

PART III

**MAJOR RESPONSIBILITIES OF
THE MUNICIPALITIES
AND PROVINCIAL PARTICIPATION**

CHAPTER I I I

Major Responsibilities of the Municipalities and Provincial Participation

A. GENERAL GOVERNMENT, PROTECTION TO PERSONS AND PROPERTY, ADMINISTRATION OF JUSTICE, PUBLIC WORKS, CIVIL DEFENCE AND COMMUNITY PLANNING.

1. This chapter and the three following chapters describe the present arrangements between the province and the municipalities in the provision of services for which the municipalities have some responsibility. Before beginning this description, however, it is necessary to explain the distinction between local and general services that is used throughout the report.

1. The Distinction Between Local and General Services

2. The wide variety of services currently provided by New Brunswick municipalities can be divided roughly according to whether they are of a local or of a general nature; that is, according to whether the benefits from them accrue only to the inhabitants of the municipalities or whether they are spread throughout the province or the nation. All of the services presently provided by the municipalities were at one time generally considered to be most appropriately performed locally. But it would be stretching a point to say that all of them, even at the time they were undertaken, were considered to be only, or even primarily, of local concern. This may perhaps be said of those functions confined by their nature to serving local residents, such as fire and police protection, the construction and maintenance of streets, sanitation and waste removal, suppression of public nuisances, and even of the provision of welfare services. But practically from the beginning, public education in New Brunswick, which today accounts for by far the largest single **part** of local expenditures, was considered to confer some measure of general benefit. The province charged the municipalities with the responsibility for it in the belief that education, although it conferred some general benefit, was primarily of local concern and could be most effectively administered and in large part financed, without undue hardship, at the local level. This view had some validity when education was the privilege of the few, but now that the provincial government has adopted the policy, in accord with the changing attitude of society, that education should be extended to all as a matter of right, it is no longer valid. In any event, in the course of time, the

element of general benefit from education has become paramount, for reasons developed in Chapters 4 and 8. Much the same can be said with regard to services relating to health. (See Chapters 5 and 10.)

3. In the field of social welfare, the benefit is confined more narrowly to the individual upon whom the service is directly conferred than in the case of education and public health, and so in this sense it can be considered a local one. Provision for the needy was long regarded as being primarily of local concern. If the indigent aged and other destitute could not be provided for by their families it was deemed desirable that *only* the immediate community need take responsibility for their care. The provincial government in New Brunswick was acting in accordance with the social attitude of the day in assigning such care to the municipalities. But the general attitude of society has changed to the point where not only services which confer a general benefit, like education and health, are considered to be of general interest and therefore appropriate objects of expenditure and administration by the senior governments. The assurance of a minimum measure of economic security has also come to be considered as being in the interest of all and as a right to which all are entitled. Moreover, since the immense social and economic waste resulting from unemployment and destitution adversely affects all people in the province, **all** have a stake in both direct relief and remedial welfare measures aimed at rehabilitation. Welfare can therefore now be grouped **with** the other general services, as sanctioned by the policies implemented by the federal and provincial governments. (See Chapters 5 and 9.)

4. The administration of justice and the provision of court houses and gaols have also come to be regarded as general services, the provision of which is the common concern of all of the people in the province. (See Chapter 11.)

5. The distinction between local and general services is of value because it divides functions of government into those which are more or less clearly the preserve of the local government and those for which the province might appropriately share or assume responsibility. The province can, of course, and does aid the municipi-

palties financially with respect to local as well as with respect to general services; but if uniformly equitable adjustments on the basis of need are to be made in the *kinds of services* provided by local government, it is in the area of the general services that they are likely to be made, that is, in education, health and hospitals, social welfare, administration of justice, and the provision of court houses and gaols.

6. One of the consequences of the increasing amounts and the higher and higher quality of the general services demanded from the municipalities has been that many municipal units are now too weak financially and too small administratively to provide them efficiently at adequate levels. The financial disparity of the municipalities was not so serious when much less was expected than now of government generally and when the austere view was commonly held that each locality should provide only what it could afford to provide. This view may still, in part, govern the provision of local services, but not those of a general nature.

7. Although the provincial government is already a large participant in both financing and administering the programmes of education, health, welfare, and administration of justice, the administrative and fiscal structure of local government has changed but little. One of the problems facing the Commission is that of determining what adjustments should be made in this structure in view of the changing roles of the municipalities and the province in providing services that were once solely or primarily a local responsibility.

8. The tables of expenditures and revenues of municipalities during 1961 in Appendix 0 show the relative importance at present of the different kinds of municipality. They show how the variety and amount of services decline from the cities to the towns to the counties, and how very important property taxes are as a source of revenue. The total expenditure per capita in 1961 was on the average \$121.79 for the cities, \$95.07 for the towns, and \$53.81 for the counties.- The average per capita local expenditures on local services \$57.96 for the cities, \$39.01 for the towns, and \$7.64 for the counties. Property and business taxes were about 64 per cent of all local revenue (excluding grants for education) and about 91 per cent of taxation revenue of municipalities. The importance of grants and other payments from the provincial government, excluding grants for education, is indicated by the fact that in 1961 they accounted for 19.4 per cent of local revenue for the cities, 14.1 per cent for the towns, and 21.4 per cent for the counties. For all municipalities taken together, provincial grants, including operating grants for education, accounted for 31.9 per

cent of total local revenue (including the education grants in the total).

9. Many changes have taken place in provincial-municipal fiscal relations in New Brunswick in the last half century, both by adjustment in the division of responsibilities between the province and the municipalities, and by the payment of grants to municipalities and school boards. The rest of this chapter and Chapters 4 to 6 will be devoted to describing some of these changes in provincial-municipal fiscal relations and to describing the present situation to provide a basis for the more detailed discussion and recommendations in subsequent chapters.

II. *General government*

10. As general government is mainly concerned with administration, its scope and cost will be contingent upon the other functions performed by the municipalities. Nevertheless, since the municipalities of each type provide similar services, it is of interest to observe expenditure for general government per capita and as a percentage of total expenditure for the different municipalities. (See Tables 7B and 7C in Appendix 0.) As would be expected, the expenditure on general government per capita is, on the average, highest in the cities (\$8.18), next highest in the towns (\$6.23), and lowest in the counties (\$5.61). Its relative importance is, on the average, practically the same for each type of municipality, that is, about seven per cent of total expenditure. There is, however, considerable variation in per capita expenditure among the municipalities that likely reflects, in part, differences in quality and in efficiency of administration.

III. *Protection of persons and property*

11. This category includes such services as fire protection, police protection, law enforcement, corrections and street lighting. Their detailed analysis by municipal unit is shown in Table 7A, 7B and 7C in Appendix 0.

12. Police protection is the responsibility of the urban municipal units; the policing of the rural municipalities is a provincial responsibility discharged by the Royal Canadian Mounted Police under contract with the provincial government.

13. The responsibility for the operation of gaols or correctional services in New Brunswick is a dual one. Gaols are a municipal responsibility but they are operated under provincial regulations administered by the Department of the Attorney General. There are now twelve county gaols. Three counties, (Victoria, Queens and Albert) have closed their gaols and made arrange-

ments with other counties for providing for their prisoners. Prisoners serving sentences of two years or more are sent to the federal penitentiary at Dorchester. The municipalities are mainly responsible for the cost of gaol operation, although they do receive a provincial subsidy of 50 cents per day for each prisoner under sentence, except those serving sentences for violation of municipal by-laws or being boarded under the liquor control act, in which latter case a subsidy of 75 cents per day is paid. The gaols are generally operated by the counties and financed jointly by the counties and the other municipal units contained by them. In addition to the gaols, the urban municipalities provide lock-ups for the temporary or over-night incarceration of persons charged with non-indictable or minor offences.

14. The province operates at its own expense the New Brunswick Central Reformatory at Kingsclear near Fredericton, with an annex in Charlotte County, for prisoners selected from the various gaols who are serving sentences of less than two years. Normally they are the younger and more reformable ones. The province also operates the Boys' Industrial Home at Kingsclear. The municipality of residence is charged \$550 per annum (about \$1.50 per day) for a small part of the total operating cost of about \$7.00 per day per boy. Prior to December 19, 1962, this charge was \$200 per annum.

15. With the implementation of the recommendations of the Fauteux Committee and of the Department of Justice Planning Committee for Prisons, the federal government will assume responsibility for prisoners sentenced to more than one year and will eliminate sentences for federal crimes of over six months up to one year. However, there will still be a place for the New Brunswick Central Reformatory in providing for the young offender with a short sentence who is facing prison for the first time. With these changes the local gaols will be used mainly for prisoners serving short sentences and for those awaiting trial or sentence. This group nevertheless comprises the bulk of those prisoners who are now serving sentences or are being held in local gaols, a large part of them (about 85 per cent) for drunkenness. The Dickson Commission, reporting in 1951, and subsequently the Inspector of Penal Institutions for the Province, have recommended the abandonment of the present county gaol system and its replacement with a system of district gaols, five or six in number, located in larger population centres and each serving two or three counties, entirely financed and operated by the province.

IV. Administration of Justice

16. Responsibility for the administration of justice is presently a dual one, although the provincial government has recently been assuming a greater and greater share. This category includes services relating to the various types of courts (coroners', county magistrates', juvenile, supreme, probate, divorce and matrimonial causes); also included are court reporters, registry offices, crown prosecutors, clerks of the peace and sheriffs,

17. At present, the counties are entirely responsible for the provision and maintenance of court houses and court room facilities, although the province has augmented the facilities provided in Saint John and Westmorland Counties and has provided the facilities in Fredericton for the Supreme Court, the Court Room for Appeals and Chancery, and space for the law library. In 1961, the cost of court facilities paid by the municipalities was about \$25,000.

18. The salaries of county magistrates and juvenile court judges are now paid by the province. Prior to 1962, the salaries of county magistrates were shared by the province and the municipalities and the salaries of juvenile court judges were paid by the municipalities. In 1961, the municipal share of salaries of county magistrates was about \$40,150 and the provincial share, ~220,000. The operations of the juvenile court cost municipalities approximately \$48,000.

19. The cost of coroners' courts, autopsies, etc. is, except for the Chief Coroner, the responsibility of the municipalities. In 1961, the cost to the municipalities was about \$28,000 and to the province, about \$2,000.

20. Registry offices are now centralized, as of July 1, 1962, under the Attorney General. Prior to this, the county registrars were municipal officials. There is still provision for 10 per cent of the fees received by the provincial government to be remitted to the counties.

21. The salaries of sheriffs were until recently solely a municipal responsibility, but in 1961, the province began to pay each county \$500 towards them. In 1961 the provincial share was \$7,500 and the cost to the municipalities, about \$20,000 for salaries, plus the cost of offices and other facilities.

22. Official Shorthand Reporters are on the Attorney General's staff and are paid by the province. Two other categories of reporter, the Special Court Shorthand Reporters and the Official County Court Shorthand Reporters, are paid by the municipalities at a cost in 1961 of about \$8,000.

23. Clerks of the Peace and Crown Prosecutors are presently paid in part by the province and

in part by the counties on the patchwork basis. Depending on the classification of the service rendered, they are paid in whole by the Province or County, or jointly, either directly or with the provincial share taking the form of a refund of part of the cost incurred by the municipality. In 1961, the cost to the municipalities was about \$25,000 and to the province, about \$37,000.

24. Jury and witness fees are shared by the Province (average of 25 per cent) and the municipalities (average of 75 per cent). In 1962, the provincial share was about \$12,000 and the municipal share, about \$36,000.

V. *Public works*

25. Sewers, sidewalks and drainage are local responsibilities, as are most of the streets in towns and cities. The New Brunswick Department of Public Works assumes full responsibility for the maintenance and construction of public highways outside the limits of cities, towns and the Simonds Highway Board area. This relieves the counties of considerable financial and administrative responsibilities.

26. In recognition of the fact that the portions of provincial highways running through towns and cities are of broader than local benefit, and of the fact that it is in the general provincial interest for them to be up to the standards of the provincial highways, the Minister of Public Works was authorized for a number of years to reimburse any city, town or incorporated village for up to two-thirds of the amount spent on construction of these portions at provincial standards. In fact, assistance has been limited to 50 per cent, and in 1963 the Highway Act was amended to provide a statutory limit of 50 per cent on the provincial share. Total assistance for this purpose in the fiscal year ended March 31, 1961, was \$68,766.

27. During the past few years several controlled access by-passes have been constructed by the Department of Public Works on the Trans Canada Highway to relieve traffic congestion in various towns and cities. The Department also assumes responsibility for the construction and maintenance of all approved major bridges lying within the limits of any city, town, or incorporated village. It shares on a 50-50 basis in the construction of sidewalks in Local Improvement Districts. In fiscal year ended March 31, 1961, this assistance, as reported, totalled only \$2,500. However, we have been informed that the Department of Public Works has often assumed the full cost of sidewalks in such areas which have not included sidewalks among the services for which they are incorporated.

28. Through the years the Department has also expended substantial sums on the installation

of local improvements (such as streets, roads, sidewalks, curbs, water mains and sewers) in subdivisions located outside incorporated cities, towns and the village. In a number of cases the Department also assumed responsibility for the future maintenance of the improvements provided. No similar assistance was available for subdivisions located within cities, towns and the village. Recently an effort has been made to place more of the responsibility for services in rural subdivisions on the developer or the future residents.

29. The Department makes grants of one dollar per capita for snow removal to cities, towns, incorporated villages and the Simonds Highway Board. The total amount paid in the fiscal year ended March 31, 1961, was \$189,182.40. These grants in part compensate the urban municipalities for the fact that the Department assumes full responsibility for snow removal from highways in the rural municipalities.

30. The province through its Water Authority gives the municipalities generous financial assistance for the construction of approved sewage treatment facilities consisting of an annual payment equal to one-half the total interest costs during the first year for a period not exceeding thirty years.

VI. *Civil Defence*

31. Since 1954 the province has had an agreement with Ottawa and the municipalities whereby the province has participated in the federal assistance programme. At present, the federal government pays 75 per cent of the cost of all approved projects. The provincial government pays 12½ per cent and the municipalities 12½ per cent. Purely provincial projects are shared 75 per cent by the federal government and 25 per cent by the province. The Civil Defence Branch of the Department of Municipal Affairs has been instrumental in organizing civil defence units in nearly all of the municipalities. In several areas, civil defence zones comprising several municipalities have been organized, each municipality contributing to the cost on an agreed basis. The province is divided in two regions, eastern and western for administrative areas and into three target areas. The cost of Civil Defence to the municipalities in 1961 was \$42,197.

VII. *Community Planning*

32. Community planning is an important new function assigned to local authorities. This function is very complex in nature and requires the participation of competent technical advisory staffs as well as the specific knowledge and intimate experience of local officials. **Begin-**

ning in 1953, under a town planning act? officials in the Department of Municipal Affairs undertook to stimulate an interest in planning among local governments. Many localities as a result established planning commissions and a number of councils enacted rudimentary by-laws relating to community plans, zoning, building, and subdivision control. At latest count six cities, thirteen towns, fourteen local improvement districts and a few county areas, in the Counties of Sunbury, Saint John Westmorland, Albert and Gloucester, have established municipal planning commissions. In addition, there are three regional planning bodies in the Saint John, Moncton and Bathurst areas.

33. A new Community Planning Act came into effect on June 1, 1961. The Act provides for a Provincial Planning Board of from six to sixteen members. The Department of Municipal Affairs has a planning branch consisting of one man, the director, who has the numerous tasks of assisting in organizing planning commissions, drafting, zoning and subdivision by-laws, approving subdivisions and of carrying out the day-to-day functions of the Provincial Planning Board.

34. The Board may, with the approval of the Lieutenant-Governor in Council, order any council to prepare and adopt a community plan or zoning or subdivision by-law and may order a council to conform to its plan or to enforce its zoning or subdivision by-laws. By a recent

amendment to the Highway Act, the Board must approve of all entrances to controlled access highways before the Minister of Public Works may agree to them.

35. By the new act the local planning commissions must consist of at least five members appointed by the municipal council. They are normally advisory bodies making recommendations to the council on a community plan, the administration of actual or proposed planning by-laws relating to zoning or subdivision and the proposed capital budget. A commission is intended to keep under review the municipality's needs in such diverse fields as land use, communications, local economic conditions, recreation, health and the preservation of historic sites.

36. In spite of the progress in planning that has been made, much of the postwar urban expansion has been haphazard because of the lack of long range comprehensive plans. There is a need for the provincial planning branch to take the lead by assisting the municipalities and contiguous areas in developing such plans. This would require a larger staff and a change in the principle that planning is solely 'a municipal function that should be left to the local councils. Moreover, it requires the development of broad general regional plans governing the entire province and the provision throughout the province of professional planning assistance on a continuing basis for all municipalities.