

2

REPORT

ON THE

BILL

FOR REGULATION AND AUDIT

OF

MUNICIPAL EXPENDITURE AND TAXATION

IN

IRELAND.

BY

W. NEILSON HANCOCK, LL.D.



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REPORT.

64, Upper Gardiner-street,
30th January, 1865.

MY DEAR SIR—I enclose the draft Bill which I have drawn in pursuance of Sir Robert Peel's directions. The object of the Bill is to secure that the expenditure of local taxes in towns under municipal government in Ireland shall be in strict conformity with the laws and trusts which authorize the expenditure. With a view thereto, such expenditure and rates of taxes are proposed to be submitted to the examination of a Judge of the Superior Courts, in the same way as the local taxation of counties in Ireland (the county cess) is fixed before it is imposed. In addition to this, in order to secure the due application of the taxes so to be raised, and at the same time to relieve members of municipal councils from undesirable and indefinite liability, it is proposed to provide for the official audit of the accounts of municipal bodies, on a plan similar to that adopted for the audit of the accounts of County Treasurers in Ireland, under Stat. 1 Vic., c. 54.

The towns at present to be affected by the measure are one hundred in number, and may be divided into four classes:—

1. Ten towns which are continued as towns corporate by the "Municipal Corporation Reform Act" in 1840,* viz.:—

Province.	Town.	Population.
LEINSTER, . . .	Drogheda, . . .	14,740
	Dublin, . . .	254,293
	Kilkenny, . . .	14,174
MUNSTER, . . .	Clonmel, . . .	11,774
	Cork, . . .	80,121
	Limerick, . . .	44,448
	Waterford, . . .	23,202
ULSTER, . . .	Belfast, . . .	120,544
	Londonderry, . . .	20,875
CONNAUGHT, . . .	Sligo, . . .	10,693

Power is given by the same Statute to Her Majesty to incorporate any borough named in Schedule B of said Act,

* 3 and 4 Vic., c. 108, sec. 13, and Schedule A.

or any town with 3,000 inhabitants; but the large powers of local government given to the Town Commissioners under the other Acts to be noticed, and the cost of a charter, have prevented applications for charters under this Act, so that only one town has been incorporated under it, viz.:—

Province.	Town.	Population.
LEINSTER, . . .	Wexford, . . .	11,673

2. The second class of towns to be noticed, consists of those under what is called the “Paving and Lighting Act” peculiar to Ireland, 9 Geo. IV., c. 82.

These towns are nineteen in number:—

Province.	Town.	Population.
LEINSTER, . . .	Parsonstown, . . .	5,401
	Wicklow, . . .	3,448
MUNSTER, . . .	Bandon, . . .	6,243
	Clonakilty, . . .	3,108
	Fethard, . . .	2,303
	Tralee, . . .	10,309
	Youghal, . . .	6,514
ULSTER, . . .	Armagh, . . .	8,969
	Banbridge, . . .	4,033
	Carrickfergus, . . .	9,417
	Downpatrick, . . .	3,840
	Dungannon, . . .	3,994
	Enniskillen, . . .	5,820
	Holywood, . . .	2,437
	Lisburn, . . .	7,503
	Moy, . . .	698
	*Newry, . . .	12,188
	Omagh, . . .	3,662
	Strabane, . . .	4,911

A number of towns formerly under this Act have been placed under the “Towns Improvement Act,” 1854, under a provision in that Act, and the power of applying the provisions of the 9 Geo. IV. to any new town is taken away.

3. The Act under which the largest number of towns is now governed, is the “Towns Improvement Act” of 1854.

Under it there are sixty-eight, viz.:—

Province.	Town.	Population.
LEINSTER, . . .	Ardee, . . .	2,580
	Athlone, . . .	6,196
	Athy, . . .	4,125
	Bagenalstown, . . .	2,047
	Balbriggan, . . .	2,258
	Blackrock, . . .	2,923
	Bray, . . .	4,182
	Callan, . . .	2,331
	Carlow, . . .	8,344

* Since this report was prepared, Newry, the largest town under 9 Geo. IV., c. 82, has adopted the provisions of the “Towns Improvement Act” of 1854.

Province.	Town.	Population.
LEINSTER— <i>continued</i> ,	Dalkey,	378
	Dundalk,	10,360
	Enniscorthy,	5,396
	Gorey,	2,673
	Kells,	3,224
	Kingstown,	12,469
	Longford,	4,872
	Maryborough,	2,935
	Mountmellick,	3,062
	Mullingar,	5,375
	Naas,	2,966
	New Ross,	6,567
	Navan,	4,187
	Trim,	2,058
	Tullamore,	4,797
MUNSTER,	Carrick-on-Suir,	5,059
	Cashel,	4,374
	Dungarvan,	5,886
	Ennis,	7,175
	Fermoy,	8,705
	Killarney,	5,204
	Kinsale,	4,850
	Lismore,	2,085
	Mallow,	4,841
	Midleton,	3,401
	Nenagh,	6,884
	Queenstown,	8,717
	Rathkeale,	2,757
	Skibbereen,	3,711
	Templemore,	4,137
	Thurles,	4,866
ULSTER,	Antrim,	2,138
	Aughnacloy,	1,532
	Ballymena,	6,774
	Ballymoney,	2,603
	Ballyshannon,	3,197
	Belturbet,	2,068
	Carrickmacross,	2,070
	Castleblayney,	1,822
	Cavan,	3,118
	Clones,	2,390
	Coleraine,	5,631
	Cookstown,	3,257
	Dromore,	2,531
	Gilford,	2,892
	Keady,	1,566
	Larne,	2,766
	Letterkenny,	2,165
	Lurgan,	7,722
	Newtownlimavady,	2,732
	Portadown,	5,528
	Tandragee,	1,185
CONNAUGHT,	Ballina,	5,419
	Ballinasloe,	3,911
	Castlebar,	3,073
	Loughrea,	3,074
	Roscommon,	2,731
	Tuam,	4,565
	Westport,	3,819

And the number being placed under the "Towns Improvement (Ireland) Act," 1854, is constantly increasing.

4. The last class consists of one town and two townships entirely under local and personal acts, viz. :—

Province.	Town or Township.	Population.
LEINSTER,	Pembroke Township, part of suburbs of Dublin, under Stat. 26 and 27 Vic., c. xcii., Rathmines and Rathgar, part of suburbs of Dublin, under Stat. 10 and 11 Vic., c. ccliii., and Stat. 25 Vic., c. xxiv., .	
CONNAUGHT,	Galway, under Stat. 16 and 17 Vic., c. cc.,	16,967

Explanation of Provisions of Draft Bill.

The Draft Bill commences with two preliminary clauses.

Section 1 contains the short title of the Act.

Section 2, which contains the interpretation of terms, defines the towns to be included in the Act. The term "Municipal Council" is defined to include the governing bodies of all the towns in Ireland, included under any of the statutes or classes above referred to.

The remaining provisions of the Bill may be divided into two parts.

I. Approval and Fiat of Estimates of Municipal Expenditure and Taxation.

Section 3 contains the first leading feature of the Bill, which requires municipal councils to prepare and publish an annual estimate of all sums which shall be required to defray the expenses of the town, specifying the authority for defraying the same, and the rates of taxes to meet the estimated expenditure, and the authority for levying the same, and specifying also all loans proposed to be contracted.

As the estimates for Dublin, and towns in the county of Dublin, are to be laid before the Court of Queen's Bench or a Judge thereof, it is proposed to require these estimates to be published by the 1st of December in each year, to fix Hilary Term and Hilary vacation for the fiat of them, that they may, when fiated, come into operation upon the 1st of April in each year, and for all such towns to make the financial year commence, as the financial year of the Empire commences on the 1st of April.

For estimates of towns in counties other than Dublin, the Summer Assizes, when there is least Crown business to do, would be the most convenient time for fiating; and with regard to this circumstance, the period of publishing estimates in towns situate elsewhere than in the county of Dublin is proposed to be fixed for the 1st of May in each year, and the period when the estimates are to come into operation, or the financial year, is proposed to be fixed for the 1st of October in each year.

At present there are different provisions as to these points. By the "Paving and Lighting Act," Stat. 9, Geo. IV., c. 82, s. 43, the Commissioners of Towns under that Act are required with all convenient speed, after the 1st of August, to proceed to make an estimate of the expenses and charges attendant upon carrying the purpose of the Act into effect, until 31st of July then next ensuing.

By the "Municipal Corporation Reform Act," 3 & 4 Vic., c. 108, c. 136, the Treasurers of Boroughs are to keep the accounts from the 1st day of September in each year to the 1st day of March, and from the 1st day of March to the 1st day of September.

By the Act which provides for the collection of rates in the city of Dublin, 12 and 13 Vic., c. 91, the Mayor and Council are required to prepare, before the 10th of December, their estimates of the sums required for the improvement rate from the 1st of January in each year.

"The Towns Improvement (Ireland) Act," 1854 (17 and 18 Vic., c. 103, s. 60), provides for assessments being made once a year, without fixing any definite time.

"The Limerick Improvement Act," 1853 (17 and 18 Vic., c. 194, s. 21), provides for accounts being kept from the 1st of January in each year to the 1st of January following.

Instead of these different arrangements it is proposed to establish a uniform system, fixed with regard to the most convenient time for fiating—the financial year for the city of Dublin and towns in the county of Dublin to commence on the 1st of April, and the financial year for all other towns in Ireland on the 1st of October.

Section 4 enables the form of estimate to be regulated by

general orders, which under a subsequent section [31], are to be made by the Lord Lieutenant in Council.

Section 5 provides for the publication of the estimates.

Section 6 provides for the estimates being lodged in Dublin with the Master of the Crown Office, and in Assize towns with the Clerk of the Crown, with a view to being laid before the Court of Queen's Bench, or a Judge on circuit. These officers discharge the corresponding duty with respect to Grand Jury fiscal presentments.

Section 7 provides that the estimates laid before Judges at Assizes shall be allowed or disallowed, according as they are lawful or unlawful, wholly or in part, by one of the Judges of Assize, and the Judge shall approve of the proposed items of expenditure, and shall fiat the rates of taxation.

Section 8 provides for a similar approval of estimates and fiat of rates of taxation by the Court of Queen's Bench in the case of the city of Dublin and towns in the county of Dublin.

Section 9 enables Municipal Councils to defend their estimates, with a power of appeal from the decision of the Judges to the Court of Criminal Appeal.

Section 10 provides for two members of Municipal Council and Town Clerk or other officer attending the Judges on examination of estimates. As some of the Town Councillors are always required to attend the assizes, either as Magistrates, Grand Jurors, or Petit Jurors, this will not cause much inconvenience to them.

Section 11 enables the Municipal Council, in case of doubt, to provide for expenditure in the alternative of one proposal being decided to be illegal, so as to prevent such a decision necessarily leading to the entire postponement of expenditure for a year.

Section 12 gives power to ratepayers or creditors to object to the legality of the estimate; it also enables Judges to reserve a point of law, and ratepayers or creditors to appeal to the Court of Criminal Appeal.

Section 13 provides for including in the estimates the expenditure of Grand Jury Cess in the city of Dublin, approved of by the Municipal Council under Stat. 12 & 13 Vic., c. 97, which is now partly fiat before a Judge of the

Queen's Bench, and partly before the Recorder. It will thus be entirely tried before the Queen's Bench or a Judge thereof. The right of traverse and of bringing forward rejected applications is preserved.

Section 14 makes a similar provision as to the expenditure of Grand Jury Cess in the city of Cork, including it in the estimate; and so transferring the trial from the Recorder of Cork to the Judge of Assize, reserving right of traverse, and of bringing forward rejected applications.

Section 15 provides that in lieu of the present system of Local Auditors, there shall be Local Examiners of Estimates, elected and paid as at present. The duties of these officers shall be to examine the estimates as soon as published, with power to bring before the Judge of Assize or the Court of Queen's Bench all matters respecting the accuracy of the estimates, and the legality or otherwise of expenditure, and the rates of taxation.

The Municipal Corporation Reform Act, 3 and 4 Vic., c. 108, s. 70, contains provision for the election of two local auditors by the ratepayers, as a check on the Municipal Council; and by section 136, the Mayor or Chairman names a member of council as a third auditor.

Besides this local investigation, the accounts of the towns under the Municipal Corporation Reform Act should, as the law now stands, be referred to the Commissioners of Public Accounts for audit (3 and 4 Vic., c. 108, s. 213.) The Audit Commissioners are empowered to give valid discharges to officers accounting to them; but their system of auditing Irish municipal corporation accounts has entirely broken down, as will at once appear if a return be obtained from the Audit Commissioners of the accounts of Municipal Corporations in Ireland, which they audited during the past year, and of the dates of the last accounts of each Municipal Corporation audited by them.* There is practically no means at present for Municipal Councils or officers getting valid discharges for their acts, and hence the alarm created by the Belfast Chancery suit, in which the acts of members

* See Report of Audit Commissioners to the Lords Commissioners of Her Majesty's Treasury, 27th February, 1846, as to the defective state of the audit of Municipal Corporation accounts, under Stat. 3 and 4 Vic., c. 108, published in documents annexed hereto.—Appendix, No. 5, p 27, *Infra*.

of the Municipal Council were impeached after a number of years.

The Towns Improvement (Ireland) Act of 1854 provides for the appointment of local auditors, and gives to them, or to any ratepayer or creditor, an appeal to the Assistant-Barrister. These Local Auditors, however, only see the accounts of expenditure, and not the estimates of proposed expenditure, and can only appeal after the money is spent. It is proposed instead of this to let Local Examiners, elected just as Local Auditors are now elected, examine the estimates before the expense has been incurred, and object, if necessary, to the Judge, before the expenditure has been incurred, and before the rates have been struck. This is a much more effectual and a less invidious check than at present, and is strictly analogous to the check which the power of objecting to presentments before the Judge gives in the case of Grand Jury presentments.

Section 16 enables towns under "Paving and Lighting Act," 9 Geo. IV., c. 82, to appoint Examiners of Estimates.

The Paving and Lighting Act, 9 Geo. IV., c. 82, contains no provision for the appointment of local or other auditors; so that in the towns still under that Act there is at present no audit at all, the only precaution adopted being the printing of the accounts (9 Geo. IV. c. 82, s. 33).

Section 17 provides that the Municipal Councils are not to levy rates until fiat, nor to incur expenditure, the legality of which has not been approved of.

Section 18 makes similar provisions as to the Collector-General of Rates and Taxes in Dublin.

Section 19 provides that surpluses and deficits are to be brought forward in the same heads of accounts in which they occurred.

Section 20 provides for the manner in which surpluses and deficits are to be dealt with.

Section 21 is one of the chief features of the Bill. Such precautions being taken by careful preparation of estimates, by examination by local examiners on behalf of the ratepayers, by publicity, by giving both examiners and ratepayers full power of objection, and by a public examination and fiat by the Judge, with appeal to Court of Criminal

Appeal, it is expected that all illegal expenditure will be effectively guarded against; and so members of the Municipal Council may be relieved from the liability they now incur of Chancery suits and other proceedings to impeach the legality of their acts, and to leave them liable, only in case of direct personal frauds, or in case of incurring expenditure not sanctioned, or imposing rates, or raising money by loans not fitted under the Act.

II. *Audit of Accounts of Municipal Councils.*

The second part of the Bill relates to the audit of the accounts of the Municipal Councils.

Section 22 provides that the Municipal Councils shall keep accounts on a uniform system. The existing provisions on this subject are not uniform, and are far from being clear and satisfactory. *Vide* 9 Geo. IV., cap. 82, sec. 33, 3 & 4 Vic., cap. 108, ss. 128 and 136, 17 & 18 Vic., cap. 103, sec. 68 (incorporating 10 Vic., cap. 16, sec. 89). They all omit the most important point of making the Municipal Councils account for their borrowing powers, and the sums they may raise under them. The clause has, therefore, been framed to include all that should be accounted for.

Section 23 provides for Rate Collectors, except in the city of Dublin, being charged with all rates not collected, unless they make it appear upon affidavit to the satisfaction of the Council that they could not have been levied. This is similar to the provision of the Grand Jury Act 6 and 7 William IV., c. 116, sec. 145. This section also provides for the publication of defaulters as a safeguard against any laxity or partiality in collection. This is similar to the provision for publication of defaulters in Dublin, under Stat. 12 and 13 Vic., c. 91, sec. 56.

Section 24 leaves unrepealed the existing law in the city of Dublin, by which Rate Collectors are charged with rates, and discharged of arrears uncollected under Dublin Improvement Act, Stat. 12 and 13 Vic., c. 91, sec. 55.

Section 25 provides for accounts of Municipal Councils being audited by Receiver Master in Chancery in Ireland, the accounts in the city of Dublin and towns in the county

of Dublin being lodged by the 1st of May in each year, and the accounts of other towns being lodged by the 1st of November in each year.

This is applying to the accounts of Municipal Councils the mode of audit provided for the accounts of County Treasurers in Ireland, by Statute 1 Vic., c. 54. The duties under that Act were at first performed by the Remembrancer of the Court of Exchequer, but were, on the abolition of that office, transferred to the Receiver Master in Chancery, under Statute 13 and 14 Vic., c. 51.

Section 26 provides for the certificate of Receiver-Master discharging a member or officer of the Municipal Council from liability. This is the result sought to be attained, and which ought to be attained by every official audit. It can never be secured by private or elected auditors, as it is too large a power to be intrusted to them. It was this release from liability after due audit, which was intended to be provided by referring Irish Corporation Accounts to the Audit Commissioners in London, but which in practice has completely broken down for the last twenty years.

Section 27 gives the Municipal Council an appeal from the Receiver-Master's audit to the Lord Lieutenant in Council. This is similar to the appeal in the case of Grand Jury Accounts, Statute 1 Vic., c. 54, s. 13.

Section 28 provides for expenses incurred by the Municipal Council in carrying out the Act.

Sections 29 and 30 provide for the transference of the audit of the accounts of the Hospital and Free Schools of King Charles II. (a charity formerly connected with the Corporation of Dublin) from the Board of Audit in London to the Receiver-Master.

These accounts were, along with accounts of Municipal Corporations, placed under the Board of Audit in London, by Stat. 3 and 4 Vic., c. 108, but it was found impracticable to carry out the audit so provided.*

Section 31 gives the Lord Lieutenant in Council power to make general orders for carrying the provisions of the

* See Correspondence as to these accounts. Documents annexed to "Report of Endowed Schools (Ireland) Commission," Vol. II., p. 329, reprinted in Appendices 4 and 5, p. 26, *infra*.

Act into operation, and for regulating the duties of Treasurers not being Banking Companies. This provision is similar to those contained in Statute 1 Vic., c. 54, respecting the audit of Grand Jury accounts.

Section 32 provides that the general orders of the Lord Lieutenant in Council shall be laid before Parliament.

Section 33 extends the provisions of Statute 1 Vic., c. 54, sec. 17, as to the County Treasurer's Fee Fund to be henceforth called "Audit of Public Accounts (Ireland) Fee Fund," to accounts audited under this Act, enabling the Lord Lieutenant in Council to charge accounts with fees not exceeding 5s. in each £100 to provide for increased duties, increased staff, and superannuation of Registrar and Clerks in the audit department of the office of Receiver-Master.

The audit office for County Treasurers' accounts, which is proposed to be extended by this Act, has been in existence since 1837, and the question of the claims of the Clerks to have superannuation was brought before the Government by Master Lyle in 1861.

The Registrar and Clerks in the office are as follow:—

Officer.	Lowest and Highest Salary, and rate of Increase.	Present Salary.	Years of Service.
Luke Davis, Registrar and Receiver of Fee Fund, .	£250 by £10 a year, to £350,	£ 350	27
Michael Grady, senior Clerk, .	£140 by £5 a year, to £200,	200	27
Joseph Davis, assistant Clerk, .	£90 by £5 a year, to £140, .	140	18
Joseph Porter, do., .	Do., do., .	120	6
Third assistant clerkship vacant, .	Do., do., .	—	—

These officers are not entitled to superannuation under the "General Superannuation Act of 1859," inasmuch as their salaries are not paid out of the Consolidated Fund, or out of moneys voted by Parliament (22 Vic., c. 26, sec. 17). Neither are they in the same position as the officers in the Chancery department of the office of the Receiver-Master, who have claims to superannuation under the "Chancery Regulation Act of 1850" out of the Suitors' Fee Fund in Chancery. To meet their case, it is proposed to give the Lord Lieute-

nant in Council power to grant them superannuation out of the Audit of Public Accounts (Ireland) Fee Fund, in like manner and upon like terms in every respect as the Lords Commissioners of Her Majesty's Treasury are authorized to grant superannuation allowances under the "General Superannuation Act of 1859," in like cases.

The granting of superannuation is really only a prudent way of providing for the comfort and efficiency of the staff, and of securing against the staff being encumbered with officers incapable for work; and in an audit department it is especially necessary to have the Clerks employed in a high state of efficiency, to secure the proper amount of watchfulness and care essential to an official audit.

Section 34 provides the means of compelling Town Councils to account, by *mandamus* applied for by Her Majesty's Attorney-General for Ireland, on certificate of the Receiver-Master to the Crown and Treasury Solicitor.

Section 35 provides for enforcing the audit under the Act by giving an efficient means of recovering money disallowed or surcharged. The form of proceeding for this purpose has been taken from the precedent in "County Treasurers' Audit Act," 1 Vic., c. 54, s. 6.

Section 36 provides for neglect of duty on part of Sheriff in enforcing writ of *levari facias* under preceding section. This section is founded on a similar provision in the "County Treasurers' Audit Act," 1 Vic., c. 54, sec. 8.

Section 37 provides for the cost of legal proceedings necessary to enforce obedience to the Act. As these are to be taken on the certificate of the Receiver-Master by Her Majesty's Attorney-General, the costs will generally be recovered from the party in default; but costs as between solicitor and client, and the costs in the rare cases where they could not be recovered, should be charged to the Audit of Public Accounts (Ireland) Fee Fund, which is provided to bear the establishment charges of the audit, and the section is so framed accordingly.

Section 38 provides a mode for ascertaining the proper balances to open the first accounts to be kept under the Act. This is proposed to be done by having a statement of the assets and liabilities or balances upon the day when the

accounts under the Act should be commenced prepared and examined by the Local Examiners of Estimates, published with the next (or second) estimate, and allowed and fated along with such estimate.

In this way the Receiver-Master will be enabled to commence his audits under the Act without any delay arising from any past neglect of audit or confusion of accounts. It would be very undesirable to make it compulsory on him to go into the past accounts.

As to the past accounts, however, a mode of having them audited under the Act in special cases is given by the next two sections.

Section 39 enables Municipal Councils, if they desire, to have the protection of audit under the Act to submit past accounts, with proper vouchers, to the Receiver-Master.

Section 40 enables Her Majesty's Attorney-General, or any ratepayer or creditor of a Municipal Council, to apply to the Lord Lieutenant in Council for an order to have any accounts of a Municipal Council within six years before the Act referred to the Receiver-Master in case of substantial inaccuracies or unlawfulness.

The remaining sections 41, 42, and 43 provide for returns from all Municipal Councils as to local taxation, and for having abstracts of these returns laid before Parliament. These provisions are all founded on the recent English Act for requiring returns of local taxation, 23 & 24 Vic., c. 51, by which a uniform plan is proposed to be introduced instead of all previous statutable provisions for returns being made. These sections will enable the Irish Returns to be made uniform with the corresponding returns made in England, under the recent Act, and will enable the returns now made by some towns to the Chief Secretary under "Municipal Corporations Reform Act," and by others, to the Clerk of the Peace, under "Towns Improvement (Ireland) Act, 1854," to be dispensed with, and will bring under a uniform system the towns under 9 Geo. IV., which are not now required to make any return.

I annex in the Appendix the Memorial of the inhabitants of Londonderry, to Sir Robert Peel, bart., M.P., and my

Report thereon, and other documents upon which directions to draw the Bill were given.

I have added an extract from a Belfast paper, showing that another Chancery suit has been commenced there against a public Board, very similar in its constitution to a Municipal Council.

This Bill has been drawn so as to meet the case of Municipal Councils only, but it might readily be adapted to Water Commissioners, and all other public Boards in Ireland; and the Lord Lieutenant in Council might be enabled, on the application of any such Board, to extend to it the provisions of the Act.

Yours very faithfully,

W. NEILSON HANCOCK.

Thomas M. Burke, Esq., Private Secretary to
the Right Hon. Sir Robert Peel, Bart., M.P.,
Chief Secretary for Ireland.

APPENDIX.

1.—COPY of MEMORIAL of INHABITANTS of LONDONDERRY
to SIR ROBERT PEEL, Bart., M.P., &c.

TO THE RIGHT HONORABLE SIR ROBERT PEEL, BART., CHIEF
SECRETARY FOR IRELAND.

SIR,—At a very large and influential meeting of the ratepayers of Londonderry, held in reference to an intended improvement bill for the city, and which bill sought considerable borrowing powers, the following resolution was unanimously agreed to, and the undersigned were appointed a committee for the purpose of bringing the subject under the consideration of the Government:—

“That this meeting is of opinion that it would be most important for the public interest that public auditors should be appointed by the Crown, subject to the control of Parliament, whose duty it would be to take cognizance of the accounts of all Corporations, Commissioners, and other public bodies having the management of public money in Ireland, and that the committee now appointed be requested to bring the subject under the consideration of the Irish Government.”

In pressing upon the Government the necessity for such a measure in Ireland, the undersigned are aware that in reference to most, if not all the public bodies referred to, auditors are provided; but these auditors being, in some instances, appointed by the same constituency as the Commissioners, and, in all cases, irresponsible, content themselves with examining into the arithmetical accuracy of the figures brought before them, but do not enter into the question as to whether the sums brought into the accounts are warranted by the powers granted by law to the Commissioners, or whether payments required by the law to be made have been punctually attended to.

It is most important, in particular, that the sums payable for sinking funds be strictly and regularly paid; and although the parties interested have their remedy in a court of law, by information or otherwise, in case of failure in these respects, this is a remedy which people are unwilling to resort to, and the resort to which, in a neighbouring borough, has been attended with the most injurious consequences.

The undersigned respectfully suggest, that to prevent mistakes in the administration of the laws by which public bodies are governed, having the administration of public funds, would be most desirable and important, and they refer to the valuable results in the case of the moneys levied under the Grand Jury Laws and the Poor Law Acts, from the accounts being subject to public audit.

The undersigned refer to the case of Belfast as exemplifying the fatal effects of a departure from the law in the expenditure of the funds intrusted to the Corporation; the whole municipal affairs of that borough having been thrown into confusion; a sum of £80,000, borrowed from respectable, but in many cases dependent

people, has been put into jeopardy, and the lenders without interest for nearly ten years; many of the members of the Corporation have had their property tied up for all that time, and some of them will be ruined, having been made liable for a sum of from £35,000 to £50,000.

These and similar evils would be prevented by the adoption of the measure which the undersigned respectfully recommend. Many Corporators and Commissioners, having large business of their own to attend to, are unable to do their duty as they would wish, from not being able to give sufficient attention to financial affairs of the public bodies of which they are members. To such persons the periodical publication of an authorized statement of accounts would be most valuable.

Londonderry, 28th January, 1864.

(Signed),

J. MACKY, J.P.
WM. HASLETT, J.P.
ROBERT W. NEWTON, J.P.
F. REID, Solicitor.
ROBERT HENDERSON.
BARNEWALL P. WHITE, M.D.
ROSS T. SMYTH.
ROBERT HAMILTON.
JOHN HAMILTON.
JAMES CARSON.

2.—COPY of REPORT of W. NEILSON HANCOCK, LL.D., on preceding Memorial.

Law Commission Office,
Four Courts, 22nd February, 1864.

MY DEAR SOLICITOR-GENERAL,—I have, as you requested, inquired into the suggestions contained in the resolution of the ratepayers of the city of Londonderry:—

“That it would be most important for the public interest that public auditors should be appointed by the Crown, subject to the control of Parliament, whose duty it would be to take cognizance of the accounts of all Corporations, Commissioners, and other public bodies having the management of public money in Ireland.”

The Municipal Corporation Reform Act in Ireland, 3 and 4 Vic., cap. 108, contemplated an efficient superintendence of Corporation expenditure in Ireland.

The Lord Lieutenant is authorized to direct how the accounts are to be kept. The accounts are all to be sent to the Castle, and if anything be wrong the Attorney-General may take proceedings for having the matter set right, by filing an information in the Court of Chancery.

The accounts go from the Castle to the Home Office in London, and thence to the Audit Commissioners, whose manner of auditing them is to be directed by the Lords Commissioners of Her Majesty's Treasury.

The accounts are sent to the Castle, but not examined or checked, but only sent on to London. In London the audit by the Audit Commissioners was some years since in a most unsatisfactory state, and most likely is so still.

The first change which I would suggest is that these accounts should, instead of going to London, be dealt with in the same manner as county treasurers' accounts, and be sent to the Receiver-Master in Chancery for audit.

There is a precedent for this in the accounts of the Collector-General of Rates being now sent to the Receiver-Master for audit under statute 12 & 13 Vic., c. 91, sec. 19, and the warrant of the Lord Lieutenant thereunder of 4th May, 1854.

In the same way the expenditure of the Corporation of Dublin, so far as it arises from county cess, and in place of the Grand Jury, is, I presume, audited by the Receiver-Master. There is no reason why all treasurers of towns, whether under 9 Geo. IV. or Towns Improvement Act of 1854, should not be subjected to precisely a similar audit as County Treasurers before the Receiver-Master.

The plan of correcting illegalities or trying alleged illegalities in corporate management by information in the Court of Chancery, has resulted in the celebrated Belfast case. This case has had, and is likely, if followed by other cases, to have a very injurious effect in deterring men of wealth from taking part in Corporations, in consequence of the lengthened time during which their liability to be called to account for mere illegality continues, and the expense of Chancery suits for such a purpose as the Belfast one.

I think, to check illegality, that Corporations should be put in the same position as Grand Juries, just as the Dublin Corporation is as to the part of its expenditure which it makes in place of the fiscal powers formerly conferred on the Grand Jury of the city of Dublin.

That is to say, the expenditure should be set out in an account divided into heads, according to the statutes and sections which authorized the expenditure, just like the "county-at-large" part of a county grand warrant. This account should be printed and published for three months, just as schedules of presentments are made public.

The Corporation should then attend before a Judge of the Queen's Bench in Dublin, or a Judge of Assize in the assize towns, and have the expenditure fiatd by the Judge, it being open to the Corporation, as now to the Grand Jury, to take the opinion of the Judge, and open to ratepayers to object.

After such ratification the individual members of the Corporations should not be liable to be called to account for mere mistakes in law, but only for wilful neglect or misconduct.

I would extend the same system to all assize towns having Town Commissioners, whether under 9 Geo. IV. or Towns Improvement Act.

As to the smaller towns under Towns Improvement Act, there is at present an appeal to the Chairman of the county.

But I would suggest that their expenditure should be classified in the way I have pointed out, published, and then fiatd and dealt with by the Chairmen of counties,* just as the expenditure of Corporations and Town Commissioners are proposed to be dealt with by the Judges of Assize. Some of the presentments for the county of the city of Dublin are thus fiatd by the Recorder, and

* The Attorney-General for Ireland, Right Hon. Thomas O'Hagan, in approving of the plan proposed in this report, expressed his decided opinion that the accounts of all the towns should be fiatd by the Judges of Assize, and not by Chairmen of counties, and the draft bill was so drawn accordingly.

the presentments by the Town Council for the county of the city of Cork are filed before the Recorder of Cork.

I know that there is a strong feeling in Dublin, and in some other towns, for some change in the present almost nugatory system of official audit in London; and the plan I have sketched out has met the cordial approval of some persons acquainted with the subject to whom I have explained it.

Yours very faithfully,

(Signed),

W. NEILSON HANCOCK.

I enclose, as you requested, a copy of my paper on the defective audit of Corporation accounts, read before the Statistical Society in 1858. I may add that the accounts of the Commissioners of Charitable Donations and Bequests are also audited by the Receiver-Master.

3.—COPY of PAPER read before the DUBLIN STATISTICAL SOCIETY, November 26, 1858, by W. NEILSON HANCOCK, LL.D., entitled, "The effects of centralizing Irish Local Government in London, as illustrated by the operation of the Centralized Audit of Irish Municipal Corporation Accounts," referred to in preceding Report.

GENTLEMEN,—In this paper I propose to direct your attention to the manner in which the statutable provision for the centralized audit of the accounts of Municipal Corporations in Ireland has been carried out by the departments of Government upon whom the duty was cast.

By the 213th section of the Act for regulating Municipal Corporations in Ireland, passed in 1840 (3 & 4 Vic., cap. 108), the Legislature provided that the accounts of the receipt and expenditure of every Municipal Corporation in Ireland should be referred by the Home Secretary to the Commissioners for auditing Public Accounts in London.

To enable the Commissioners to conduct this audit effectually, the powers conferred on them by certain Acts of Parliament under which they were acting were extended to the accounts thus placed under their care.

To prevent any difficulty arising in the discharge of this duty from the arrangements of the Audit Office, the Lords of the Treasury were authorized to make such orders and regulations respecting the business of the Audit Commissioners, as they should deem best calculated to insure the most prompt and speedy examination and efficient audit of the accounts of the receipt and expenditure of the Corporations.

There could not well be a more distinct statutable duty cast on any public department than was thus imposed on the Home Office, the Audit Commissioners, and the Treasury. If these departments wished to know the cause which led to this statutable provision, and the nature of the audit required, they had only to refer to the very able report of the Irish lawyers, presided over by Sergeant, now Judge, Perrin, who were the Commissioners for inquiring into the Municipal Corporations in Ireland.

In 1835 they had reported to His Majesty the very defective state of the Corporation accounts, and the difficulty of inquiring into the propriety of any expenditure by the governing body.

"In some cases," they state, "the officers intrusted with the receipt and disbursement of the funds appear to continue for years without accounting for them. In some, private and public accounts are intermixed." "The Corporation accounts present frequent entries of improvident disbursements to individuals, and for purposes inconsistent with the due application of the revenues to the public uses of the community."

The Commissioners suggest a twofold remedy for this state of affairs. First, publicity; and, secondly, a change in the law as to a judicial inquiry into the propriety of the expenditure. Thus they say, "There seems to us to be no just or reasonable objection to full publicity of, and readiness of access to, all accounts of income and disbursement of municipal funds for all persons concerned in their due application." Again, they say, "The existing state of the law precludes (save at the hazard of enormous expense) the institution of a judicial inquiry into the propriety of such expenditure, and the right of the governing body to dispose of the corporate property at pleasure for their individual and private benefit."

As the Act for regulating Municipal Corporations in Ireland was passed in consequence of the report of the Commissioners of Inquiry, it may be fairly inferred that the chief object of the centralized audit in London, in addition to the local audit by persons selected by the burgesses and Corporations, was to provide an effectual means by which the governing bodies of towns should be restrained, without expensive judicial proceedings, from exceeding their powers in the expenditure of the corporate funds.

The importance of this double audit arises from the different duties which auditors have to discharge. One is to see that payments are, as to amount and persons employed, in accordance with the orders of the Council, and truly paid to the parties entitled; this can and ought to be checked by local auditors. Another is to see that the accounts are correct in form, according to the provisions of the Act of Parliament and orders of the Lord Lieutenant, and that the Council have not exceeded their statutable powers in any part of their expenditure or management of their corporate property.

This part of the audit can be best done by central officials, accustomed to the accounts of a number of Corporations, and habituated from their training as Government officials to enforcing a strict compliance with the provisions of the law.

Having thus explained the nature and extent of the duty imposed on the Government departments to which I have referred, we have next to consider the manner in which it has been performed.

This is very fully detailed in a report which the Audit Commissioners made to the Lords Commissioners of Her Majesty's Treasury, dated 27th of February, 1846; and in a communication of the Secretary of the Treasury, dated 5th November, 1856. From their connexion with the accounts of the Blue Coat Hospital, formerly connected with the Corporation of Dublin, these documents are published amongst the papers presented to Her Majesty by the Endowed Schools Commissioners.*

The following extracts explain the state of the audit of the Corporation accounts:—

"We have had the honour of representing to your lordships on several occasions the impediments we have met with in the performance of the duties which devolved upon us under the provisions

* Endowed Schools (Ireland) Commission Papers, vol. ii., p. 330.

of the Act for the Regulation of Municipal Corporations in Ireland, 3rd & 4th Vic., c. 108, s. 213. We regret to state that these difficulties have by no means diminished, but that, on the contrary, the arrear in the examination of the accounts of these Corporations is, from circumstances over which we have no control, greatly increasing upon us. The Act was passed in 1840; and out of the sixty-nine annual accounts which it was at first supposed the Irish municipal bodies would have to render, two only have as yet been audited by us, and stated to your lordships.

“By a communication made to us by Mr. Trevelyan’s letter of 2nd April, 1845, it appears that out of the 69 boroughs before alluded to, 22 have no corporate property; so that the original number is reduced to 47. Of these 47, 23 accounts of 13 boroughs have been referred to us by Mr. Manners Sutton’s letter of 24th January, 1846, without vouchers. Abstracts of these 23 accounts, examined and approved by the local auditors in a similar manner to those first mentioned, were laid before the House of Commons, and printed by order of the House, dated 11th June, 1845. Abstracts of the accounts of 20 other boroughs were laid before the House, and printed at the same time; but these 20 accounts have not been forwarded to this office.

“From this it appears that out of 47 boroughs, including King Charles’s Hospital, the accounts of 18 only have as yet been referred to this office for examination. Out of the remaining 29 boroughs, the accounts of 16 have been printed by order of the House of Commons, from which it is inferred that 13 boroughs have never rendered any accounts.”

In the letter of the Secretary of the Treasury of 5th of November, 1856, it is stated “that the subject of the audit of the accounts of the Municipal Corporations, and of certain endowed schools in Ireland, appears to have been taken into consideration by Her Majesty’s Government in 1846, when so much difficulty was found to exist in establishing an efficient system of audit by the Commissioners for auditing Public Accounts, as contemplated by the Act, 3rd & 4th Vic., c. 108, that further proceedings on the subject were then dropped.”

The Lords of the Treasury then referred to the Endowed Schools Commissioners to recommend a plan for the audit of the Endowed Schools’ accounts. I quote this letter to show that whilst the Lords of the Treasury evince the most laudable desire that a remedy should be provided, they admit the total failure of the plan devised by the Legislature in 1840. It would appear that for twelve years there has been no audit at all, and that thirteen boroughs have never sent their accounts, sixteen had accounts published but not examined, and out of forty-seven boroughs the accounts of only eighteen ever reached the Audit Office.

As to the number of accounts actually audited, it appears that the Act has been in operation since 1840, or eighteen years; this would give seventeen annual accounts of forty-seven boroughs, or 799 accounts in all. It appears, however, that the actual number examined and stated by the Audit Commissioners to the Treasury out of this 799 was exactly three.

It may occur to some that, after all, this is only a technical objection, that the audit by the Commissioners in London was superfluous, and that it was no matter whether it was performed or not; that there were local auditors selected by the burgesses, and that they were the best judges in such matters. Such was the reasoning the Audit

Commissioners addressed to the Lords of the Treasury in 1846; such was the reasoning that the Treasury seems to have acquiesced in from 1846 till 1858.

Now, without discussing whether public departments are warranted in practically repealing the provisions of Acts of Parliament casting duties on them, I will briefly state the results of this neglect of audit which have been made public with respect to one of the most important towns in Ireland—the rapidly-increasing and enterprising town of Belfast. How far it has produced injurious results in other towns has not been inquired into or made public.

As to Belfast, I may observe, in the first place, that it appears to be one of those towns whose accounts were on one occasion referred to the Audit Office, but without vouchers.

In the year 1845 a local Act of Parliament was applied for and obtained, empowering the Town Council of Belfast to raise the large sum of £150,000, to be charged on the rates of the town, for widening streets and effecting other improvements which the increasing importance of the town rendered necessary.

This local Act required, however, as a safeguard to the ratepayers, that very accurate accounts should be kept by the Town Council of the expenditure of this large sum of money; and, as a further safeguard, the 20th section expressly provided that these accounts should be subject to the same system of audit as the other Corporation accounts.

In 1846 another local Act was passed, authorizing the Town Council to raise £50,000 more, to expend in supplying the town with gas.

It is somewhat remarkable that those Acts were passed, the one just before and the other just after the Audit Commissioners' Report to the Treasury, representing the audit by them as useless, whilst Parliament was at the very time induced to allow the Corporation of one town powers of borrowing to the extent of £200,000, on the faith of the accounts being audited by the Audit Office. The Lords of the Treasury having acquiesced in the Audit Office Report in February, 1846, and so exempted the Corporation of Belfast from centralized audit until the present time, we have next to see what the result has been. This is disclosed in an information filed by Her Majesty's Attorney-General for Ireland against the Corporation of Belfast, in 1855, in the Court of Chancery. I cannot in this brief paper state the case in full, but suffice it to say that the Corporation were charged with raising £84,000 beyond the £150,000 which they were authorized to raise; £48,000 on debentures, and £36,000 in an overdrawn account. They were charged with applying the £50,000 raised under the second Act to a different purpose from that authorized by the Legislature. To show, however, how intimately this whole litigation was connected with the state of the accounts, I will quote three passages from the report of the case.*

"It was further charged that those accounts were to a great extent unintelligible, from the manner in which they had been made out and represented—not the *bonâ fide* property of the Corporation, but fictitious and imaginary valuations, introduced to conceal the real state of the corporate property, and the improvident and improper application of the loans; and it was complained that enormous sums had been expended in costs, to an amount exceeding £50,000; and that no substantive benefit appeared to have

* Irish Chancery Reports, vol. iv., pp. 154, 145, 163.

reverted to the borough from such expenditure; that the costs so incurred had been paid without having been taxed by the proper officer."

The Lord Chancellor in his judgment says:—

"For in his respect the information was framed under a misapprehension (founded on the published accounts of the Council), that the £100,000 had not all been expended, but only £49,000, on such subjects. But the case made by the Corporation, and also by the individual members of the Council—who have been joined as respondents—is, *that this is quite a mistake*; and that, in point of fact, they have applied not merely the £100,000 to the special purposes, but £65,000 over and above that sum."—(p. 145.)

Again, in another part of his judgment, the Lord Chancellor says:—

"It is sworn that the Council regularly appropriated, for the purposes of a sinking fund, one and a-half per cent. each year, from July, 1850, upon the £200,000 borrowed on mortgage; and that the amount has been properly invested with the Belfast Banking Company, and is safe in their coffers. Mr. Guthrie, the sub-treasurer of the Corporation, deposes to the same effect substantially; so do the special respondents; they all concur in this, except Mr. Thompson, who has been appointed by the Council year after year to be treasurer to the Corporation, and whose name is affixed as treasurer to several, if not all, of the printed accounts that have been given in evidence, and upon whom, as such, some of the cheques that have been handed in relating to this very fund were drawn; and he has signed or indorsed them as treasurer. But he now says, notwithstanding all this, that he is not the treasurer further than as a treasurer and public officer of the Belfast Bank, with which the Council kept their account. He also states that in reality there is no sinking fund, within the meaning of the Act, up to the present hour; that after providing for the current expenditure there did not remain any portion of the annual rates that could be applied to the formation of such a fund; and that what is now called the sinking fund was taken from some other source altogether. But the sub-treasurer either contradicts or explains away the whole of this; and the documentary evidence appears to be inconsistent with it. Certainly Mr. Thompson has complicated this case in a very extraordinary manner; and he has joined with the Council in equally entangling both himself and it, from the very unauthorized and irregular way (possibly with the best motives) in which they have all acted, in not observing the provisions of the Corporation Act, and of the local Acts, which direct the Council to appoint a treasurer, and that he should keep proper accounts, and do the various acts there required of him—be in fact a treasurer in the simple, intelligible, and legal sense of the word. In place of that, what has been done? The Council nominate Mr. Thompson to be treasurer to the Corporation; he accepts the office, acts under it, and now says there is no treasurer, or (at most) that the Belfast Banking Company is the treasurer, and that he merely permitted his name to be used as an instrument in their and the Council's hands. The Court cannot regard proceedings like these as a compliance with the Act, however convenient they may have been to the parties."—(p. 163.)

The Lord Chancellor finally condemns the accounts, and orders new accounts to be made out from the first, and the whole of them to be examined in the Master's Office in Chancery. The result of

this information is that the Corporation of Belfast have been in Chancery since 1855, and that the most respectable inhabitants who have filled corporate offices have been involved in the heaviest law expenses, with still larger legal liabilities for the sums illegally borrowed and illegally expended by them. This state of affairs has been felt to be such a hardship, that applications have been made to Parliament for a local Act to charge upon the town the sums expended by the Corporation. Two committees of the House of Commons have inquired into the whole matter in succession, and during the last autumn a royal commission sat for many days inquiring into the whole subject.

Such then are the trouble and expense, and, what is still worse, such is the public discredit in which the governing body of one of our chief towns has been involved for three years; and without excusing for one moment the local authorities who exceeded their powers and violated their duties, it must be obvious that nearly the whole of this trouble, expense, and discredit would have been avoided, if an authoritative central audit had been carried out, and if the accounts which the Lord Chancellor condemned in 1855, as not in compliance with the statutes under which the Corporation were acting, had been condemned by the Audit Commissioners in 1847, when the first wrong account was prepared.

Having thus stated the facts of the case, it remains to submit the reflections which it has suggested to my mind.

In the first place, the whole tone of the Audit Commissioners' Report shows that when centralization is carried too far, local matters are despised and neglected by central officials.

Up to 1832 there was a public board of Audit in Dublin which published reports of its proceedings, but in the spirit of centralization which prevailed about 1832 it was abolished, and its duties transferred to London; and ten years after, in 1842, it appears that there were seventy-four Irish accounts, with many of which delays had taken place. The Audit Commissioners then described the different departments of audit that had been transferred to them: as to Ireland, they stated that the office of the Irish Commissioners of Civil Accounts consisted of three Commissioners and seventeen officers and clerks, only seven of whom were transferred to London. As a general result, they stated that in 1842 there was yet considerable arrear in the examination of the accounts, and the Lords of the Treasury had then under their consideration a report from the Board, as to the means of subduing such arrear and guarding against its recurrence.

Now, what has been gained by this excessive centralization? What is there in the audit of accounts to prevent its being done in several offices and several places as well as in one office and one place? Would not such local matters as Corporation accounts be better audited in Ireland?

The Poor Law Boards in Ireland were at first governed from London, but the central authority is now part of the Irish Government—the Chief Secretary and Under Secretary of the Lord Lieutenant being Commissioners, and the accounts are all audited by auditors who visit the Unions, but act under the orders of the Commissioners.

It has been proposed by some of those most interested in working the Towns Improvement Act in Ireland, to have some central authority in Dublin to advise and assist Corporations and Town

Commissioners in cases of doubt—to be a kind of court of appeal in cases of local differences, much as the Poor Law Commissioners are to Boards of Guardians. A Committee of the Irish Privy Council might be constituted for such a purpose, with auditors attached.

This failure of the system of centralized audit by the Commissioners in London affords, moreover, an illustration of a defect in arrangements for the administration of Irish affairs, which is a prolific source of evils to us; I refer to the system of double government, which requires that all Irish affairs shall be under the Home Office, whilst there is an Irish Office and a complete staff of Irish officials.

In the Irish Corporation Act it is provided that the Corporation accounts shall be sent to the Lord Lieutenant, and he is authorized to direct how they are to be kept. If anything is wrong, the Irish Attorney-General is to take proceedings in the Irish courts of law to have matters set right.

Then, when we come to the auditing of the accounts, the statute directs that the Secretary of State for Home Affairs shall direct the accounts to be forwarded to the Audit Commissioners, and that the Lords of the Treasury shall direct how the Audit Commissioners are to do the work.

The result of all this machinery and divided responsibility is, as we have seen, that the work is not done. Just as the Indian mutiny showed the folly of the double government of India, the Belfast case shows the folly of the double government of Ireland.

If this was put an end to, by the Irish Office being erected into an independent department, the Lord Lieutenant would be enabled to have the Corporation accounts which are sent to him each year audited under his direction in Dublin Castle, in immediate connexion with the Irish law officers, who could advise on points of doubt, and take proceedings promptly and efficiently if required, instead of waiting till the evil had grown to such a height as it did by ten years of neglect in Belfast.

No. 4.—COPY of LETTER from the SECRETARY of the TREASURY to the ENDOWED SCHOOLS (IRELAND) COMMISSIONERS, as to the AUDIT of ACCOUNTS under the MUNICIPAL CORPORATION REFORM ACT, 3 and 4 Vict., c. 108.

Treasury Chambers, 5th November, 1856.

MY LORD AND GENTLEMEN,—With reference to Mr. Hancock's letter of 17th ultimo, I am commanded by the Lords Commissioners of Her Majesty's Treasury to acquaint you that the subject of the audit of the accounts of the municipal corporations, and of certain endowed schools in Ireland, appears to have been taken into consideration by Her Majesty's Government in 1846, when so much difficulty was found to exist in establishing an efficient system of audit by the Commissioners for auditing the Public Accounts, as contemplated by the Act 3rd and 4th Vict., c. 108, that further proceedings on the subject were then dropped.

I am to transmit to you a copy of the Report of the Commissioners of Audit of the 27th February, 1846, from which you will learn the nature of those difficulties, and to observe, that it may properly

form a subject for your consideration, what remedial measures can be adopted in the case of the endowed schools, for the purpose of insuring an efficient examination of their accounts.

I am, my lord and gentlemen, your obedient servant,

(Signed),

C. E. TREVELYAN.

The Commissioners for inquiring into
Endowed Schools, Ireland.

No. 5.—COPY of REPORT of AUDIT COMMISSIONERS to the
TREASURY. (Enclosed in preceding).

Audit Office, 27th February, 1846.

MY LORDS,—We have had the honour of representing to your lordships on several occasions* the impediments we have met with in the performance of the duties which devolved upon us, under the provisions of the Act for the Regulation of Municipal Corporations in Ireland, 3rd and 4th Vict., c. 108, s. 213.

We regret to state that these difficulties have by no means diminished; but, that on the contrary, the arrear in the examination of the accounts of these corporations is, from circumstances over which we have no control, greatly increasing upon us. The Act was passed in 1840; and, out of the sixty-nine annual accounts which it was at first supposed the Irish municipal bodies would have to render, two only have, as yet, been audited by us, and stated to your lordships.

In August, 1843, seven of these accounts were referred to us, by the Secretary of State, for examination; but, not being accompanied by vouchers, and being found upon inspection to be defective in other respects, the accounts were returned to the Secretary of State, and our proceedings were for a considerable time delayed. These defects, however, being subsequently in part remedied, and your lordships having provided us with two clerks for this service, in accordance with the request contained in our Report of 9th July, 1844, the examination was proceeded with, and we beg leave now to report the progress we have made:—

Athlone.—One year, to 1st September, 1842; *Youghal*, one year, to 5th March, 1843. Accounts audited and stated.

Coleraine.—One year, to 31st August, 1842; one year, to 31st August, 1843. Vouchers obtained in April, 1845. Queries sent to the Treasurer in June, 1845: 1 to 186 not yet answered.

Cork.—1st November, 1841, to 31st August, 1842. Vouchers received in July, 1844, with a request that they might be returned. Queries sent in January, 1845; and the Board's decision upon the accountant's answers in July, 1845, but not yet replied to.

Dublin.—1st April, 1842, to 28th February, 1843. Vouchers transmitted under a protest by order of the Corporation. Queries sent in January, 1845; answered in December following. The documents returned are numerous and bulky, and will require a considerable time to examine.

Limerick.—3rd October, 1842, to 1st March, 1843. Vouchers transmitted in March, 1844, but in consequence of the account

* 4th November, 1841, No. 520; 9th March, 1842, 122; 8th August, 1842, 407; 29th November, 1842, 568; 28th August, 1843, 399; 5th January, 1844, 7; 18th March, 1844, 119.

being made up under heads of service, it could not be conveniently examined with the vouchers. The treasurer having, however, proposed sending a transcript of his cash account, that account has been examined with the vouchers; queries upon it have been sent and answered, but the decisions of the Board remain unanswered. The accountant expects that the authorities and vouchers may be returned to him.

Enniskillen.—1st November, 1841, to 1st November, 1842. No proceedings upon this account. Four applications have been made for the vouchers, but they have not been transmitted to us.

Abstracts of these seven accounts have been laid before the House of Commons, and printed by the order of the House, dated 18th August, 1843; the original accounts and vouchers, including that of Enniskillen, having been previously examined, approved, and certified by the borough auditors, and, as we apprehend, printed for the use of the burgesses. We have only to add, that since the examination of the vouchers of this set of accounts was completed in February, 1845, the two clerks allotted to us by your lordships for this particular service, have been employed upon other business, as mentioned incidentally in our Report of 23rd December last, No. 593, there being at that time no other Irish municipal accounts before us to place in their hands.

We now come to the accounts of those Corporations upon which there have been no proceedings in this office.

By a communication made to us by Mr. Trevelyan's letter of 2nd April, 1845 (5637 28/3), it appears that out of the sixty-nine boroughs before alluded to, twenty-two* have no corporate property, so that the original number is reduced to forty-seven. Of these forty-seven, twenty-three accounts of thirteen boroughs† have been referred to us by Mr. Manners Sutton's letter of 24th January, 1846, without vouchers. Abstracts of these twenty-three accounts, examined and approved by the local auditors in a similar manner to those first mentioned, were laid before the House of Commons, and printed by order of the House, dated 11th June, 1845. Abstracts of the accounts of twenty‡ other boroughs were laid before the House, and printed at the same time, but these twenty accounts have not been forwarded to this office.

From this it appears that out of forty-seven boroughs, including King Charles's Hospital, the accounts of eighteen only§ have as yet been referred to this office for examination. Out of the remaining twenty-nine boroughs, the accounts of sixteen have been printed by order of the House of Commons, from which it is inferred that thirteen boroughs|| have never rendered any accounts.

It is almost needless for us to add that the want of regularity in the transmission of the accounts, the influx of twenty-three accounts

* Twenty-two boroughs—Ardee, Baltinglass, Boyle, Carlow, Carlingford, Castlemartyr, Cavan, Charlemont, Dingle, Dulock, Enniscorthy, Gorey, Hillsborough, Innistogue, Kilbeggan, Kildare, Killyleagh, Kilmallock, Lifford, Middleton, Naas, Navan.

† Thirteen boroughs—Armagh, Athy, Belturbet, Belfast, Cork, Drogheda, Dublin, Kells, Kinsale, Limerick, Sligo, Strabane, Wicklow.

‡ Twenty boroughs—Athlone, Bandon, Callan, Cashel, Clonakilty, Clonmel, Coleraine, Dundalk, Ennis, Enniskillen, Fethard (Tipperary), Londonderry, Clonfert, Monaghan, Newtownards, Tralee, Trim, Waterford, Wexford, Youghal.

§ Eighteen boroughs—Armagh, Athlone, Athy, Belfast, Belturbet, Coleraine, Cork, Drogheda, Dublin, Enniskillen, Kells, Kinsale, Limerick, Sligo, Strabane, Wicklow, Youghal, King Charles's Hospital.

|| Thirteen boroughs—Ardfert, Athenry, Bangor, Carrickfergus, Charleville, Dungannon, Galway, Kilkenny, Maryborough, New Ross, Portarlington, Thomastown, Tuam.

at one time without vouchers, and the uncertainty as to the period when the further deliveries may be made, are not only extremely embarrassing to this office, but any advantage arising from an early examination of the accounts, especially where the borough officers are elected annually, is rendered almost nugatory.

We shall, nevertheless, proceed to examine the twenty-three accounts now before us when we shall have obtained the means of doing so, the first step towards which will be the delivery of the vouchers.

It appears to us, however, very undesirable, that we should ourselves open a correspondence with all those boroughs, the issue of which, from the partial experience we have already had in this respect, is more than doubtful, the more especially with reference to the opinions of the law officers of the Crown in Ireland upon certain questions respecting these accounts submitted to them in 1842, which are as follow:—

“1st. How are the accounts required by the 213th section to come to the Secretary of State, for the purpose of being referred by him to the Audit Commissioners, pursuant to said 213th section? Are they to be transmitted to the Secretary of State by the Lord Lieutenant, or by the governing body of the borough; and, if by such governing body, how is such transmission to be enforced?”

“*Answer.*—The accounts audited by the borough auditors are to be transmitted, with all proper vouchers, to the Lord Lieutenant, who is empowered to make all necessary orders for that purpose. Those accounts are to be transmitted by the Lord Lieutenant to the Secretary of State, to be by him referred to the Audit Commissioners.

“2nd. In the absence of any statutable direction for supplying the Audit Commissioners with vouchers for the accounts to be referred to them, how are such vouchers to be procured; and, if not procurable, how are such borough accounts to be audited by such Audit Commissioners?”

“*Answer.*—Under the 137th section, the Lord Lieutenant is authorized to direct the accounts to be prepared in such manner as he shall think proper; and we think that this authority should be exercised by directing the accounts to be furnished with proper vouchers.”

Under the sanction of these opinions we apprehend that the proper course would be that the vouchers should be called for by His Excellency the Lord Lieutenant, and transmitted by His Excellency to the Secretary of State; and on their being thence forwarded to this office we shall make the best arrangements in our power for the early examination of them.

We have received a letter from Mr. Manners Sutton, dated 7th February, 1846, transmitting an account of the Free School of King Charles II., accompanied by vouchers for five years—namely, from 28th September, 1839, to 28th September, 1844; also an account of the treasurer of Dublin, for the year ended 31st August, 1845, the vouchers for which the treasurer has expressed his readiness to transmit when called for.

It is not, however, to be expected that the best examination which we can give to these accounts, as a check upon the revenue and income of the several corporations in question, can be of equal efficiency and value to that of resident auditors, to whom the different sources of borough property, whether arising from rents, rates, duties, tolls, &c., are most probably familiar; the only extent to which our examination can be carried is to see that every pay-

ment is duly authorized by the members of the Corporation and properly vouched, and that the accounts are arithmetically correct, and we are persuaded that the effect of this limited examination must necessarily fall short of that derived from the annual examination which the accounts undergo on the spot and from the publicity given to them by their being printed for the use of the ratepayers immediately after they have been examined and passed by the borough auditors chosen by the ratepayers, who are the parties most interested in the subject. We may add that as we have no authority to compel the delivery of these accounts (which are not accounts of public money), to enforce surcharges, to prosecute defaulters, or to recover balances, it is our decided opinion that the benefits which might have been anticipated from a second audit of these accounts in this office can never be adequate to the labour required and to the expense thus imposed upon the public.

We are unwilling to conclude this Report without observing to your Lordships that the Corporations of the thirteen boroughs who appear to have withheld their accounts, escape altogether from the trouble, expense, and responsibility which attaches to those Corporations who submit their accounts to a second audit, and endeavour to carry out the intentions of the Legislature.

Under these circumstances we again take the opportunity of pressing upon your lordships a reconsideration of the question, as to the propriety of the accounts of any of the Corporations being sent to this office for examination. If, however, on this point your lordships and Her Majesty's Government have finally decided to make no change, and if it is not intended to put the Irish Corporations in this respect on the same footing as the English, we must then earnestly submit to your lordships how necessary it becomes that some steps should be taken with a view of insuring the regular transmission to this office, by Her Majesty's Secretary of State, of the accounts, together with the vouchers, immediately after the period when the annual accounts are terminated and become due.

Without this regularity it will be impossible for us to perform our duty with satisfaction to ourselves or advantage to the public.

We have only further to add, that in the event of our receiving through Her Majesty's Secretary of State the vouchers having reference to the statements of accounts already delivered, as noticed in the margin;* and in the event of its being determined that the accounts of this service shall continue for the future to be audited by us, we shall then be prepared at once to apply to your lordships for such a permanent assistance as may be required for the purpose.

We have the honour to be, my lords, your lordships' most obedient, humble servants,

(Signed),

W. L. HERRIES.
H. F. LUTTRELL.
HENRY ARBUTHNOT.
EDWARD ROMILLY.
A. GRANT.

The Lords Commissioners of Her Majesty's Treasury, &c., &c.

* List of the statements of accounts for which no vouchers have been delivered:—Armagh, 1842-3-4; Athy, 1842-3-4; Belturbet, 1843-4; Belfast, 1843-4; Cork, 1843-4; Drogheda, 1842-3-4; Dublin, 1843-4; Kells, 1840-1-2-3-4; Kinsale, 1840-1-2-3-4; Limerick, 1843-4-5; Sligo, 1843-4; Strabane, 1840-1-2-3-4; Wicklow, 1841-2-3-4; Enniskillen, 1841-2.

6.—EXTRACT from BELFAST NEWSPAPER, showing the commencement of CHANCERY PROCEEDINGS against WATER COMMISSIONERS in BELFAST.

The people of Belfast were startled yesterday by the announcement that another Chancery suit is in preparation, directed, not against the Town Council or any members of it, past or present, but against certain of the Water Commissioners. We reprint from a contemporary the cause petition which has been filed against Messrs. John Lindsay, Robert Greer, W. Addison, R. T. M'Geagh, and Dr. Dill, as special respondents. The nature and grounds of the suit are apparent from this document, but a brief statement of the principal points may be acceptable to our readers. The charges brought against the respondents refer to transactions extending over a considerable period of time. The offences attributed to them include misdeeds both of commission and of omission. They are accused of exercising powers not conferred upon them by Act of Parliament, and of failing to exercise those which were so intrusted to them. Especially it is complained that they neglected to take the waters of the Carnmoney river and other sources, and to execute works needful to the proper supply of the town. The failure of the Commissioners to carry the bill of 1854 is attributed to their own negligence, and on this ground their right to burthen the community with the costs of the abortive measure is disputed. Liability for the sum of £580 paid by them to Lord Donegall in 1855, and for the costs of the defence in the two connected suits, is also disclaimed on behalf of the water ratepayers. In connexion with the rival bills of last year, a charge is made for which the readers of this journal will be prepared. We published some time since a private agreement, signed by Mr. Samuel Bruce on the one part, and by three Commissioners on the other, in which, after the second bill had been thrown out on standing orders, the Commissioners arranged to procure its recommittal and consideration along with the first measure; the Commissioners to pay the costs (up to £750) of the second bill. This agreement was carried into effect in one particular only. The sum of £750 has, it is said, been paid out of the funds of the board to the promoters of the second measure, which, however, was not recommitted; while, in violation of a distinct resolution of the Commissioners, the first bill was withdrawn. The relators deny that the costs of these unsuccessful proceedings can properly be charged on the ratepayers; and pray that, together with the sum of £750, alleged to have been paid, they may be saddled upon the special respondents. Mr. John Lindsay is charged with having for a long period of years acted as a Water Commissioner, without possessing the requisite qualification, and Mr. Greer, who is at present serving, is said to be similarly disqualified.—*Northern Whig, Belfast, January, 1865.*

