
125,000
QUINTE
175,000
UPLAND
140,000
METROPOLITAN HIGHLANDS
170,000
OSHAWA CENTRAL
150,000
METRO TORONTO
1,725,000
LAKE ONTARIO
MAITLAND
125,000
FOUR-CITIES METRO
220,000
INTER-METRO
275,000
METRO HAMILTON
335,000
METRO NIAGARA
300,000
WEST COUNTRY
130,000
METRO LONDON
185,000
TALBOT
145,000
GRAND RIVER
155,000
UPPER ERIE
150,000
METRO WINDSOR
210,000
LAKE ERIE
MAP1
PROPOSED GOVERNMENTAL REGIONS IN SOUTHERN ONTARIO
Metropolitan Regions
Urbanizing Regions
County Regions
District Regions
Contract Region
Contracting Municipality
Colour denotes region providing services
0 10 20 30 40 50
MILES
gjm

Skipping over the dominantly urban regions comprising Ontario's "golden horseshoe", we come next to:

(8) *The Kawartha Region*, embracing the northeastern section of Ontario County, the northern part of Durham and all but the northernmost fringes of Victoria and Peterborough Counties (approximately 125,000).

(9) *The Quinte Region*, comprising the eastern fringe of Durham, all of Northumberland and Prince Edward, and the southern portion of the Counties of Hastings and of Lennox and Addington (approximately 175,000).

(10) *The Rideau Lakes Region*, containing the southern parts of Frontenac and Lanark Counties, the southwestern section of Carleton County and the United Counties of Leeds and Grenville (approximately 170,000).

(11) *The Border Country Region*, including the southeastern portion of Carleton and, in their entirety, the United Counties of Stormont, Dundas and Glengarry and of Prescott and Russell (approximately 145,000).

Beyond the Metropolitan Ottawa Region, we come finally to:

(12) *The Ottawa Valley Region*, embracing the northwestern portion of Carleton County, northeastern Lanark and all but the southwestern extremities of Renfrew County (approximately 100,000).

51. The reader who has taken pains to follow our itinerary through southern Ontario will have observed two geographical features of the scheme we propose. The first is that at one point we have gone beyond southern Ontario in delineating a Champlain Region which takes in all of the District of Muskoka and the adjacent part of the Parry Sound District. The second is that while the scheme has the net effect of placing all the more settled portions of southern Ontario under regional government, a sizeable area directly south of Algonquin Park has been omitted. It includes the Provisional County of Haliburton and the more remote portions of five other counties and contains in all a population of perhaps thirty thousand, mostly within organized municipalities. We shall discuss the latter departure from the traditional concept of northern and southern Ontario later in this chapter.

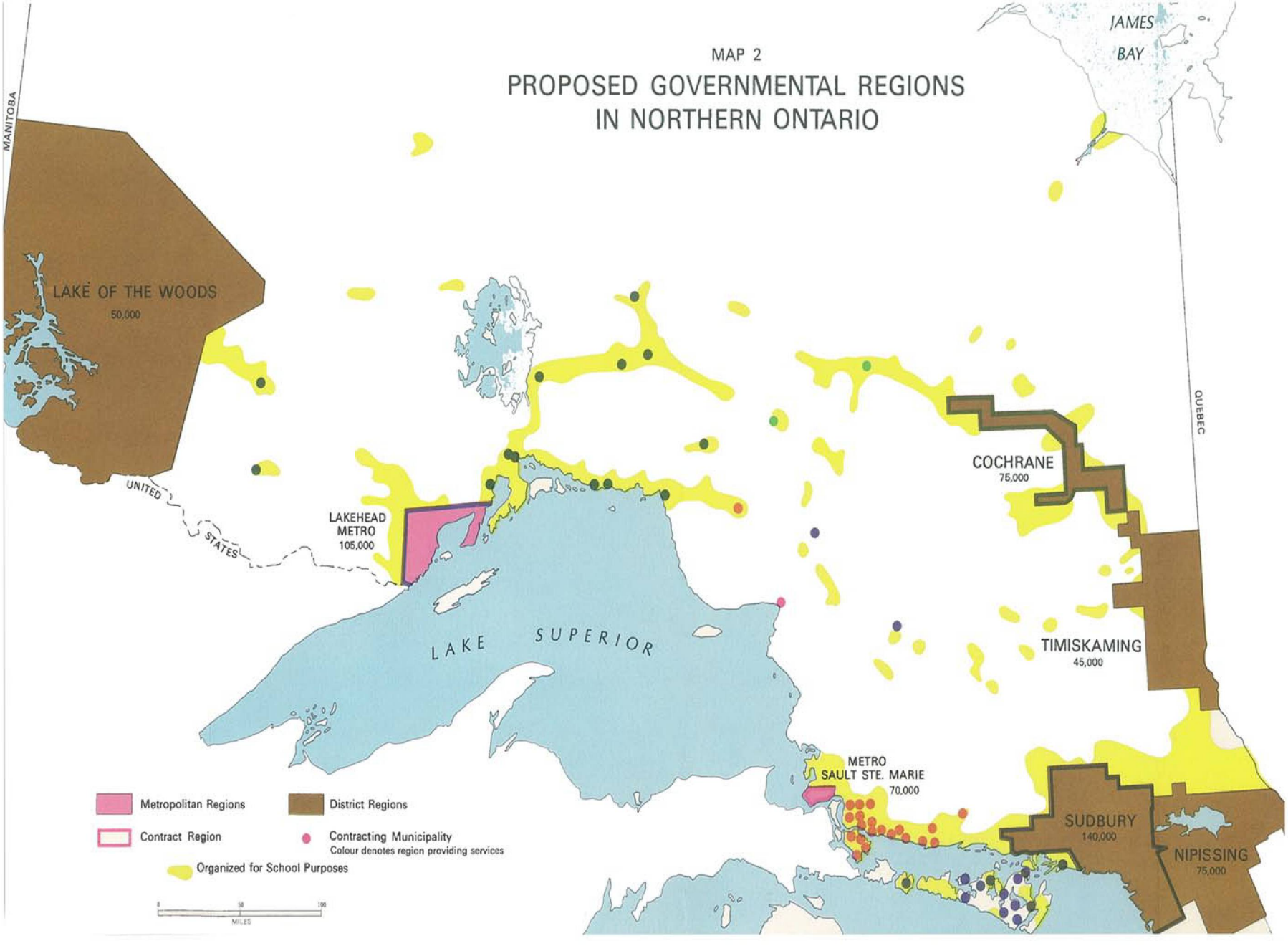
52. At this point, we refer the reader to Map II, of northern Ontario. Here our scheme provides for seven regional governments in the northern expanse of the province. For reasons similar to those affecting the south, we have classified two regions as metropolitan; the remaining five we call northern district regions.

53. Our two northern metropolitan regions, easily located on the map, are:

(1) *The Lakehead Metropolitan Region*, embracing the twin cities of Fort William and Port Arthur and their tributary settlements (approximately 105,000).

(2) *The Metropolitan Sault Ste. Marie Region*, comprising the city and its immediate environs (approximately 70,000).

54. Turning to our northern district regions, we begin with:


MAP 2
PROPOSED GOVERNMENTAL REGIONS
IN NORTHERN ONTARIO
MANITOBA
JAMES
BAY
QUEBEC
LAKE OF THE WOODS
50,000
UNITED
STATES
LAKEHEAD
METRO
105,000
LAKE SUPERIOR
COCHRANE
75,000
TIMISKAMING
45,000
METRO
SAULT STE. MARIE
70,000
SUDBURY
140,000
NIPISSING
75,000
Metropolitan Regions
District Regions
Contract Region
Contracting Municipality
Colour denotes region providing services
Organized for School Purposes
0
50
100
MILES

(1) *The Nipissing Region*, embracing generally a broad territory surrounding Lake Nipissing and including all municipally organized areas of the District of Nipissing and the northeastern portion of the District of Parry Sound (approximately 75,000).

(2) *The Sudbury Region*, comprising the southeastern part of the District of Sudbury and the northeastern section of the District of Parry Sound (approximately 140,000).

Moving northward, we come to:

(3) *The Timiskaming Region*, including all municipally organized portions of the District of Timiskaming (approximately 45,000).

(4) *The Cochrane Region*, embracing all municipally organized areas in the District of Cochrane as far as and including Kapuskasing (approximately 75,000).

Finally, on the westernmost extremity of the province, we have defined:

(5) *The Lake of the Woods Region*, a comparatively dispersed area which includes all but two of the municipally organized areas within the Districts of Kenora and Rainy River (approximately 50,000).

55. The seven northern areas just outlined bring about 80 per cent or over 560,000 of the approximately 720,000 persons in northern Ontario under the aegis of regional government.[21] Of the remainder, some 75,000 people are widely dispersed in non-municipally-organized settlements, much of which area is, however, organized for school purposes as shown on the map. Another 12,000 are on Indian reserves and are therefore a federal responsibility. Finally, nearly 75,000 more are to be found in scattered municipalities which cannot readily be made part of any reasonably contained and balanced region. The latter are indicated by population dots on the map and, though not included in any region, form an important part of the plan for regional government we advocate.

56. It is an integral part of our proposal that regional services be made available to those municipalities in northern Ontario that fall outside the regional boundaries as at any time delineated. The same holds for the municipalities south of Algonquin Park in southern Ontario that, as noted previously, are likewise excluded from any region. Specifically, we propose that all municipalities located outside regions obtain their regional services through contractual arrangements. In brief, what we suggest is that the Province enter into service contracts with the most accessible regional government on behalf of the municipalities lying beyond them. The Province would reimburse in full the regions providing contractual services, absorb whatever cost results from territorial scattering and likewise from any deficiency in municipal tax strength, and charge the remainder to the recipient municipalities.

[21]The total figure for northern Ontario excludes, of course, the inhabitants of the District of Muskoka, together with those in Parry Sound who are included in the County Region of Georgian Bay. These number approximately 40,000.

57. One last but important subject now remains to complete this condensed exposition of our regional scheme: the functions we believe might be appropriately performed by the regional units. In indicating these, we wish to emphasize that all regions need not discharge the same functions, nor any given function to the same degree. In this desirable flexibility lies one of the most important reasons for distinguishing between four types of regions—metropolitan, urbanizing, county and district. Indeed, we believe that distinctions in functional responsibility might well apply between regions of the same class. For the moment, therefore, we simply list all functions which we consider to be prime candidates for regional jurisdiction under a two-tier arrangement. They are:

(1) Property assessment.
(2) Collection of regional taxes and of taxes levied by lower-tier municipalities and school boards.
(3) Levying, collecting or receiving any non-property taxes.
(4) Capital borrowing both for the regions and for lower-tier governments.
(5) Planning, to the extent that regional planning is properly a local rather than a provincial function.
(6) Police protection, in whole or in part.
(7) Fire protection, in whole or in part.
(8) Arterial roads.
(9) Public transit and other regional transportation services provided or supervised by local government.
(10) Sanitary sewage treatment, and in some situations, trunk sewers and storm drains.
(11) Garbage disposal.
(12) Water supply, including in some situations, trunk mains.
(13) Public health.
(14) Hospital facilities planning.
(15) Public welfare.
(16) Certain aspects of education, as later defined.
(17) Regional library functions.
(18) Regional parks.
(19) Conservation.

We would emphasize that this list, considerable though it may appear, leaves to the lower tier of local government substantial and important responsibilities. The reader may be interested to note that a considerable similarity exists between our list and those functions that the Beckett Committee selected as potential regional responsibilities.[22] We generally endorse the suggestions of the Beckett Committee

[22]Select Committee on The Municipal Act and Related Acts, *Fourth and Final Report*, Toronto, 1965, pp. 176-85.

with respect to regional functions, save for the administration of justice which we have elsewhere recommended be assumed in its entirety by the Province. Beyond that one difference, and some other slight modifications, we suggest a few extra powers which, in our view, some or all regional governments might constructively possess.

JUSTIFYING A REGIONAL SCHEME FOR ONTARIO

REVIEWING THE CRITERIA

58. The section just completed was an attempt to sketch with bold strokes a regional scheme which we contend is highly desirable in Ontario and which we think can achieve an equilibrium between the twin objectives of access and service that form the essential meaning and purpose of local government in a democratic society. We now take up the task of justifying the scheme we have advanced and of portraying it in somewhat greater detail. How do we account for the geographical delineation of our regions? How can we justify our distinction between metropolitan, urbanizing, county and district regions? Why do we designate certain functions as regional? Why do we exclude certain muncipalities from our regional scheme and then offer them regional services on a contractual basis? These are a few of the fundamental questions to which we must now address ourselves.

59. Let us begin by recapitulating the five criteria that we formulated as the basis of our scheme. We shall label each with a short name that will serve for purposes of reference in the discussion that follows:

60. We have first a *community criterion.*

(1) A governmental region should possess to a reasonable degree a combination of historical, geographical, economic and sociological characteristics such that some sense of community already exists and shows promise of further development subsequent to the creation of the region.

Next, we have a *balance criterion.*

(2) A region should be so structured that diverse interests within its boundaries are reasonably balanced and give promise of remaining so in the foreseeable future.

We come now to a *financial criterion.*

(3) Every region should possess an adequate tax base, such that it will have the capacity to achieve substantial service equalization through its own tax resources, thereby reducing and simplifying the provincial task of evening out local fiscal disparities.

Closely linked to the financial criterion is a *functional criterion.*

(4) Every region should be so constituted that it has the capacity to perform those functions that confer region-wide benefits with the greatest possible efficiency, efficiency being understood in terms of economies of scale, specialization and the application of modern technology.

Finally, there is a *co-operation criterion.*

(5) Regions should be so delineated and their governments so organized that the co-operative discharge of certain functions can readily become an integral part of their over-all responsibility.

61. Because we regard an equilibrium between access and service as the basic foundation of truly viable regional government, we have sought a regional scheme that would, as far as possible, satisfy all five of the criteria that proceed from a consideration of the nature of these twin objectives. We have concluded that just as access and service can, in fact, strongly buttress one another, so also our five criteria can all be accommodated within one governmental system.

THE NEED FOR METROPOLITAN REGIONS

62. In analysing the map of Ontario, considerations stemming from our community and balance criteria led us quickly to realize that large metropolitan centres require special treatment. With respect to community, we could not but recognize that the basic metropolitan phenomenon—a common pattern of living, commuting and working within an urban-suburban environment—reflects economic and sociological forces with dominant centripetal tendencies. At this juncture, the quest to fulfil the balance criterion introduced the following problem—that metropolitan areas by reason of sheer population size could tend to dominate any larger region within which they might be placed. It was obvious that the relation of Toronto to York County, of Ottawa to Carleton, of London to Middlesex, for example, would be such that those inhabitants of the respective counties who did not form part of the immediate metropolitan community would have virtually no voice in any democratically representative regional government. The indicated solution thus appeared to be a segregation of metropolitan centres under their own form of regional government, and this in order both to give expression to their own community of interests and to preserve the balance of the remaining regions.

63. This conclusion is further reinforced by the application of the next two criteria, the financial and the functional. Metropolitan areas cover a smaller geographical territory than other regions, and are of course much more densely populated. They display a much higher tempo in the movement of people and goods, and consequently require more elaborate and complex services. On balance, tax pooling and service unification in metropolitan areas can be taken further with beneficial results.

64. In developing our scheme for regional government, we have been concerned with the fact that the proper accommodation of metropolitan areas entails a substantial disruption of existing county boundaries. This is precisely the difficulty that was faced in a limited sphere when the Municipality of Metropolitan Toronto was being created. In southern Ontario, it is natural to want to recognize the position of the administrative counties in any new regional development. The Select Committee on The Municipal Act was properly conscious of this point. Unfortunately, that Committee's preoccupation with the counties seems to us to have coloured its judgment with respect to one of its regional recommendations.

65. The Beckett Committee noted that the delineation of suitable regional boundaries would require careful study in which account was taken of a variety of pertinent conditions. They came to the conclusion, also, that Ontario's cities and separated towns could not be excluded from the regional units of an effective regional government scheme. Yet despite these reiterated points, the Committee's recommendations suggested "That as a practical start the county in whole or in part or with additions thereto, be adopted as the basic unit of regional government."[23] Our concern is with the manner in which this dictum might be interpreted. We see the units that provide the practical start for regional government remaining as these units with very little possibility of fundamental change. If particular counties, singly or in combination, are given the status of regional units despite inadequate qualification from the balance criterion or any other standpoint, they are likely nevertheless to remain part of the system and to detract from its effectiveness for as long as the regional government arrangement remains in being. We believe that before the lines are drawn, the proper relationship of metropolitan and remaining regions has to be worked out. It cannot be built in later.

66. Wherever a two-level municipal system is deemed desirable within a metropolitan environment, the functions appropriately discharged at the regional level may be expected to differ somewhat from those so exercised elsewhere. A metropolitan area must cope with far more comprehensive planning and have more concern for urban renewal than other regions. Its responsibility in the domain of arterial roads is technologically far more complex; and it is much more involved also with traffic control, parking and mass transit. The metropolitan region might perform the policing function in its entirety, as Metro Toronto now does, and it might have similarly comprehensive duties with regard to fire protection as in England, in Metropolitan London. Whereas other regions will probably have limited involvement, a metropolitan region is quite likely to become responsible for water supply, sewage treatment and storm drainage including at least trunk distribution and collection systems. There is also a case, which was made by the Royal Commission on Metropolitan Toronto, for integrating most and perhaps all aspects of primary and secondary education at the metropolitan level. Then too, the provision of library services might be made subject to different degrees of co-ordination, even to the extent of full metropolitan responsibility.

67. The above functions are singled out because they are generally more likely than the others to be directly affected in scope by a metropolitan environment. But it should be noted that all governmental functions tend to be transmuted by the technological possibilities and the scope for specialization that a metropolitan setting affords. We do not deem it our responsibility to define the extent to which unification of individual services might appropriately be carried in particular metropolitan regions or to suggest the areas over which single-tier government would be satisfactory.

68. Separate metropolitan regions are necessary, whether from considerations

[23]Select Committee on The Municipal Act and Related Acts, *Fourth and Final Report*, p. 185.

of community and balance, or of finance and functions. And they have other points of distinction from the remaining regions. For the county and district regions, we seek to make use of rural territory in delineating boundaries. Our objective is to create dividing lines that exhibit the greatest possible certainty and stability. When we come to metropolitan regions or, for that matter, to urbanizing regions, however, the problem is more complex. Even if rural land can be selected in the first instance as the point of separation, there is no guarantee that it will remain so, short of a completely inflexible and hence quite unacceptable form of land-use control. The technological forces that together act upon a metropolitan community have been accelerating throughout this century. A metropolitan area is never static; rather it is ever changing, ever in the process of becoming, ever knitting itself more closely together, ever spilling over its own boundaries. Accordingly, the territory and population that abut a metropolitan region must be the object of special concern.

69. At the very least, every metropolitan region should be so structured that it will meet our co-operation criterion as fully as possible. In our view, four regional functions in particular—planning, roads, hospital facilities planning and water supply—demand governmental machinery that will facilitate what must be mandatory co-operation between metropolitan regions and the areas beyond. We suggest that some such device as committees of elected representatives from the metropolitan regions and those abutting them is worthy of detailed attention.

THE CASE FOR URBANIZING REGIONS

70. There will be situations where co-operative devices may be insufficient of themselves to encompass the peculiar problems that beset areas directly beyond a metropolitan region. It is for this reason that we have chosen to designate three areas so situated as urbanizing regions. Why in these three instances did we forsake interregional co-operation and instead create a new class of region? And why are all three located in one general area? A brief explanation is required.

71. A metropolitan area differs from smaller urban areas in that the former has a more complex pattern of land use. The traditional urban centre of smaller size fans out from a single business district; the typical metropolitan area contains a downtown core and a number of lesser business districts of varying composition and strength. Around the western end of Lake Ontario, however, we find a growth pattern that is still more complex. Several metropolitan regions have grown up in close proximity. Consequently, in addition to the competitive interaction of the several commercial and residential areas within each region, we witness the further economic interplay of one metropolitan region upon another and upon the lands between.

72. The urban belt that extends with few interruptions from Niagara Falls to beyond Bowmanville, a distance of 125 miles, is unique in this country. It contains between one-third and one-half the population of the province and considerably more of its urban development. The mixed urban, suburban and rural areas that lie outside the solidly metropolitan regions have been subject for some years

to rapid and constant change. Here we face particular problems of transportation, urban land servicing, school population changes and inadequate tax base. Here also we can witness new industrial, commercial and residential developments on a larger scale than would be possible were it not for the influences that emanate from a broad belt of metropolitan development. It comes, therefore, as no great surprise that the Minister of Municipal Affairs has already singled out the Counties of Ontario, Peel and Halton for special study. Nor is it startling to read in the Royal Commission Report on Metropolitan Toronto that "consideration might well be given to the creation of a smaller 'Metro' on the western fringe of Metropolitan Toronto."[24] Again, we note the concern expressed in that Report over the problem of supplying services in the areas immediately north of the Metropolitan Toronto boundary.

73. As we envisage them, the urbanizing areas may be expected to require the pooled management of certain functions that would not be a matter of concern in most county regions. Examples would include serious involvement with large-scale community water supply and sewage disposal. Again, urbanizing regions would have no conceivable interest in providing other services that necessarily constitute a key responsibility in metropolitan regions, for example major aspects of traffic management, including transit. Finally, we would expect urbanizing regions to display still further distinguishing characteristics including more flexible boundaries, more fluid service requirements and close ties with adjacent metropolitan regions.

THE NATURE OF COUNTY REGIONS

74. Let us now turn our attention to the county regions. Here the community criterion on which considerable stress was laid in our theoretical exposition poses certain problems. To begin with, the designation of metropolitan regions has perforce meant the partitioning of certain counties and has precluded a delineation of county region boundaries that would take full advantage of the historical ties that attach to the traditional counties. Further, in order to fulfil other requirements for well-balanced and closely-matched regions, it has been essential to cut across a few county lines. In fact, some need for adjustment in county boundaries is surely not surprising inasmuch as the present counties can claim continuous existence for more than one hundred years. Finally, we have thought it advantageous to remove from the new regions direct responsibility for certain more remote territory where through the decades growth has been notably slow or non-existent. The reader will none the less note that our scheme, while grouping counties to produce units of sufficient size and strength, preserves thirteen administrative counties intact[25] and maintains the developed portions of six more.[26] In addition

[24]Royal Commission on Metropolitan Toronto, *Report*, Toronto: Queen's Printer, 1965, p. 168.

[25]The Counties of Kent, Lambton, Huron, Perth, Bruce, Grey, Oxford, Brant, Haldimand, Peterborough, Prince Edward and the United Counties of Leeds and Grenville and of Dundas, Stormont and Glengarry. In addition, the County of Northumberland, which is now united with Durham, would lie within a single region.

[26]The Counties of Victoria, Hastings, Lennox and Addington, Frontenac and Renfrew and the United County of Prescott and Russell.

to the historical sense of community thus preserved, we believe that distinct enhancement in community sentiment throughout our county regions will be made possible through the exclusion from the regions of metropolitan-oriented areas. Each county region offers a blend of urban and rural settlement.

75. This brings us to the balance criterion, which our county regions appear to fulfil rather well. The most cursory examination will indicate that in no region does an urban, urban fringe, or farming or other resource interest predominate. The consequent potential of every group to influence the political process of its region should strongly promote widespread public participation in government and consequently nurture the growth of a sense of political community. We believe that the balance which the new county regions possess should more than offset any loss of historical community that their creation incurs. The strength of our regions in terms of the balance criterion should, in other words, fully correct through time whatever historical deficiencies they may possess at the outset with respect to the community criterion. We suggest also that a conscious effort could be made to help the new loyalties to take root, for example, by the transfer and dedication of present county buildings to new regional purposes and by the careful selection of names for each region.[27]

76. Now the financial criterion. A pooling of certain local service responsibilities throughout any given region may be expected to substantially reduce the financial inequalities existing between municipalities within that region. It will not prove possible, of course, to eliminate discrepancies in taxable capacity among regions, as our long experience with county government proves. But regions, by the very fact that they involve a pooling of the financial resources within, greatly reduce the range of extremes that exists among individual municipalities on a province-wide basis and simplify the achievement of equalization through provincial grants.

77. These propositions are illustrated by Table 23:2. The first three columns present equalized per-capita assessments calculated from data furnished by the Department of Municipal Affairs. They show that the interregional spread in per-capita assessments was between $1,041 and $1,759 in relation to an over-all average position of $1,425 per capita. In every region the intraregional divergence is a great deal wider than that. For instance, in the Ottawa Valley region one local municipality has a per-capita assessment as low as $483 while the highest is $3,133. Within any given region the highest municipality may enjoy a taxable capacity that is anywhere from three to twenty-three times higher than the lowest. The great equalizing benefit of regional government is thus dramatically illustrated.

78. In the centre column, the combined equalized taxable capacity by regions is reduced to an index number based upon the over-all average equalling one hundred. This enables the reader to appreciate that most regions depart only moderately from the over-all county region average. Indeed, nine of the twelve regions have an equivalent taxable assessment per capita that is within 14 percentage points of the average.

[27]We have attached a name to each region for purposes of identification and illustration only. The final selection might well be left to the inhabitants concerned.

TABLE 23:2

ESTIMATED DISTRIBUTION OF EQUALIZED TAXABLE ASSESSMENT, COUNTY REGIONS

County Region	Equalized Taxable Assessment Per Capita			Index of E. T. A. Per Capita (Average E. T. A. Per Capita = 100)	% Residential	% Farm	% Commercial and Industrial
	Regional Average	Local Municipalities					
		High	Low				
1. Upper Erie	$1,580	$ 2,680	$ 953	111	37.1%	33.9%	29.0%
2. West Country	1,759	2,212	788	123	41.4	24.6	34.0
3. Maitland	1,413	2,407	924	99	35.2	40.2	24.6
4. Upland	1,321	2,649	716	93	36.6	43.0	20.4
5. Champlain	1,526	8,581	843	107	58.9	11.8	29.3
6. Talbot	1,626	2,374	874	114	39.5	30.7	29.8
7. Grand River ..	1,616	5,306	1,004	113	43.5	20.4	36.1
8. Kawartha	1,497	18,850	804	105	54.4	18.6	27.0
9. Quinte	1,228	1,747	551	86	47.8	20.2	32.0
10. Rideau Lakes..	1,366	1,851	711	96	50.5	13.1	36.4
11. Border Country	1,128	1,822	597	79	40.6	26.7	32.7
12. Ottawa Valley	1,041	3,133	483	73	49.9	23.7	26.4
AVERAGE	$1,425			100	44.7	25.1	30.2

Source: Data supplied by the Department of Municipal Affairs.

79. As between our county regions then, sufficient similarity in fiscal capacity will make it possible for all to shoulder substantially identical responsibilities. The fiscal discrepancies that do appear can be offset by relatively simple grant formulas. Within the respective regions, moreover, there appears to exist a generally good balance of assessment strength, particularly as between residential and farm assessment on the one hand, and commercial and industrial assessment on the other. We note in particular from Table 23:2 that the relation of commercial-industrial assessment to the total could be viewed as markedly deficient in only one or two regions.

80. The financial capacity of the county regions leads directly to a consideration of their functional responsibilities. Without claiming that our suggestions are in any way sacrosanct, we none the less believe that it is possible to discuss the assignment of specific functions much more definitively for county regions than for metropolitan or urbanizing regions. This is so not only because the county regions enjoy rather similar fiscal capacities, but also for three other reasons. For one, the county regions are not subject to the bewildering pace of change that besets metropolitan and urbanizing regions. For another, their territorial size and population are relatively uniform, the latter varying between 100,000 people in the Upper Ottawa Valley Region and 175,000 in the Rideau Lakes Region. Finally, the county regions comprise generally similar numbers of lower-tier governments.

81. We shall now attempt to sketch the allocation of functional responsibilities that we would project for the county regions, following a four-fold classification of functions: exclusively regional, shared between regions and the Province, shared between regions and lower-tier governments, and exclusively local.

A. *Exclusively Regional*

1. Assessment for regional and local tax purposes.
2. Tax collection on behalf of the region and all lower-tier authorities.
3. Levying, collecting or receiving any non-property taxes.
4. Capital borrowing on behalf of the region and all lower-tier authorities.
5. Arterial roads.
6. Public Health.
7. Public Welfare.
8. Secondary Schooling.
9. Regional Parks and Recreation.
10. Conservation.
11. Co-ordination of protection services, including minimum standards and emergency measures organization.

B. *Shared between Regions and the Province*

1. Hospital facilities planning.
2. Regional planning.

C. *Shared between Regions and Lower-Tier Governments*

1. Levying property taxes.
2. Library services.
3. Water supply and distribution.
4. Sewage collection and disposal.
5. Garbage disposal.

D. *Exclusively Local*

1. Local planning, zoning, and building by-laws.
2. Licences and permits.
3. Police.
4. Fire.
5. Parking.
6. Weed and pest control.
7. Street lighting.
8. Traffic control.
9. Local roads and streets.
10. Sidewalks.
11. Storm drainage.
12. Garbage collection.
13. Elementary schooling.
14. Local parks and recreation.
15. Community centres and arenas.
16. Markets and weighscales.
17. Cemeteries.
18. Electricity.
19. Transit.
20. Other Utilities.

82. The most casual perusal of the above list will reveal that we have at once allocated significant functions to the regional level while retaining highly important responsibilities for the lower tier. As to the effects of our scheme upon the latter, the reader will note that no fewer than twenty-one major functions remain exclusively local and that lower-tier municipalities have substantial responsibility for five others in co-operation with the region. Thus county regions that are capable of meeting our objectives can exist side by side with local units of strength and significance.

83. We shall proceed forthwith to describe in greater detail the operational functions we favour assigning in whole or in part to the county regions. Because financial responsibilities are our particular concern and affect all regions, we shall defer for the time being our discussion of these matters.

Arterial Roads

84. Arterial roads are currently a county responsibility when classified as county roads, and the charge of commissions, either county-city or county–separated town, in the case of those county roads designated as "suburban". County and suburban roads in combination form a single arterial network. This network has long been provided on a broader than local basis and confers benefits that are eminently region-wide. By assigning arterial roads exclusively to county regions, somewhat more financial equalization and further economies of scale can be expected than now prevail in the smaller counties. Then, too, the administrative complications that arise from the existence of special suburban roads commissions will disappear to the extent that cities and separated towns form a part of our county regions. Finally, our plan of interregional co-operation, in which special co-operative committees are a feature of every regional government, will promote a rationalized and integrated network of arterial roads over all southern Ontario.

Public Health

85. In Ontario, active recognition has long been accorded to the need for providing public health services on a wider than local basis. Indeed, health units, which are inter-municipal authorities for public health purposes, have a history of voluntary promotion in all parts of Canada. Encouraged by provincial grants, health units have multiplied to a point where in 1965 they blanketed twenty-six of Ontario's thirty-eight administrative counties, and had jurisdiction over parts of four more. Public health is extremely well suited to provision on a regional basis. Preventive health measures and early treatment, to be fully effective, demand teams of highly trained health specialists that can be economically assembled and deployed throughout manageable territories that none the less contain substantial populations. Again to be fully effective, public health standards must attain high levels in all parts of the province. Service discrepancies due solely to inadequate fiscal capacity cannot be tolerated. We submit that our county regions, by virtue of their population size and taxable resources, are ideally suited to the provision of all local public health services and would be in accord with the experience gained from the operation of health units in Ontario.

Public Welfare

86. Traditionally, this function has been discharged in part by local municipalities and in part over larger areas. Broadly speaking, welfare can be divided into four separate categories. The first, general assistance, remains almost wholly a responsibility of the lower-tier municipalities, which administer the assistance and make allowances available to the needy, for which they are reimbursed by the Province to the extent of 80 per cent of stipulated amounts. The second, child welfare, is in very large part entrusted everywhere to Children's Aid Societies. These voluntary organizations have been assigned statutory responsibility in cases of child neglect or abandonment. Under boards composed of private citizens, the Children's Aid Societies have been obtaining perhaps 90 per cent of their funds through a combination of provincial grants and municipal support, and as a consequence of recent legislation will procure close to 100 per cent from these sources. These societies operate across local municipal boundaries; indeed, in 1966 fifty-three societies covered all the municipally organized parts of the province and some unorganized territory. In southern Ontario, the societies are generally co-terminous with county boundaries and include cities and separated towns. The third category of welfare is homes for the aged. Under special boards of management operating at the county level and frequently combining services with those of cities and separated towns, homes for the aged receive joint support for construction and maintenance from provincial and municipal sources. A final category comprises a host of special welfare services, including the burial of indigents, emergency dental services, nursing home care, post-sanitorium allowances and indigent hospitalization. These are discharged in part at the local municipal level and in part at the county level. Most special services are eligible for provincial assistance in varying forms and amounts.

87. We believe that there exists an exceptionally strong case for transferring to the regional level of government the complete local jurisdiction over welfare, including general assistance, homes for the aged and special welfare services, together with statutory responsibility for child welfare. As the local share of the financial burden of providing these services has become an increasingly contentious issue in the eyes of many municipal councils, there has emerged growing acceptance of counties as the appropriate welfare unit. From a financial perspective, there is a strong argument in equity for spreading the costs of welfare over a wide area. Welfare needs may vary greatly between municipalities, and from one time to another in the same municipality, especially in the smaller ones whose economies may for instance be heavily dependent on conditions in a single industry. In our view, such financial considerations in favour of consolidating the welfare responsibility at the regional level are in turn reinforced by reasons that bear upon the proper discharge of the function itself.

88. General welfare has long graduated from the status of the dole, although how far the transition has been carried may be debatable. In the opinion of one of Canada's leading authorities in the field of social work, Professor John S. Morgan of the University of Toronto:

> The day of the municipal "hand-out" of cash or material relief has now disappeared. The complex needs of the dependent multi-problem family require not only the services of highly trained professional social workers but also the resources of a wide range of specialized services, from the psycho-social treatment services of mental health clinics and psychiatric centres to the inter-related multi-disciplined resources of a balanced rehabilitation team, with its calls upon educational, vocational, medical, psychological and social knowledge and skills.[28]

While some municipalities have made great progress in the welfare field, most are not in a position to furnish anything approaching the specialized services Professor Morgan views as essential. According to one of our studies,[29] a check of municipal clerks' returns for 1962-63 indicated that in 110 municipalities, no official, either elected or appointed, was listed as holding welfare responsibilities. The provision of welfare services through the use of untrained, part-time officials is exceedingly common, being the rule in more than half of the municipalities of Ontario. Again from the clerks' returns, it was apparent that 433 municipalities had appointed officials who held from one to three posts in addition to their welfare duties. Most striking of all, in 162 other municipalities, the relief function was discharged by an elected official—in 105 by the reeve and in 57 by a municipal councillor. In such a setting, many municipal officials themselves agree that the local level is not in a position to provide the full scope of welfare services, most especially with respect to hard-core cases.

89. As many facets of the welfare function were increasingly assumed in the course of this century by senior levels of government, federal or provincial, it remained a common assumption that municipal administration still retained an important role. Knowledge of local conditions and sympathetic concern for destitute individuals are indeed desirable, but they are no longer regarded as sufficient. On the other hand, the specialized skills and services that total provincial administration of welfare could bring to bear are not, in our view, the optimal alternative. Regional government, situated as it is between the Province and the lower tier, can at once provide the needed expertise and retain the local orientation in proper combination.

90. Recognition of the desirability of entrusting welfare services to a regional level of government in Ontario is widespread. Under permissive provincial legislation, six county welfare units were in operation and a seventh was authorized as of mid-1966. The Advisory Committee on Child Welfare, reporting in 1964 to the Minister of Public Welfare, stated:

> The Committee would stress that with our modern means of communication, administration of services on a purely local basis is outdated and fails to meet present needs. Legislative provision has already been made under the General Welfare Assistance and the Homemakers and Nurses Services Act to permit the consolidation of these traditionally local services at the county level. A new Act, passed during the 1962-63 Session of the Ontario Legislature, will enable

[28]John S. Morgan, "The Contribution of the Municipality to the Administration of Public Welfare", *Canadian Public Administration*, Vol. VII, No. 2, June 1964, p. 137.
[29]J. Stefan Dupré, *Intergovernmental Finance in Ontario: A Provincial-Local Perspective*, Toronto: Queen's Printer, 1967.

> municipalities in the territorial districts of Northern Ontario to establish District Welfare Administration Boards to administer welfare services, on their behalf, in the respective Districts of which they are a part. A Board is already set up in the District of Sudbury.
>
> Because child welfare services are only part of the services in the community required by the family, the Committee urges that, while pressing ahead with the establishment of the Local or Regional Welfare Authority for the purpose of administering the child welfare services, every effort should be made to broaden the function to include the consolidation of all welfare services at the level of the Welfare Authority.[30]

To this official encouragement for the integration of all welfare services at a regional level, we think it appropriate to add specific comment on the aged. If we may again cite Professor Morgan:

> . . . those who are charged with responsibility for the care of the aged will tell you of the need for a wide variety of welfare services, from the provision of appropriate housing to the development of geriatric wards in hospitals and from the provision of supplementary pensions to the organization of useful occupations that must be created for the rising proportion of the population who now survive into dependent old age. Many of these require the mobilization of a wide range of services over wide geographical and administrative areas.[31]

Whether on grounds of finance or of technical adequacy and specialization, it is our considered opinion that welfare qualifies as a regional function.

Secondary Schooling

91. Save for the larger cities, the provision in southern Ontario of secondary education on a wider than local basis is virtually as old as the public secondary system. Counties have long had financial and organizational responsibilities in this domain. Over many years they enabled hundreds of young people to obtain their high school education as "county pupils". While direct grant support by the county has been allowed to lapse, the county remains much concerned with secondary education.

92. The focus of the county's recent participation has been the development and operation of larger units of administration for secondary school purposes: the high school district system. The county has helped to delineate high school district boundaries. It has been entitled to representation on high school district boards. It has been the arbiter of assessment equalization among the local municipalities joined in the district.

93. With the passage in 1964 of an important amendment to The Secondary Schools and Boards of Education Act,[32] the county's role in the development of the system of high school districts reached its culmination. By this amendment, counties were directed to attach to high school districts any parts of townships not yet included in such districts, effective January 1, 1965. The county has thus

[30]Advisory Committee on Child Welfare to the Minister of Public Welfare, *Report*, Toronto, 1964, pp. iv-v.
[31]John S. Morgan, "The Contribution of the Municipality", p. 138.
[32]Statutes of Ontario, 1963-64, c. 106.

been instrumental not only in the development but also in the completion of a system of secondary education that blankets southern Ontario. Admittedly, high school districts in the very process of serving as transitional devices to the goal of universal schooling were allowed to develop in an *ad hoc* fashion, extending provincial coverage by irregular blocks that frequently cut across existing municipal boundaries and county boundaries. Now that secondary education is everywhere provided on an organized basis, the opportunity to rationalize its structure exists.

94. Secondary education has been undergoing a quantitative and qualitative expansion that is nothing short of revolutionary. It features a diversity of curricula and a need for capital facilities that would have been undreamed of as recently as the end of World War II. As universities, businesses and trades raise their levels of expectation, secondary schooling everywhere must become capable of offering an unprecedented diversity of learning opportunities if it is to meet the challenge of economic growth. Provincial grants can go a long way toward assuring the dissemination of adequate secondary schooling in all parts of Ontario; but they labour under the limitations inherent in all fiscal need programs that must operate through and take account of differing positions of a multiplicity of authorities.

TABLE 23:3

SECONDARY SCHOOL JURISDICTIONS
WITHIN PROPOSED COUNTY REGIONS, 1965

	Number of Units		
	Entirely contained	*Partially contained*	*Total*
1. Upper Erie	12	5	17
2. West Country	7	5	12
3. Maitland	6	8	14
4. Upland	21	10	31
5. Champlain	6	4	10
6. Talbot	7	8	15
7. Grand River	6	9	15
8. Kawartha	6	5	11
9. Quinte	10	5	15
10. Rideau Lakes	11	3	14
11. Border Country	17	1	18
12. Ottawa Valley	5	6	11

95. The evidence suggests that still larger units are needed to meet the demands of contemporary education. Viewed from one side of the coin, the new county regions have the fiscal capacity to fulfil this role. From the other, it must be apparent that the pooling of the cost of secondary education throughout each region accomplishes a significant part of the equalization function. The county regions also offer the opportunity to provide publicly supported secondary schooling through responsive, elected representatives.

96. In proposing regional jurisdiction over secondary education, we are fully cognizant of the extent of change that will be required. Table 23:3 shows the number of high schools districts and boards of education that are contained in whole or in part within each of our twelve county regions. The new county re-

gions would be concerned with secondary schooling at present provided in each by from ten to twenty district jurisdictions, save for the Upland Region which contains all or part of thirty-one. Overlapping boundaries between regions will constitute a further major problem for all, with the sole exception of the Border County Region. On the average, well over one-third of the secondary school units now within each county region extend into some other area. This overlap means on the one hand that the task of achieving co-terminous boundaries within the new regions will be substantial, but on the other that the actual number of units involved is appreciably smaller than might first appear from the Table.

97. We envisage the process of bringing secondary education under the direct jurisdiction of county regions as one that must be accomplished gradually. At present, the boundaries of most secondary school units do not coincide with municipal boundaries. The units are normally under boards whose membership, other than for separate school representatives, is composed of appointees of local municipalities and counties. As we see it, the initial change should involve the transfer of the power of appointment from the local municipalities and counties to the county regions. Doubtless, the new regions would retain most of the present appointees. From this point, the task of securing co-terminous boundaries and enlarging the units could proceed at whatever pace was deemed reasonable by the county region or regions exercising appointive responsibility. Separate school units would of course continue to be represented. In the realm of fiscal matters, the high school districts from the beginning would be made fully dependent upon the county regions for approval of their budgets, and would come under the continuing supervision of the education committee of the regional council. On this subject we shall have more to say later.

Regional Parks and Recreation

98. The growing proportion of urban population throughout Ontario has given new urgency to the need for acquiring and developing parklands. We need parks that are appropriate in location and nature and adequate in size, number and facilities for future provincial requirements for open space. Regional parks are an essential element of a properly balanced total parks system. The choice is not whether such parks should exist; what requires decision is rather which level of government should be expected to ensure that they are brought into being and put to their proper use. Lower-tier municipalities are not big enough to be given this task, especially when land is not cheap and private bequests of the needed proportions are no longer forthcoming. The Province, it is true, might take on the task, extending its jurisdiction beyond the provincial parks system for which it is now responsible. Plainly, however, the county region will have the required size, financial capacity and community interest. In fact, the assignment of a parks and recreation responsibility to it should nurture the region's sense of community and complement its concern for economic development, planning and conservation.

Conservation

99. This service is one whose relationship to municipal government, whether functional or financial, can be more readily transmitted through regions than

through clusters of lower-tier municipalities. In coming to this opinion we have been especially conscious of the fact that regional councils can be directly elected. If they are indeed directly elected, their municipal responsibility, in contrast to county councillors', will be to the region and to the region alone. In any event, the governing body for each conservation area can be composed satisfactorily of a small number of representatives drawn from the one, two or at most three regions within which the conservation area is situated.

100. Conservation is the one function that above all relies upon the effective fulfilment of our co-operation criterion. It will permit the responsibility for conservation to be discharged through committees of much more manageable proportions than at present. In addition it will enable the Province to terminate the privilege it now reserves to itself, in order to safeguard its grant contributions, of representation on a conservation authority's governing body.

Co-ordination of Protection Services

101. Regional responsibility in this domain is designed to promote public safety and strengthen the role of local municipalities with respect to two functions, fire and police. As to the latter, we begin by citing an excerpt from the Third Annual Report of the Ontario Police Commission:

> . . . there is an emerging picture of the Province in large part policed by small police forces dotted across the Province which, because of their size, and consequent limitations of budget, cannot possibly hope to have efficient, well trained, adequate police forces. It is the considered opinion of your Commission that no police force under ten men can possibly hope to have a properly organized, well trained and efficient force, capable of serving their area of responsibility. This problem can be solved—
>
> (a) By amalgamation of municipal police forces,
>
> (b) Where amalgamation is not feasible, by elimination of the smaller police forces and the responsibility assumed by the Ontario Provincial Police, leaving larger police forces intact.[33]

102. The Police Act now provides for the voluntary amalgamation of police forces by two or more municipalities. We believe that the county regions could play an important role in promoting the amalgamation of municipal police forces where appropriate. Being in close contact with local conditions, the county region is the logical focus for studies and negotiation leading to such combined operations. As to the very small and isolated municipalities that defy amalgamation, the county region would again occupy an excellent position from which to launch appropriate policing agreements with the Ontario Provincial Police. Finally, it occurs to us that the county regions might well assume direct responsibility for the performance of certain specialized police functions which can more efficiently be drawn upon by a number of police departments than operated separately by each. Identification bureaus and communication networks are particularly suitable for provision by large regions. Thus can regions help to make the policing function of local governments more meaningful than it would be otherwise.

[33]Ontario Police Commission, *Third Annual Report*, Toronto, 1965, pp. 8-9.

103. In the domain of fire protection, municipal fire-fighting services have undergone great improvement since World War II. We must expect differences in fire protection between, for example, areas with and areas without fire hydrants. What has been accomplished since the War is a marked improvement in training and equipment, and in the degree of inter-municipal co-operation. This development has been promoted by the Province by various means, including substantial stimulation grants for equipment standardization, expanded training school opportunities and stricter enforcement action. The emergency measures program has drawn the counties into the picture, fostered mutual aid arrangements and added to the store of protective equipment. Regions should be capable of carrying on and improving upon the counties' growing contribution in this sphere.

Hospital Facilities Planning

104. We come now to the category of functions that involves close co-operation between regions and the Province. The Royal Commission on Health Services stated lucidly and succinctly the case for regional planning and co-ordination of hospital facilities:

> The modern hospital transcends the financial capacity of many municipalities, and much of the costly modern equipment cannot be used efficiently if it serves only small populations. This necessitates the regional planning of hospitals and in the larger centres a division of labour among local hospitals as far as certain types of expensive equipment and specialized services are concerned. Regionalization would not be possible, however, if modern transportation and communication had not at the same time facilitated travel so that many patients can safely be brought to a strategically located hospital outside their own community. This means a trend towards a degree of centralization of hospital services, particularly in the acute-treatment general hospital and in some of the highly specialized rehabilitation services.
>
> We find, then, that as in many other activities such as trade, industry and education, we have come to think of the community as having a much larger geographic and population base than the traditional, self-contained municipality. Modern transportation, communication and the accelerated technical revolution have necessitated planning on a much broader basis than in the past.[34]

Because the Province, through the Ontario Hospital Services Commission, is by far the major source of hospital finance in Ontario, it has a strong interest in promoting the efficient and economical provision of health services. In conjunction with provincial guidance, regional planning of hospital facilities can inject a new note of responsiveness to community desires. Furthermore, the regional councils can help to ensure that the hospital boards will plan and finance expansion in the context of over-all priorities and requirements. Regional planning of hospital facilities is not a substitute for provincial guidance and control. But it can serve as an important adjunct of provincial policy.

Regional Planning

105. Today planning by regions is not fully developed. Some attention is perforce given to the subject by the Province with respect to its own services—

[34]Royal Commission on Health Services, *Report*, Ottawa: Queen's Printer, 1965, Vol. II, pp. 238-9.

highways, provincial parks and location of mental hospitals, for instance. The Province may also take account of planning considerations when it approves grants for such municipal undertakings as bridge construction. But there is less assurance that the practice extends to other grant-supported activities, for example school construction.

106. Like the Province, the counties are bound to give some thought to planning, especially as it relates to road construction. The statutory authority to engage in planning at the county level, however, has not yet been exploited fully, in part perhaps because planning without reference to the cities and separated towns can be a rather meaningless exercise. Our proposed regional arrangement would, of course, remove that particular obstacle.

107. Since the inception of its Community Planning Branch, the Province has urged joint planning by contiguous municipalities. At best, the response can be called lukewarm. As of mid-1965, only eighty-two joint municipal planning areas had been defined. Two-fifths of them displayed little if any sign of activity. A slightly smaller proportion had produced official plans, but one-third of these related to only a single municipality and thus fulfilled no joint planning purpose.

108. Of late, we have been witnessing the first stirrings of a new interest in inter-municipal planning which can truly be classed as regional. The County of York has engaged a planner who is available, in an advisory capacity, to strengthen local planning operations and put them in an over-all perspective. The County of Waterloo, together with the Cities of Kitchener, Waterloo and Galt, has embarked upon a major area planning operation. The County of Brant and the City of Brantford have joined in a similar endeavour. It is likely that these promising developments will soon be matched elsewhere.

109. The discharge of the planning function involves a particularly close interrelationship between municipal initiative and provincial supervision. At the regional level, the Province has an added interest: its own direct concern with the use of land and the development of the provincial economy. It must also be acknowledged, however, that the region brings municipalities together in what is in part a competitive relationship. Their interest in their own economic advancement renders constructive action on regional planning more difficult. Our conclusion in all these circumstances is that regional planning needs careful definition in order to draw the lines between provincial government and regional government responsibilities, and to provide for effective implementation of the desired goals.

Library Services

110. Here we turn to the functions that might be shared by the regions and local municipalities. Since World War II, a change designed to strengthen public library services has been mooted in all parts of Canada and throughout the United States: the development of the regional library service. The move has been supported by legislation that has already produced some degree of regional services in more than half the Canadian provinces. Our own Province took legislative action in 1963 and again in 1966. In the former year, the Province authorized the

creation of regional library co-operative boards. To become established, these boards had to serve a minimum population of 100,000 and include at least three counties. They were permitted to develop special reference collections for use throughout the region, promote inter-library loans, provide acquisition, cataloguing, processing and circulating services, make available films and pictures, and mount adult education programs.

111. In the wake of the 1963 legislation, the provincial government began an aggressive program to develop a network of regional library co-operatives which, along with those already existing in the north, would blanket the populated portions of the province. With the formation of the Georgian Bay co-operative in April 1966, the system was complete on paper subject to the creation of a co-operative to serve Metropolitan Toronto under the revised Metropolitan Toronto Act. The system involves fourteen units, most of which cover a very large territory and all of which require substantial development before they can meet their announced objectives. When The Public Library Act was rewritten in 1966, the regional library system was confirmed, although the designation "co-operative" was removed from the title. Other changes in the legislation were aimed at extending and strengthening the regional library concept.

112. We have compared the boundaries set for regional libraries with the ones we propose for regional government. It is our considered opinion that the prospects for success of the regional library system would be distinctly enchanced through transfer to the larger number of units that our regional scheme involves. In the first place, adoption of units of the sort we propose would place regional library services under the immediate control of elected representatives, and establish direct financial responsibility on the part of a government with the interest and capacity to make the required funds available. In the second place, it would not rule out the possibility of wider service areas under the joint sponsorship of adjacent regions. Indeed, under such joint arrangements, the sponsorship of wider library units would be more streamlined than at present.

Water Supply and Sewage Disposal

113. It is only in relation to areas where urban settlement is dense enough to require community water supply and community sewage treatment that the region might become involved in these services. And even here regional participation may or may not be either necessary or desirable.

114. At the provincial level, concern for pure water and safe disposal of waste has dictated a takeover and expansion by the Ontario Water Resources Commission of functions formerly exercised by the Department of Health. Part of the present responsibility is necessarily provincial: the policing of public health requirements and related testing and inspection services. A second part, however, is sometimes performed by the O. W. R. C., especially for the smaller places, and sometimes by municipalities for themselves. We refer to the planning, financing and operation of large and costly installations until the debt incurred for them has been retired. Yet a third is only now becoming operational: the wholesaling by

O. W. R. C. of water supply and sewage disposal services to groups of municipalities. At the time of writing, more than half a dozen potential projects were undergoing engineering studies, and one actual project to bring water from Lake Huron to London was under construction.

115. The county region should be large enough and strong enough to take over these functions from the O. W. R. C. for the smaller municipalities. By doing so, the regional government could see to it that new facilities were so ordered that they would best serve the region in relation to its planned future development. Equally important, the O. W. R. C. could withdraw to an advisory capacity and the county region could thus become the means of preserving or restoring a segment of autonomous municipal action which will otherwise have to disappear.

Garbage Disposal

116. Rapid population expansion and growing urbanization are creating problems of refuse disposal which have already assumed major proportions in some parts of southern Ontario. Accessible low-cost land for garbage disposal is becoming scarce and the shortage is more severe where land-fill techniques have replaced old-fashioned dumping. Acceptable sites for incineration are likewise more difficult to come by. It is therefore necessary to make plans for disposal arrangements further in advance than formerly. It is desirable also to combine requirements and procure large-scale facilities. Where the problems are already serious or threaten to become so, a regional government can advantageously assume responsibility on behalf of all or some of the local municipalities within its territory and charge back the cost to the municipilities it serves. What is more, the region should be empowered to set standards for garbage disposal whether the local municipalities avail themselves of regional management or not.

117. We have now completed our examination of the operational functions of county regions. Before explaining the arrangements we advocate for northern Ontario, we wish to make three points.

118. First, even these new units of more rational make-up in relation to today's requirements cannot discharge their selected functions to best advantage unless there is continuing and effective co-operation between adjacent regions. We do not think it necessary to define the precise machinery. But we do reiterate the particular importance of good working relationships, especially with respect to arterial roads, hospital facilities, conservation, regional planning, and, in the initial stages, secondary schooling.

119. Second, we do not presume that everyone will support our choice of services to be assigned to the county regions. It is enough if the list is accepted as an approximation of what might make sense under a regional government scheme. The point is that new regions should have enough service responsibilities and matching revenues under their wing to strengthen the financial capacity of local government and to give it greater equity.

120. Third, the services a county region might undertake should coincide fairly

closely with the services that the northern district regions could perform. They would also constitute a minimum program for the metropolitan and urbanizing regions.

REGIONAL GOVERNMENT IN NORTHERN ONTARIO

121. It should be clear that much of what has been said on behalf of our southern Ontario regions can now be applied to the north. Here again, considerations of community, access, finance and function led us to designate two northern areas, the Lakehead and Sault Ste. Marie, as metropolitan regions. These are admittedly smaller than the corresponding metropolitan regions of southern Ontario, but are in line with the generally smaller scale of population in the north. In like fashion four of our five district regions are also smaller than any of the county regions. We deemed it patently impossible to devise northern regions with a minimum population of 100,000 and at the same time retain areas that have any degree of cohesion or potential for community.

122. We believe that our district regions, despite their limited population, can make a distinct contribution to the improvement of local government in the north. In Table 23:4 we present estimates of the fiscal capacities of the district regions measured according to equalized taxable assessment. The reader will note that average per-capita equalized taxable assessment for the five districts, $1,068, is below the corresponding figures referred to earlier with respect to the county regions, $1,425. But the exemption of mining properties from property taxation accounts for a not insignificant portion of the difference, and affects in particular the relative positions of Sudbury, Timiskaming and Cochrane. As for the spread in fiscal capacities between the district regions, extreme deviations of but 29 percentage points below the average and 26 percentage points above correspond closely to the county region extremes of 27 points below and 23 points above. Revenue received on behalf of mining properties would, of course, generally narrow this spread. The provincial task of evening out remaining discrepancies between these regions is accordingly much simplified, in vivid contrast to the present situation where, as revealed by the Table, assessment discrepancies between municipalities within regions are such that the highest municipality has from roughly three to nine times the per-capita assessment of the lowest. As to the adequacy of assessment strength within the respective district regions, we note from the Table that the proportion of commercial and industrial assessment is in all regions between one-third and one-half and again remind the reader that the respective proportions are exclusive of mining properties within the regions.

123. The above evidence satisfies us that our district regions have a generally adequate financial base from which to provide services, especially if a satisfactory policy toward mining revenues is implemented. And in that respect, we believe that the district regions have the precise advantage of helping to solve the dilemma posed by the special conditions that obtain with respect to the mining industry. Here, as we have had occasion to point out earlier in this volume, the location discrepancies that exist between mines and resident miners have long plagued the distribution of provincial mining payments. It is readily apparent that,

TABLE 23:4

ESTIMATED DISTRIBUTION OF EQUALIZED TAXABLE ASSESSMENT, DISTRICT REGIONS

District region	Equalized taxable assessment per capita: Regional average	Local municipalities: High	Local municipalities: Low	Index of E. T. A. per capita (Average E. T. A. per capita = 100)	% Residential	% Farm	% Commercial and industrial
1. Nipissing	$1,120	$1,642	$402	105	56.1%	6.0%	37.9%
2. Sudbury	1,143	2,491	390	107	62.5	1.6	35.9
3. Timiskaming	757	2,779	467	71	55.4	10.8	33.8
4. Cochrane	977	4,331	473	91	49.4	3.3	47.3
5. Lake of the Woods	1,345	1,800	624	126	43.4	7.5	49.1
AVERAGE	$1,068			100	52.9	5.6	41.5

Source: Data supplied by the Department of Municipal Affairs.

because our district boundaries include both mines and miners, regional performance and financing of local functions will strongly reinforce the solution to the mining tax problem that we have proposed elsewhere.

124. The question of what functions the northern metropolitan and district regions can appropriately perform can be answered with dispatch. In the Sault Ste. Marie region we have an area comprising only the City of Sault Ste. Marie and Prince Township, the latter with a reported 1964 population of only 631. Both a regional level of government and a lower tier hardly appear reasonable here. The logical alternatives are two: having a single, amalgamated metropolitan government, and letting the City of Sault Ste. Marie, even though it does not display all the characteristics of a metropolitan area, stand as a metropolitan unit and provide services to Prince Township on a contractual basis. On the other hand, the governmental requirements of the Lakehead metropolitan area are less clear. This area is currently under study, and the results of this inquiry will indicate the relative merits of a one- or two-tier system. If the latter is favoured, the regional tier could be considered generally suitable for the discharge of approximately the same range of functions as its southern metropolitan counterparts.

125. As to the district regions, we are prepared, as we were with the county regions, to pinpoint the operational functions that we deem regional. In brief, it is our opinion that the district regions can discharge generally the same responsibilities as the county regions, and where this is so our justification is the same. There are two services, however, where the role of the district regions would be significantly less than that of the county regions. With respect to both arterial roads and regional parks and recreation, the prime responsibility has been borne in the north by the Province. We would expect this allocation of responsibility to be largely maintained despite the formation of district regions. Among other things, district regions labour under lower population density and more rigorous climatic conditions than their southern counterparts. These conditions place an

onus on the Province to shoulder a greater share of the burden of providing recreational facilities and roads. The Province must also take these conditions into account in the grant support it makes available for other functions.

126. The low population density of our district regions leads us to broach the extent to which we believe they fulfil our community and balance criteria. We are generally confident that both are satisfied. The size of the districts and their reasonable distribution of municipal population promote balance. As to community, a northerner's scale of distance is of a magnitude wholly different from a southerner's. The very degree to which the north is isolated has already brought about close inter-municipal ties over considerable distances. Northern municipalities, through their own district associations and other means, have devised co-operative links that must be the envy of southern municipalities. We might even venture to say that the northern district regions we propose already display an emergent sense of community

CONTRACT MUNICIPALITIES

127. There comes a point at which distance, low population density, lack of direct communication routes, and other environmental liabilities become virtually insuperable barriers to the frequency of contact that regional government requires. This explains why we could not, in our best judgment, devise a regional scheme for Ontario that would today encompass the entire province. Some municipalities and unorganized population centres are accordingly perforce excluded for the time being from direct participation in regional government, and this not only in northern Ontario but in the southern portion of the province immediately below Algonquin Park.

128. With respect to the excluded areas that are at present municipally organized, we were able to obtain some notion of fiscal capacity by referring to the equalized taxable assessment statistics of the Department of Municipal Affairs. The results appear in Table 23:5, which groups the excluded municipalities according to their abutting regions and which includes, for purposes of comparison, the per-capita equalized taxable assessment of the regions involved.

129. The first four excluded areas in the Table comprise the territory below Algonquin Park. The reader will note that the municipalities bordering on the Peterborough region, well endowed with resort properties, enjoy a level of equalized taxable assessment per capita that is actually higher than that in the region. And even the poorest municipalities, those abutting the Upper Ottawa Valley Region, are within about 60 per cent of the region's taxable assessment. There is thus evidence of acceptable levels of fiscal capacity in the excluded southern municipalities. But distance and more especially low population density are countervailing factors. Furthermore, the forces of economic history have tended to segregate the municipalities involved from the mainstream of development further to the south. It was once hoped that rail and water communication would bind these settlements with those of the lakefront and the Ottawa River. Instead, shifts in transportation technology reinforced east-west traffic and isolated inland settlement. A degree of reversion to the originally hoped-for pattern is now emerging;

tourism and mineral exploitation in the vicinity of such places as Bancroft may well help to mould greater community between lakefront and hinterland. For the present, however, it remains regrettably difficult to think of the municipalities involved in an unsubsidized regional context. Particularly if their small and scattered population is taken into account, it is difficult to see how a regional government would find it possible, let alone be inclined, to meet the expense of providing them with a satisfactory level of service. Their service needs are far more likely to be met if the Province accepts prime responsibility for shouldering special costs through contracts with the abutting regions.

TABLE 23:5

COMPARISON OF ESTIMATED EQUALIZED TAXABLE ASSESSMENT FOR CONTRACTING MUNICIPALITIES AND REGIONS PROVIDING SERVICE

	Regional E. T. A. per capita	*E. T. A. per capita in contracting municipalities*	*Per-capita E. T. A. of contracting municipalities as a % of regional E. T. A. per capita*
1. Peterborough	$1,497	$1,937	129%
2. Lower Lake Ontario	1,228	778	63
3. Rideau Lakes	1,366	1,003	73
4. Upper Ottawa Valley	1,041	613	59
5. Sudbury	1,143	922	81
6. Cochrane	977	805	82
7. Sault Ste. Marie	1,756	1,068	61
8. Port Arthur–Fort William	1,913	1,445	76

Source: Data supplied by the Department of Municipal Affairs.

130. As for the north, we note again from the Table that the excluded municipalities do have a reasonable degree of fiscal capacity, none having a level of per-capita equalized taxable assessment less than 61 per cent of that in the closest region. The excluded municipalities in all areas can therefore be considered financially viable as a group. We have excluded them not for reasons of fiscal capacity but on other grounds.

131. Our dominant consideration in excluding such places as Hearst, Renabie, Hornepayne, White River, Manitouwadge, Nakina, Atikokan and Ignace is physical isolation. Even here our judgment may admittedly err on the side of caution in the light of recent road improvements, and must in each case be verified by further study. We have made other exclusions not on the ground of physical isolation but because of the difficulty of accommodating the municipalities concerned in a workable scheme of representation. Were it not for this problem, the Lakehead region could readily have been extended northeast to Nipigon and west to the Thunder Bay District boundary. But the resulting region would be dominated in terms of population by the Lakehead metropolitan area whose inhabitants would constitute some 90 per cent of the total. Our judgment here is of course subject to the Lakehead study commissioned by the Minister of Municipal Affairs.

A similar problem of population balance arises with respect to Sault Ste. Marie and its surrounding area, but in less severe form. We would not be averse to including the North Shore municipalities in a Sault Ste. Marie region provided the respective interests of the city and the outlying areas could be accommodated. This strikes us as a further subject for detailed study.

132. Regional exclusion, however temporary, must be the very obverse of abandonment. It is for this reason that we believe that provision of regional services on a contractual basis to excluded municipalities should form an integral part of any well-ordered regional scheme in Ontario. Considerations of equity, reinforced by the apparent fiscal capacity of the municipalities concerned, demand no less. We do not minimize the difficulties involved. The same considerations that tend to work against the immediate extension of regions to all of Ontario will return to plague contractual arrangements. The success of such arrangements depends upon substantial fiscal and administrative involvement on the part of the Province. In our view, it is the Province that should contract with the abutting regions on behalf of the excluded municipalities, either individually or in groups. The regions would have to be reimbursed in full for all costs, both direct and indirect, of servicing the municipalities. The latter, given their fiscal capacity, are of course in a position to meet part of the cost of the regional services. But we stress the fact that this can be only a part. Before a chargeback to property taxpayers could be made, the full cost of providing the services should initially be discounted according to the level of provincial grants that obtain in the contracting region and that serve to reduce the burden on the region's taxpayers. Next, an additional allowance should be subtracted in recognition of the transportation costs arising from distance and dispersal, calculated with scrupulous attention to any effect distance may have in diluting the standard of services provided. Finally, the provincial chargeback should take account of existing discrepancies in municipal fiscal capacity.

133. Thus is it possible to overcome the circumstances that currently preclude a complete regionalization of Ontario. Beyond the excluded municipalities, however, there remains the question of yet other settlements, some already organized for school purposes, others not. We suggest that the Province should carefully study on a continuing basis the advisability of municipally incorporating whatever settlements have developed sufficiently to warrant incorporation. Such settlements should then enjoy regional services on a contractual basis. And where incorporation is not warranted, the extension by contract of certain regional services, especially secondary education, public health and welfare, may still be feasible. We are convinced that a regional scheme of government confers substantial service benefits. Equity demands that every effort be made to carry these benefits to all settled parts of the province, and that the communities concerned be charged a fair proportion of the cost. Equity further demands that the Province continually review the positions of contracting municipalities with a view to their inclusion within their adjacent regions as soon as circumstances warrant.

THE FINANCIAL ROLE OF REGIONAL GOVERNMENTS

134. If the position we have taken on regional services might be described as somewhat tentative, that adjective cannot be applied to our stand on the region's role in assessment, tax collection and borrowing. To us it seems entirely clear that all the regional units, metropolitan, urbanizing, county and district, ought to be given strong financial responsibilities. We sum up our views in the following paragraphs.

Assessment

135. According to our analysis, there is no feasible alternative to a continuing substantial reliance upon the property tax. This tax can, we suggest, be consistent with present-day standards of a satisfactory tax system only if its use is held within reasonable bounds, if collection is efficient and if the manner of assessing builds the maximum measure of equity into the tax base.

136. Our studies of the property tax have revealed that consistency and equity continue to elude property assessment in Ontario. We fully support the Province's current promotion of the consolidation of assessment responsibilities through larger units of administration. But we are concerned that in the north the establishment of the first district assessment units left the service suspended in a jurisdictional vacuum between the Province and the municipalities concerned. And in the south, the transfer to a larger unit of administration has involved quite different things as between, for example, Prince Edward County (population 20,000) and York County (population, excluding Metro, 125,000), two of the places where the changeover has already occurred. In short, to give full effect to the desired improvement, the larger unit must be an integral part of the local government system, and it must have adequate size and strength. Whereas the existing pattern of counties in the south and the absence of multi-function second-tier government in the north constitute in combination a patently deficient base for assessment reform, our proposed regional pattern, we are convinced, would meet the essential requirements.

Tax Collection

137. The creation of larger units of assessment administration will permit, as a minimum, the mechanical preparation of assessment rolls in a central office and is already leading to computer processing of assessment data. A central record system is most useful when the same mechanized or electronic data processing can also be employed to produce the municipal tax rolls and prepare the tax bills. Regional assessment and tax collection offices can and should be employed for both regional and lower-tier taxing purposes. From the central office, municipalities and local school boards can receive the information on taxable assessments needed to complete their annual estimates and strike their rates. Then the central office can be assigned the task of feeding the mill rates into its machines, calculating the taxes mechanically and sending out the tax bills on each local authority's own bill head. For any one local municipality or school board the whole process can be accomplished, error-free, in a matter of hours. A further advantage is that instalment

billing, which we recommend elsewhere in this Report, can be accommodated for taxing authorities of all types, and carried out in whatever instalments they deem suited to their needs.

Non-Property Revenues

138. Elsewhere in this Report, we have sifted every non-property tax or revenue source that could conceivably be placed in local hands. To our disappointment, this exercise yielded mainly negative results. There emerged only two sources of revenue that could possibly be advocated on theoretical and practical grounds and, at that, only if levied over large areas. Our governmental regions reasonably qualify on this score, whereas the existing municipal units are for the most part inadequate. The two possible sources are a motor vehicle tax as a local levy and the personal income tax as a shared provincial-local levy.

139. A motor vehicle tax can itself be conceived of as a provincial-local tax if levied at standard rates. Here, computerized operations might make the tax feasible even for the smallest existing units of local government. In relation to the potential yield, the benefits of sharing this tax with the existing local municipalities would prove small. On the presumption that commercial vehicles and passenger automobiles owned by business concerns, including leasing services, were subject to the tax along with other vehicles, certain gross inter-municipal discrepancies in revenue yield might be anticipated. The regional unit, however, can largely overcome this difficulty because revenues would be pooled over much larger areas. At the regional level also, it becomes administratively possible to make a motor vehicle tax optional within prescribed limits. The Province would doubtless be prepared to serve as the collector. In a setting where local government has depended almost entirely upon the property tax and provincial grants, we see a credible case for new and optional revenue sources on grounds of local autonomy, provided these sources can reasonably pass the test of fiscal principles.

140. Whereas a motor vehicle tax can conceivably be levied regionally, the personal income tax, in our view, is a different matter. Canadian experience proves to our complete satisfaction that this tax can best be levied where its structure is common to all levels of government, and where the proceeds are collected by the federal government. We can therefore envisage local government as having but one possible relationship to the personal income tax: that of being a direct recipient of part of the proceeds from a standard rate. Even under fully automated conditions, it would be an undue administrative imposition for Ontario to expect the federal government to segregate tax receipts between more than nine hundred municipalities of residence. But we submit that to apportion receipts among our twenty-nine regional entities may well be possible. Thus regional government might obtain personal income tax proceeds for school and municipal purposes as a matter of right.

141. This, of course, is not a decision to be made lightly, for it entails facing up to a number of problems. For one thing, personal income tax receipts by region would not correspond to expenditure requirements by region. Regional income tax receipts would accordingly bring in their wake a new need for equalization and

stabilization payments. A shared personal income tax must therefore be judged against its alternative—provincial grants that enable local government to share indirectly in income tax proceeds. This is precisely what the existing grants for municipal and school purposes accomplish. For its part, the shared tax, by yielding a regional breakdown of receipts from the personal income tax, would enable the Province to equalize fiscal capacity with reference to a more diversified revenue base than exists at present. In addition, it would provide vital information on the economic strength of each governmental region.

142. The important choice between additional grant proceeds and direct regional sharing in the personal income tax is one that calls for provincial study in conjunction with the steps necessary to implement regional government, and may thereupon lead to federal-provincial negotiation. As to an optional regional motor vehicle tax, we must emphasize that its only legitimate purpose is to collect from motor vehicle owners their share of road costs. If the Province does indeed meet the total road-user portion of local government road costs through its grants, as we recommend, any revenue from locally imposed motor vehicle levies would merely reduce the revenue from the proposed provincial grants.

Borrowing

143. Our consideration of local government borrowing has convinced us that, within the limits allowed, municipalities should continue in large part to obtain the capital funds they need through debenture issues floated in the market place. In our view, the terms under which the Province now acts as an intermediary in borrowing either through the Ontario Municipal Improvements Corporation or the Ontario Water Resources Commission ought not to be enlarged. It would in fact be desirable if there were somewhat less occasion for recourse to these sheltered sources of funds. The regional government scheme can further this objective in two ways. To some extent, the regional municipality can take over the financial enabling operations of the O.W.R.C. We have already described this proposed change. More important, the regional municipality can serve as the borrowing authority not only for its own operations but for all lower-tier capital requirements, just as today each municipal corporation performs this function on behalf of its local boards.

144. The experience of the Municipality of Metropolitan Toronto as borrower for the area municipalities and for their local boards as well as its own is widely acknowledged to have brought practical improvements of consequence. The legislative provisions devised for Toronto's Metro could be incorporated with only slight amendments into general legislation for all categories of regional governments. The fact that the new regions would levy and collect their own taxes rather than requisition funds from constituent local municipalities would not materially affect what we propose. As with Toronto's Metro, "All debentures issued pursuant to a by-law passed by the Metropolitan Council . . . [would be] direct, joint and several obligations of the Metropolitan Corporation and the [constituent] . . . municipalities."[35]

[35]*The Municipality of Metropolitan Toronto Act*, R. S. O. 1960, c. 260, s. 234(3).

145. Particular advantage should accrue to the smaller municipalities by transferring their responsibility for obtaining capital funds to regional government. Many of them make quite infrequent use of debenturing: such municipalities are not accustomed to providing rounded and accurate financial statements, and the investment dealers, banks and insurance companies may have only sketchy information to go on when they are asked to take up an issue. On occasion, in fact, smaller municipalities have sought to enter the market and have then withdrawn again for lack of interest. It seems reasonable also to assume that smaller places that do obtain debenture funds may sometimes pay a premium simply because they are not well known. In this connection, it would appear that the pooled borrowing operations of the Municipality of Metropolitan Toronto have effected a cost of borrowing below the rates at which money can be obtained for all the local municipalities, with the possible exception of the City of Toronto. In summary, therefore, our regional municipalities with their larger populations and broader tax bases can co-ordinate local capital borrowing, exercise some control over the lower-tier financial operations, promote improved financial management, facilitate debenture borrowing operations and achieve worthwhile economies in the cost of borrowed funds.

THE RELATIONSHIP TO ECONOMIC REGIONS

146. Our discussion of regional government could not be considered adequate without reference to the one regional arrangement that has become a settled and publicized development embracing the whole of the province, north and south. We refer to the economic regions that were first conceived and delineated by the Ontario Bureau of Statistics and Research twenty years ago, and that now after subsequent adjustment and consolidation, constitute the ten economic regions for whose financing and administration the Department of Economics and Development is largely responsible. Today these regions serve two main purposes. They provide basic units for the gathering of statistical data and they constitute the areas within which economic development is being fostered regionally. When the economic regions were first conceived, it was suggested that they might fulfil a third purpose as units for regional local government. The idea has cropped up again from time to time through the years. It is none the less our considered opinion that the economic regions within their present boundaries would prove entirely unsuitable for regional government. Going further, we question whether their existing boundaries can be considered ideal for their own avowed purposes. Designed primarily as fact-gathering units, they have employed county boundaries as dividing lines notwithstanding the changing relationship of county boundaries to economic areas throughout a century of economic growth. Again, they do not recognize the metropolitan areas in a way that provides for their distinctive requirements. Some of the economic regions encompass so much territory that they could not conceivably be acceptable as self-governing units for the list of regional services mooted by either the Beckett Committee or ourselves. We would have to depart so far from the territorial pattern of the economic regions to ensure fulfilment of regional government purposes that nothing would be gained by taking their particular boundaries as a starting point.

147. We are fully aware of the expressed desire to provide for the future coexistence of economic and governmental regions. We must acknowledge, however, a major problem that must be overcome in order to achieve this commendable objective. The adoption of governmental regions within workable boundaries will necessitate radical adjustments in the boundaries of certain economic regions. The reason, as we see it, is that the objectives of the two are sufficiently interrelated that overlapping boundaries should, if possible, be avoided. Perhaps the function that draws the two most closely together is that of planning. The governmental regions can likewise be expected to have a strong interest in tourist development, industrial promotion and the like. Regional government operating within broader boundaries and exercising wider responsibilities than the present counties will be in a position to lend strong and consistent support to regional manifestations of provincial economic policy. Thus do we advocate on a number of counts co-terminous boundaries for economic and governmental regions. As to subsequent data gathering by economic regions, a period of transition should be allowed to ensure the historical continuity of established time series.

IMPLEMENTING A REGIONAL ARRANGEMENT IN ONTARIO

148. Our analysis of the desirability of regional government led us to reach back to the fundamental values that local government in a constitutional democracy is expected to fulfil: access and service. From an abstract consideration of these twin objectives, we were able to construct a set of criteria that, if met, could lead to the achievement of these objectives in equilibrium. Using the criteria as our basis, we thereupon proceeded to draft a full-fledged regional arrangement for Ontario, and endeavoured to demonstrate, at least to our own satisfaction, that the proposed arrangement meets the demands imposed by our criteria.

149. Our illustrative exercise, while convincing us of the benefits that attach to regional government, has also impressed upon us the need for a sense of proportion. We are hardly prepared to recommend that our scheme be implemented without some further study. We simply suggest that this plan provides a needed foundation for provincial policy. The mere existence of a concrete outline of how regional government can be made viable throughout Ontario can help to guide those who make practical studies of any given area, and can give an added sense of direction in the on-going process of structural adjustment. More particularly, it can aid in answering the vexing question that haunted the Toronto and Ottawa commissions of inquiry: what becomes of the territory beyond this particular governmental region? Without implying that we have overcome every difficulty, we shall presently proceed to make certain recommendations.

150. First, however, we wish to make a point that we consider vital if regional government is to match the fiscal responsibility and status of other levels of government. It is this: whatever the actual boundaries or functions of a regional government, the representative officials of that government should be directly elected. We are at one with the following declaration by the Legislature's Select Committee on The Municipal Act and Related Acts:

> Democracy in its best form emanates from the direct election of representatives at all levels of government. This method is adopted in elections at the federal, provincial and local municipal level. If the regional government is to adhere to this pattern, the regional councils should be elected directly by the people, as nearly as practical on the principle of representation by population. This should be accomplished by the use of a ward system. Ward boundaries should follow as nearly as possible the boundaries of constituent municipalities, although it will sometimes be necessary to combine or divide local municipalities to achieve equality of representation.[36]

151. How can the Province of Ontario set about implementing a regional scheme of government? We believe that a good start has already been made through the local government review program of the Department of Municipal Affairs, and through the recent study and revision of the metropolitan government system in Toronto. All existing studies under the local government review program have been commissioned by the Minister of Municipal Affairs at the formal request of the municipalities that formed the focal point of each study. The cost of these studies is being equally divided between the Province and the municipalities concerned. If the Province accepts the general approach to regional government that is implicit in our framework, the local government review program, with its emphasis on municipal initiative, will have to be integrated into an over-all study program originated entirely by the Province and therefore, presumably, financed fully by provincial funds. A prime requirement of the new program will be the completion of detailed consideration of metropolitan and urbanizing areas. Coupled with this, systematic attention must be given to the precise delineation of the boundaries, functions and form of organization of the county and district regions. In our view, it would be reasonable to expect completion of the total program within five years of the publication of this Report. In light of the involvement of several departments of government, such a project cannot be left to the sponsorship of any one department but should be an undertaking of the Cabinet with the prime assistance of the Department of Municipal Affairs, which has the predominant interest, in conjunction with the other departments concerned. Because it is our considered opinion that the fullest rationalization of local finance in terms of today's requirements demands a fundamental readjustment and strengthening of local government in this province, *we recommend that:*

> ***The provincial government plan and schedule the detailed studies of boundaries, functions and forms of municipal organization needed to establish a comprehensive system of regional government within five years of the publication of this Report.*** **23:1**

152. Our own studies of provincial-municipal public finance have brought home to us in no uncertain terms the desirability of providing for property tax assessment and collection on a regional basis. We are furthermore convinced that equity, efficiency and economy in municipal debt management can best be

[36]Select Committee on The Municipal Act and Related Acts, *Fourth and Final Report*, pp. 174-5.

achieved by a system in which regional governments are empowered to borrow on behalf of their constituent municipalities, and take sole responsibility for the issuance of debentures. *We therefore recommend that:*

> ***All regional governments be specifically charged with the functions of assessment, tax collection and capital borrowing on behalf of their constituent municipalities.*** **23:2**

153. If nothing else, our own efforts to devise a regional scheme for Ontario have impressed upon us the complexities of such an undertaking. In particular, it does not appear feasible to bring regional government to every settled part of Ontario at this time. Yet equity demands that the benefits of regional government be made available as widely as possible. For this reason, *we recommend that:*

> ***For as long as it proves impracticable to include a municipality or other reasonably settled community under the aegis of a governmental region, the Province undertake to make available appropriate regional services on a contractual basis.*** **23:3**

154. The use of regions as a device to promote the effectiveness of local government poses one of the most absorbing challenges of our time. The Province of Ontario, in creating the Municipality of Metropolitan Toronto in 1953, showed, by its willingness to experiment boldly, that it was at the forefront of the jurisdictions of the western world. The spirit of reform is still waxing; we would be sadly amiss if we did not attempt to contribute to its impetus. More especially, we would be doing less than full justice to our charge of recommending a tax and revenue system that is "as simple, clear, equitable, efficient, adequate and as conducive to the sound of growth of the Province as can be devised".

THE FUTURE OF LOWER-TIER MUNICIPALITIES

155. As we have already pointed out, the establishment of regional government along lines that we envisage leaves much of significance in the hands of lower-tier governments. In many instances, however, these governments lack the strength to fulfil important responsibilities. As such, therefore, regional government is not a cure-all. Out of the 940 local municipalities in existence in 1964, no fewer than 276 had populations of 1,000 or less, and of this group 86 had 400 or fewer people. Measured in the coinage of our particular concern, the story is similarly startling. Again in 1964, 263 municipalities each had current expenditures of less than $100,000 for the entire year. Of this group, fully 117 municipalities spent less than $50,000 each, and 9 spent incredibly small sums—less than $10,000 each.

156. These obvious deficiencies notwithstanding, we have formed the opinion that, from a financial standpoint, the creation of a network of regional government should have priority over a major provincial effort to consolidate and enlarge small municipalities. A particular advantage of concentrating first on regional reform is that the ensuing governmental regions can themselves be made partners in a program for lower-tier reform. The establishment of these regions will mean that the

most serious financial shortcomings of local government will already have been eliminated, and that lower-tier reform can thereupon proceed from this new plateau.

SOME QUESTIONS OF INTERNAL ORGANIZATION

157. Local reform that looks to the territorial extent of government can yield substantial returns in terms of equity, efficiency and citizen participation and satisfaction. But territorial extent is only one facet of local government. There are also questions of internal organization—of the distribution of decision-making powers and of the structure of administration within local government. In this section we take up two particular problems of internal organization, one in the realm of educational finance, the other in the domain of property taxation.

EDUCATIONAL FINANCE AND INTERNAL ORGANIZATION

158. One of the principles of taxation to which we lend the greatest weight is that every governmental entity should bear the onus of raising its own tax revenue. It is for this reason that we have recommended elsewhere that the tax-requisitioning powers of school boards be terminated and that these bodies instead levy their own taxes. We believe that the present system of requisitioning serves to compound public confusion, reduces the accountability of school authorities, and places an unfair burden on elected municipal officials.

159. There is a closely connected aspect of educational organization in Ontario that also causes us concern. It is that the segregation of education from other municipal functions inhibits an over-all view of local functions and the setting of all expenditure priorities within a single broad framework that encompasses all competing demands for local service. In brief, we regard as suspect the existence of distinct local authorities charged with the responsibility for school finance and administration. We fully recognize that the presence in Ontario of a dual system of education—one public, the other separate—precludes the abolition of school boards at the elementary level of education. We appreciate also that this dual system is fully sanctioned by tradition, constitutional law and public acceptance. But duality does not extend to the domain of secondary education. We wish therefore to address ourselves to the latter.

160. Our studies of the feasibility and desirability of regional government have impressed upon us the appropriateness of assigning secondary education in all instances as a regional responsibility. We do not, however, have in mind the existence of a separately elected secondary school board co-terminous with regional boundaries. What we are instead prepared to advocate is that secondary education, along with all other regional functions, come everywhere under the jurisdiction of a single elected regional council.

161. The pros and cons of independent boards of education have long been the subject of vigorous debate on the North American continent. In both Canada and the United States, most provinces and states have maintained independent school boards while others have more closely integrated education along with other municipal functions. The former pattern has been the traditional one, while the

latter is a more recent development. On the respective merits of the two systems, Dr. H. P. Moffatt, the Deputy Minister of Education in Nova Scotia, had this to say in the Quance Lectures of 1957:

> Supporters of independent school bodies have quoted examples to show the disastrous effects on education that follow municipal control of the school board's budget. All these examples, however, refer to the situation where the school board independently determines the expenditures and then asks the municipality to raise the money.
>
> Would the situation be the same if the municipal body itself was responsible both for determining the costs and for raising the revenues? There is a good deal of evidence that with both authority and responsibility the municipal councils will soon obtain the same perspective as school boards and perhaps be even more sensitive to public demands for better schools.
>
> In Great Britain, since the beginning of the century, the operating authority for public schools has been a committee of the county council. In that country the schools are well supported, and local control is strong. Alberta, always a pioneer in new developments of government, some of which are not as readily accepted as others, inaugurated the county system some years ago. . . .
>
> In my own province, where the school boards are semi-independent, the municipal councils have recently been given full authority for the construction of school buildings, on request from the board. Far from shirking this task, most councils have been so zealous in the construction of buildings that a serious bottleneck has developed in the construction and financing of new schools.
>
> It is quite possible, then, that we may be entering a new era in governmental finance. . . . In some provinces there may soon be a general solution to the problem of municipal finance, in which other assistance given by the province to the municipal governments will be merged with and will take into consideration the support now given to public education.[37]

162. Much evidence now exists to support the view that the inclusion of educational requirements within the scope of a single broad priority-setting process benefits not only education but the traditionally municipal functions as well. After examining the Alberta county system referred to above, Professor Eric Hanson wrote:

> The fears of school authorities that county councils would skimp on education have proved groundless. If anything, some school officials feel that they have done better under the county system than they would have done otherwise. One tangible achievement stands out. The experience of county administration in Alberta with school and road problems is one of increasing co-operation in and co-operation [*sic*] of school and road affairs and policies. Van routes and market roads can be planned jointly and significant economies in construction and maintenance obtained. Good roads are essential—indeed basic—to good performance of all the other local government services, not the least of which are school services. Indeed, road and school expenditures absorb more than three-quarters of the expenditures of rural local governments. Thus there is much room for economy—savings which are made possible by allotting funds for both purposes at a common council table. The marriage of the school and road functions in the county has been natural, happy and fruitful.[38]

[37] H. P. Moffatt, *Educational Finance in Canada*, Toronto: W. J. Gage Ltd., 1957, pp. 83-5.

[38] Eric J. Hanson, *Local Government in Alberta*, Toronto: McClelland and Stewart Ltd., 1956, p. 68.

163. We are conscious of a possible objection to the integration of secondary education under a single regional council that might arise in the context of Ontario. It is that this step would constitute an undesirable divorce between secondary and primary education, the latter of which must remain under distinct boards in order to preserve the taxpayer's right to direct his support to the school jurisdiction of his choice. To this we reply that, in basic organizational terms, such a separation has been proceeding apace for more than a score of years. At the war's end in 1945, the Ontario educational system included 122 boards of education. By 1967, as a by-product of a deliberate provincial policy to extend opportunities for secondary education throughout Ontario, the proliferation of high school districts had reduced the number of boards of education to 51. No harmful breach between primary and secondary education has yet appeared to ensue from the dissolution of well over half the province's boards of education. In any event, such boards have never achieved complete integration of elementary and secondary schooling, because of the existence of separate schools.

164. We see no reason to assume that regional councils will choose to ignore the elementary school system in making policy for secondary education. On the contrary, there are at least four reasons for surmising that the opposite will hold. First, the elected members of the regional council, who should be no less conscious of their school than any other responsibilities, will surely have every motive for taking into account on-going trends in elementary education. Second, the regional council will occupy a much better position from which to build close relations with elementary schools, including the organization and financing of junior high schools, than the present high school districts. The latter, whose boundaries totally ignore those of elementary school areas, will have been replaced by a geographically comprehensive authority. Third, there is no conceivable reason why the regional council's organization cannot be so devised that representations from elementary school authorities will receive close consideration. The committee of council charged with educational responsibility could be required, for example, to meet with public and separate school authorities on a regular basis. Finally, all of education, primary and secondary, is a joint provincial-local responsibility. The Province has every right to expect, and to require, regional secondary school policy to be co-ordinated with the elementary level.

165. It is our view that the potential gains of integrating secondary education with other municipal functions at the regional level far outweigh any accompanying difficulties. This is a most important step, for it is only through such an arrangement that the financing of secondary education can be freed fully from the charge of taxation without representation. For this reason, *we recommend that:*

> ***In devising a scheme of regional government for Ontario, the Province take the necessary steps to integrate secondary education as a regular responsibility of the regional council.*** **23:4**

A CO-ORDINATED PROGRAM OF LOCAL FINANCIAL OPERATION

166. Earlier in this chapter and elsewhere in this Report, we have presented recommendations for a number of changes in assessment, tax collection, the fiscal year and the method of preparing the annual estimates. All are interrelated and when put together can contribute to a radically different and, in our opinion, a much improved tax and revenue system.

167. We have proposed that the regional governments be solely responsible for the assessment of real property except for the help obtained on a regular basis from the provincial Department of Municipal Affairs. We have recommended that the region take on the entire function of tax collection for itself and for its lower-tier municipalities and school boards. Elsewhere, we have recommended shifting the commencement of the local fiscal year to April 1, making it correspond to the fiscal year of the Province. We have gone on record as favouring retention of the present timetable for municipal elections in order that in election years new councillors can bring in their estimates and be ready to levy their taxes by the time the fiscal year begins.

168. In conjunction with the regional government proposal, these various recommendations fit together into a well-knit plan of action. To illustrate how our projected system might work when it is brought into full operation, we have prepared a tax-billing timetable. The timetable is, of course, tentative, and might not be suitable in the metropolitan regions, even if applicable elsewhere, in light of their rather special structures and functions. The timetable might also require modification in light of the relative sizes of the regional, local municipal and elementary school tax bills. The reader should bear in mind that the regional bill would cover among other things the residual share of secondary school costs. Subject to these points, the timetable could perhaps run as follows:

March	31—Latest date for completion of annual estimates and for striking all tax rates.
April	1—Commencement of fiscal year.
May	15—First *elementary school tax* instalment billing.
June	15—First *lower-tier municipal tax* instalment billing.
July	15—First *regional government tax* instalment billing.
August	15—Second *elementary school tax* billing.
September	15—Second *regional government tax* billing.
October	15—Second *lower-tier municipal tax* billing.
November	15—Third *regional government tax* billing.
December	— FREE MONTH
January	15—Third *elementary school tax* billing.
February	15—Third *lower-tier municipal tax* billing.
March	15—Fourth *regional government tax* billing.
April	— FREE MONTH

CONCLUSION: LOCAL AUTONOMY AND PROVINCIAL RESPONSIBILITY

169. The measures we have suggested in this chapter would have far-reaching effects on Ontario's time-honoured municipal structure. We place the immediate onus for bringing our recommendations to fruition on the provincial government, and this is as it should be because that government alone has the constitutional authority to alter the face of municipal institutions.

170. Local autonomy has ever been a cornerstone of municipal institutions in this province. We consider ourselves second to none in our espousal of this principle which has served so long and so well in promoting democratic values within a framework of decentralization. But if local autonomy is to remain a reality, the institutions it fosters must be worthy of its challenge. Local autonomy, precisely because it stresses the importance of strong municipal institutions, is not a haven for municipalities and school boards so small and weakly organized that they cannot discharge their functions in acceptable fashion. Again local autonomy, which is a bastion of responsive and responsible government, cannot condone the multiplication of *ad hoc* special service authorities removed from the immediate arena of the political process.

171. Through the medium of a rationalized regional government system, we believe we offer a dynamic opportunity for the material enhancement of local autonomy throughout Ontario. We look to provincial action that will augment, not curtail, local initiative. The Province has a constitutional responsibility for the structure of municipal and school authorities. It has an even deeper responsibility to foster, through local institutions, the democratic values we cherish.