

III.—*The effects of centralizing Irish Local Government in London, as illustrated by the operation of the Centralized Audit of Irish Municipal Corporation Accounts.* By W. Neilson Hancock, LL.D.

[Read November 26th, 1858.]

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. c. 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 ensure 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 causes 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 Her 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 entrusted 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 suggested 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 of the Act for the Regulation of Municipal Corporations in Ireland, 3rd and 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

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

69 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 and 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 47 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 3.

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 over-drawn 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 *bona fide* property of the corpo-

* Irish Chancery Reports, vol. iv. p. 134, 145, 163

ration, 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 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 this 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 objects. 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. Cuthrie, 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 endorsed them as treasurer. But he now says, notwithstanding all this, that he is not the treasurer further than as a director 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 unauthorised 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 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 Town 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 connection 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 height as it did by ten years of neglect in Belfast.
