

THE GOVERNMENT OF BERLIN:
A Study in Metropolitan Federalism

**A dissertation submitted in partial
fulfillment of the requirements for
the degree of Doctor of Philosophy
in the University of Michigan.**

by

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TO THE MEMORY OF MY
DISTINGUISHED FATHER

PREFACE

This essay was begun in 1928 as the complete apologia for metropolitan federalism, and was designed to herald a new dawn in metropolitan governmental arrangements. Further investigation has restricted its scope to an inquiry into the development of metropolitan conditions and institutions in a single municipality which is generally presumed to be organized in at least the structure of federalism. In this latter capacity, it has been redesigned as a companion essay to Professor Reed's study of London, upon the lines of which it has been framed.

The government of Berlin has been the subject of too drastic developments in the past twelve years to permit of a removed view. This essay labors under the difficulty of describing and analyzing an organism which has changed with even more rapidity than alterations usually occur in agencies of local government. Berlin is, in a sense, a shooting star in a tumbling firmament. This suggests that the essay, at least in its present form, will, to the degree that it has any merit, be valuable chiefly from a bibliographical point of view. Berlin is just now entering upon what is anticipated to be a period of stability, and of the administrative development of existing structure as defined by present statutes. It is the hope of the writer to complete the essay, in the

sense of developing the analysis of the significance of Berlin's governmental arrangements, at some future time when the provisions of present statutory arrangements have been worked out in some definite degree and have been tested in the crucible of administrative practice.

My obligations are many. Professor Reed is responsible for the work being undertaken in the first instance. His patience and understanding have enabled me to undertake the revisions which were occasioned immediately after the initial drafting of the essay by the ministerial proposal of 1930, which were demanded again by the adoption of the statute of 1931, and which were again compelled by the functional allocation of 1932. Four years is a long time to wait, and I am grateful for his tolerance.

Dr. Viktor von Leyden, formerly chief of the division of local government in the Preussisches Ministerium des Innern and now Supreme Justice of the Prussian Superior Administrative Court, has been unfailingly helpful, as well as courteous and patient of my slowness in comprehending many of the niceties of the German system of local government. He has read Chapters I to IV inclusive. His successor, Dr. Ernst Graf von Hardenberg-Schattschneider, has continued the cooperation of the Ministerium des Innern in an exceedingly kind spirit. Dr. Heinrich Sahm, Oberbürgermeister of Berlin, has read Chapters I, II, and III, and has offered valuable suggestions, as well as cooperated in supplying essential information. Mr. Russell Forbes, of the National Municipal League and Mr. Montagu Harris, of the British Ministry of

Health have also read sections and given me the benefit of their knowledge. I alone, however, am responsible for all errors of fact and interpretation, which are doubtless multitudinous.

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University, Virginia
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INTRODUCTION

DEFINITION OF TERMS

Municipal federalism is a mere abstraction except as related to a particular system of local government. And local government is an abstraction except as related to the government of a particular state. It is necessary, therefore, in formulating an apology for the selection, ex cathedra, of the government of Berlin as an example of municipal federalism, to define certain terms and to explain certain hypotheses utilized in arriving at a point of departure.

"Municipal"

It is essential, in the first place, that municipal be used in the sense in which a Prussian would use it. Structurally, then, it may be considered to imply the governmental arrangements established in the Städteordnung, the Zuständigkeitsgesetz, and the cognate statutes.¹ Functionally, since a municipal corporation may, in Prussia, do anything not specifically prohibited or assigned by law to another agency,² municipal may be construed to mean anything that Berlin does over and above its legally prescribed duties as a province, district, and county.

"Federalism"

The definition of federalism is distinctly more difficult. In its historical connotations federalism has always implied to a greater or less degree autonomism or separatism. The

debates of our national constitutional convention offer no bases upon which federalism, as a principle, may be applied to our ideology of mere creatures of a superior power. Even Proudhon finds it necessary to fall back on terms such as liberté in defining and developing his principe fédératif.³ Obviously, this offers little promise of aid in developing a definition of federalism which properly may be invoked in speaking of the structural organization and functional jurisdiction of local government.

Dr. Robert Treat Crane has suggested to the writer that the only valid basis upon which a definition of federalism which would be applicable to non-autonomous governmental units may be arrived at is a purely pragmatic one.⁴ What does the federal agency do? What functions do the governmental divisions within the territory of the federal agency perform? Are these, in comparison with the practices prevalent elsewhere in the state, "local government" or "municipal" functions? To what degree are the existence, jurisdiction, and, within the prescribed jurisdiction, the selbstverwaltung, of the geographical divisions guaranteed as against the federal agency? Further questions which might assist in determining, pragmatically, the fact of municipal federalism, are: How does the personnel of the federal agency and the geographical divisions compare as to quantity, quality, and compensation? How much of the total budget is expended by the geographical divisions in large part without control by the federal agency acting as a municipal corporation?

It is evident at the outset that any study seeking to

analyze the presumptive federalistic governmental arrangements of a municipality must first relate these arrangements to the general system of local government, and determine the status of the corporation as an agency of local government.

THE PLACE OF BERLIN IN THE PRUSSIAN SYSTEM OF LOCAL GOVERNMENT

Local government in Prussia may be said to be, under ordinary circumstances, of at least five thicknesses.⁵ Above the urban municipality (Stadtgemeinde) is the county (Kreis), above the county the district (Verwaltungsbezirke), above the district the province (Provinz), and above the province the state (Land). Berlin is at once the capitol city of the Deutsches Reich, of Prussia, a Prussian province, a district, a county and a city. There is nothing in the nature of a separate governmental unit between Berlin and the government of Prussia. This very structural simplicity inextricably complicates the consideration of the functions which the grossstadt authorities and the bezirke of the city perform as a municipal corporation. Likewise Berlin is a Police District, which is, to a preponderant degree, a subdivision of state administration.

The Berlin Police District

Section 33 of the Act of 1920 reads as follows:⁶

"The new city of Berlin is constituted as a local police district. The local police authority is the police president of Berlin. . ."

This statement, however, is on its face somewhat misleading. The state-appointed police president is responsible for only a portion of the vast field of police functions as defined by Prussian law and usage.

It is necessary in considering the police organization of the City of Berlin to understand the classification and scope of the police authority. Blachly and Oatman⁷ have adopted the classification of De Grais, Lympius and Hatschek as follows:

"It is customary to classify police functions into two main groups, namely: Security functions and administrative functions. Security functions are police activities designed to protect the public or members thereof from any dangers that may be threatening them, and to guard against disturbances of the public safety, order and peace. Closely related to these functions are such others as the apprehension of criminals and the bringing them to justice, the execution of sentences, the trial of minor cases, the quelling of riots, the restoration of peace and order if disturbances have occurred, and similar activities. Although, strictly speaking, several of the last-named acts may be considered as "auxiliary to the criminal courts and hence a part of the judicial machinery," or for some other reason 'logically not police functions by nature,' yet these distinctions are theoretical rather than practical. For working purposes all the activities which have been mentioned may be considered as security police functions.

"Administrative police functions in the broadest sense are 'all other legitimate police activities' except protection against dangers from evilly disposed persons. More narrowly conceived, they are any legal application of the coercive power of the state in civil affairs, or any authorized employment of the police authorities, for the furtherance of some public purpose, or the carrying out of some administrative undertaking, which, though designed for the general benefit, may encroach upon the personal rights and liberties of individuals. The enforcement of factory laws and of regulations for the prevention of fire are examples of administrative police functions.

"Security Police Functions

"For the sake of convenience, the principal security police functions may be grouped according to purpose into various subdivisions. Such classification is necessarily imperfect because no clear line of demarcation can be drawn in many instances.

"Police Activities in Aid of Justice. The functions of apprehending criminals, holding them for trial, bringing any available evidence before the court, and in general of assisting the public prosecuting authorities; of making arrests, searches, and seizures; of trying persons charged with minor violations of law,

and inflicting small penalties; of cooperating in the enforcement of the laws against idleness, vagrancy, and begging; of supervising persons on parole; and various other acts of like nature, may be considered as directed to the end of assisting the courts in the administration of justice.

"Preservation of Peace and Order. In fulfillment of the primary police function of preserving peace and order, it is the duty of the authorities to guard against acts of treason, rebellion, riot, and tumult; to prevent the formation and activities of societies or associations which plot the death of any member of a republican government or the Reich or of a state (an echo of the Rathenau murder); to examine passports and issue the proper papers and keep the necessary records in connection therewith; to enforce the laws governing the press, speech, association, and assembly; and to preserve the peace under all conditions. In case of great disorder the state government may ask for military help; or the President may act under Article 48 of the Constitution.

"Protection of Morality and Decency. The police function of protecting morality and decency includes supervision over the closing hours of taverns and inns; over the employment of women in such places; and over theaters, plays, exhibitions, and places of public amusement; also the enforcement of laws against sexual offences, cruelty to animals, the disturbance of religious services, and so on.

"Protection of Person and Property Against Accident. Accidents include personal injuries from any cause; also explosions, collapses of buildings, fires, injuries caused by or to animals, etc. The police function of providing for the general security includes the obligation of using appropriate methods to prevent accidents and of giving immediate assistance if they should occur. The restoration of lost property to the rightful owner may be mentioned here.

"Administrative Police Functions

"Administrative police functions include a very great number of different activities, to which others are constantly being added. Many of the so-called "paternalistic" functions of the state are included here.

"Public Works and Building Regulation. The establishment of building regulations and the organization of authorities to administer and enforce them, and the construction of public works, are an important police function. It includes the granting of building permits, with due observation of the restrictions as to height, area, relation to street, curb, and so on; of the legal requirements in respect to framework and construction, safeguards against fire, special regulations

for public buildings, tenements, etc.; also the preservation of public buildings and monuments and the construction of canals, streets, railways, and other public works...

"Public Health Functions. The enforcement of laws and ordinances for the security and improvement of the public health is a most important police function, in which every unit of government is concerned...

"As a part of the public health functions, is considered the administration of the laws and regulations governing admission to the practice of medicine, surgery, dentistry, midwifery, veterinary surgery, and the like; the management of such institutions as hospitals and insane asylums; the practice of such callings as pharmacy and the supplying of drugs, medicines, and surgical instruments; vaccination, the prevention of epidemics, the combating of venereal diseases, and work against animal diseases and pests; the supervision of slaughter houses and of all places where food is prepared and sold, and a large number of similar activities.

"The housing laws, the regulations as to overcrowding, and the many other dwelling and tenement rules and regulations, are sometimes considered a separate police function, but this is hardly logical, as such regulations are directed primarily to the maintenance of sanitary and healthful conditions, and may thus be called a branch of public health work.

"Enforcement of Economic Regulations. A considerable development of the function of regulating economic affairs in the interests of the public has taken place in Germany during the last few years. Factory regulations, laws on hours of labor, and labor legislation in the widest sense, may be aspects of this function or of the public health function; or, according to their nature, they may be embodiments of social policies that can hardly be considered police functions in any sense."

Körner and Brell⁸ summarize the police organization in these terms: .

"The police organization of Berlin is as follows:

"The local and state police administration for the Stadtkreis Berlin is under the leadership of the police president, with the exception of those local police concerns undertaken by municipal administrative agencies (the Oberbürgermeister).

"As state police authority the police president of Berlin is under the advisory jurisdiction of the municipal administrative agency (the Oberbürgermeister).

"The local police district of Berlin is divided into twenty precincts, coterminous with the administrative

districts. A police station is maintained in each precinct. The police authorities are charged with the administration of local police functions in the fields of security, transit, streets (not street building), water, health, industry, passports, fire, etc. The protection police operate under the general supervision of the police president. The leader of the safety police (a high police officer with the rank of general) supervises six group commanders. The group commanders control twenty-one police inspectors (one for each administrative district except Mitte, which is divided into the sub-precincts Linden and Alexander). The police inspectors supervise the patrolling (162 beats).

"The Oberbürgermeister, as director of the municipal police administration, is responsible for the conduct of the following branches of the police service: building police, street building police, and school police.

"The building police (including the building-line police) are united with the formerly independent water police. In pre-consolidation Berlin the building police had been in the city administration since April 1, 1918, and the water police since January 1, 1876. The city took over the fire police also at the latter date. The administration of the municipal building police is regulated by the Oberbürgermeister according to the following provisions of an order of January 2, 1924:

- I. The Oberbürgermeister is the leader of building police activities in the city of Berlin (administrative order of the Minister of the Interior of March 5, 1918).
- II. The building police, under the control of the Oberbürgermeister, are under the advisory jurisdiction of the district boards in the administrative districts.
- III. In the performance of routine building police business the Oberbürgermeister and the chairman of the district board are represented by technical officials. The nomination of the chairman of the building police board is made by the chairman of the district boards.
- IV. The nomination for the chairmanship of the building police board is subject to the appointment of the Oberbürgermeister. The appointment is retractable.
- V. The building police board is bound by the decisions of the Central Building Police authority.
- VI. The orders of the building police are issued in the name of the Oberbürgermeister under the designation "Building Police," in the districts with the suffix "District".

VII. The building police charges and fees are receivable and accountable by the fiscal officers of the administrative districts.

"Concerning the allocation of functions between the central administration and the district administrations, the following action has been taken:

The central administration handles the following affairs:

1. The passage of police ordinances and fees and charges schedules, as well as all general or basic arrangements and decisions (such as the general approval of new building methods, etc.; the approval of new building materials, instruments, etc.).
2. Intercourse with the Central and supervisory authorities.
3. The decision of disputes (insofar as they do not involve action under the above provision).
4. Enforcement of building-line police functions, insofar as the Magistrat provides a building-line plan.
5. The proposals for churches and theatres, permanent circus structures, meeting halls for more than 2,000 persons, warehouses and business houses, both as to alterations and new construction; post-construction approval of those structures which, by reason of height or volume, come within the provisions of the building police regulations requiring such approval; approval of structures which are not required by law to have building permits prior to the beginning of construction.
6. Administration of the municipal Bureaus.
7. Action in the suppression of building construction malpractices.
8. Appointment of the building police.

.....

"Analogous arrangements have been made relative to the street building police. . .

"The school police, which have been administered in Berlin since April 1, 1901 by the municipal authorities, are administered in districts 1-6 under the Oberbürgermeister directly by his appointed representative, in districts 7-20 under the chairman of the district board. This necessitates a departure from the organization principles noted for the building and street building police, in that it has been necessary to erect for districts 1-6 a general school deputation under the terms of the Volksschulunterhaltungsgesetz."

Berlin as a Prussian Province

As is pointed out hereinafter, Berlin has not, for some purposes, chiefly those relating to governmental structure, the true nature of a province.⁹ However, in many aspects, particularly as regards state-local relations, many characteristics of provincial status are present.

The governmental structure as well as local self-government functions of the province are, of course, absorbed in the municipal organization and functions of Berlin. For example, if Berlin were not a province, the province in which it lay would, in the absence of statutory provision to the contrary handle the matters of canals and waterways, and the schools for the state police mentioned in the discussion of the functional allocation of 1932.¹⁰ Also many functions in the field of public welfare, including poor relief, institutional care for the mentally deficient, the blind, the deaf, the dumb and the crippled are elsewhere provincial concerns.¹¹ Likewise, the supervision of the land banks, the public life and fire insurance undertakings, etc., would be under the jurisdiction of the provincial authorities if Berlin were not, by legislation and administrative order, accorded what in practice aggregates provincial status.¹²

However, the Oberpräsident of the Province of Brandenburg is, although Berlin is by Paragraph 2 of Section 1 of the Act of 1920 separated therefrom, elsewhere in the statute given important powers in the supervision of Berlin chiefly as an agent of the state. In the sections relating to arbitration procedure between district and grosstadt administra-

tion the Oberpräsident is given really decisive power.¹³ Likewise, in the winding-up of the affairs of the Zweckverband, as well as in the division of communal property necessary in consequence of the Law of 1920, the Oberpräsident played an important rôle.¹⁴ Mention is made in Chapter IV of the Oberpräsident and his action in precipitating the clearing-up of Berlin's financial muddle.¹⁵ Likewise, the Provinzialschulkollegium, operating for Berlin and Brandenburg, remains the agency of state supervision for the higher school, of which body the provincial Oberpräsident is the ex officio chairman.¹⁶

Berlin as an Administrative District

Administrative districts are, in Germany, areas of state supervision, not of local self-government; they have no "line functions".¹⁷ Section 39 of the Act of 1920 makes certain amendments to the Landesverwaltungsgesetzes of July 30, 1883, as they apply to Berlin. The Berlin administrative district is organized in only two divisions instead of the customary three; these are, II. Taxation, Loans, and Accounts, and I. all other concerns.¹⁸ Section 6 of the Gesetzes zur Ergänzung und Abänderung der Wahlvorschriften für die Provinzialräte, Bezirksausschüsse und andere Verwaltungsbeschluss- und Streitbehörden provided for the election of members to the Bezirksausschuss, upon the expiration of the terms of the then incumbents, by the city council and Magistrat.¹⁹ All members must be qualified technical officials.²⁰ On October 7, 1928 the council and Magistrat elected five members and deputies to each of the two divisions.²¹ There is, of course, no district

board as in other provincial subdivisions.

The district committee has many important supervisory functions. It approves municipal laws (Ortsgesetzes),²² confirms the appointment of the Oberbürgermeister, bürgermeistern,²³ (until 1931), and paid Magistrat members (still).²⁴ The district president may order items included in the municipal budget,²⁵ and may intervene if the proper municipal surtaxes are not added to the state real property levy.²⁶ In addition, the district president has the blanket power to issue such mandatory regulations as may be necessary to maintain the supremacy of the state.²⁷ The advisory supervision of the district president in police affairs has been mentioned in the discussion of the Berlin Police District; his authority, however, is in Berlin incommensurate with his powers elsewhere, as the police president for most purposes is directly under the Minister of the Interior. Finally, the district committee acts as an administrative court, and as such exercises most extensive powers over municipal officers and actions.²⁸

Berlin as a City-County

Responsibility for state administration in the city-county of Berlin is vested in the Oberbürgermeister²⁹ and in a city committee of twenty-five members elected by the Magistrat.³⁰ The city committee is divided into five sections, as follows:³¹

Section	I	Districts 1-6, 19, and 20
Section	II	Districts 7-9
Section	III	Districts 10-12
Section	IV	Districts 13-15
Section	V	Districts 16-18

A chairman, four members, and four deputies are elected for each of these divisions. In the 1926 elections all chair-

men were bürgermeistern of the administrative districts.³² An interesting feature of the Act of 1920 was that it modified Section 37 of the Landesverwaltungsgesetzes as follows:³³

"By local law the city board of the new city of Berlin may delegate to the several geographical divisions of the city such duties and authority as it sees fit; by such action the concerns of the city board relating to the functions of the board are, to the degree provided, transferred to members of the administrative district boards (Bezirksamt). The foregoing provision applying to the city board applies also to each part of the city board. The election of members of the several parts of the city board, is considered under the supervision of the Magistrat!"

The degree to which this amendment has been utilized may readily be ascertained by reference to the tables depicting the functional allocations in Chapter III, and in comparing the reserved functions of the table in Chapter IV with the state functions as noted in Chapter III.³⁴ Thus, it is found that the administrative districts frequently act as agents of the state, particularly in the conduct of educational,³⁵ town planning,³⁶ health,³⁷ welfare,³⁸ insurance,³⁹ and industrial regulation affairs.⁴⁰

Berlin as the German and Prussian Capitol

The status of Berlin as a capitol is unique. London has its Metropolitan Police and Ministry of Transport, Paris has its prefects, and Washington its complete lack of self-government. With the single exception of the arrangements relative to the relation between the police president and the Ministry of the Interior, the municipal status of Berlin was, from 1920 to 1931, precisely the same as that of any other Kreisfrei Prussian city (excepting, of course, the emergency staatskommissare period).⁴¹ Before the war the oberbürgermeister

of Berlin was approved by the Crown.⁴² Since 1931 he and his two immediate assistants are approved by the Prussian state ministry.⁴³ In consideration of the system of local government prevalent in Prussia, Berlin is probably the most nearly free of the larger capitols; indeed, it is probable that this statement is true in the absolute.

SUMMARY

The purpose of the foregoing brief resumé is not to catalogue the actions of the Berlin authorities according to the geographical governmental level from which their several sanctions are derived. Indeed, as Dr. von Leyden pointed out to the writer,⁴⁴ the nature of the local laws and ordinances of the municipality effectively prevent anything resembling an accurate segregation of the functions Berlin and the administrative districts perform purely as a municipality. No Berlin official, with the possible exception of the Oberbürgermeister and the supervisory district board, ever gives much attention to this point. Dr. Luckas has written to the writer in this vein:⁴⁵ "The task of the City of Berlin is the aggregate of its duties as province, district, county and city. Within that aggregate, the sole consideration in planning the service is that of administrative effectiveness. While this hinders a proper consideration of the administration according to the "pragmatic" tests of which we have spoken, it does not detract from the argument you make to the effect that much of the apparently high degree of gross-stadt control is due to the geographical simplicity of the state supervision. It might be pertinent also to point out

that the federalistic arrangement, necessitating a statement of functions and duties, has compelled the grossstadt authorities frequently specifically to reserve powers of control which, as agents of the state, they ordinarily cannot delegate, in order to assure the clarity of the functional devolution. If your premise is correct, that the fact of "federalism" must be judged in connection with the general practices of the particular system of local government, this latter point will illuminate many of the provisions of both the functional allocation under the 1920 statute, and the local law of 1932."

The purpose of this section is, however, to indicate, emphasize, and reiterate the necessity of viewing the government of Berlin not only as a sui generis treatment of the metropolitan problem, but as a natural and logical institutional development of the Prussian system of local government. It is only from such an intimate view that the lessons of Berlin may be adapted to other than Prussian local government systems.

The failure to consider Berlin from this viewpoint has been in large measure the cause for such scholars as Munro⁴⁶ and Maxwell⁴⁷ dismissing Berlin as "federalistic only in form," and without a true preception of the importance, politically and administratively, of the verwaltungsbezirke.

1. Cf. Chapter II, passim.
2. Ante, p.
3. Du Principe fédératif, Part II, Chapter III.
4. This idea was developed during several conversations with Dr. Crane while the writer was in residence at the University of Michigan. Dr. Crane, according to a discussion during the preliminary oral examination of the present writer, indicated his belief that such pragmatic tests were the only valid measures of any alleged federalistic arrangement. The writer, however, has adopted the "pragmatic" test for local government, without feeling the responsibility for pursuing it into its ramifications in other than municipal spheres.
5. Blachly and Oatman, The Government and Administration of Germany, Chapters IX and X are particularly illuminating on this point.
6. Gesetz über die Bildung einer neuen Stadtgemeinde Berlin vom 27 April 1920 Preussische Gesetz Sammlung 1920, p. 123 . Hereinafter referred to as the Act of 1920.
7. Op. cit., pp. 409-412.
8. Berliner Ortsrecht, pp. 66-69. The number of precincts was reduced from 20 to 13 in 1930. See Wells, op. cit., p. 208. The school police, which are discussed herein, are the attendance officers traditionally attached by Prussian law and custom to the common school administration. See in this connection Blachly and Oatman, op. cit. pp. 514 et seq.
9. Cf. Chapter II.
10. See Blachly and Oatman, op. cit., p. 284.

11. See for a full discussion of these points Hensel, Kommunalrecht und Kommunalpolitik in Deutschland, p. 103 et seq.
12. See Dieckmann, Verwaltungsrecht, p. 579; also de Grais, Handbuch der Verfassung und Verwaltung (23rd ed.), p. 88 and statutes and ordinances cited.
13. Lex. cit., sec. 28, par. 2.
14. Ibid., sec. 57 and 58.
15. Ante, v.
16. Act of 1920, sec. 45, and de Grais, op. cit., p. 89.
17. Wells, German Cities, p. 133.
18. Körner and Brell, op. cit., p. 74.
19. Preussische Gesetz Sammlung 1922, p. 195.
20. Cf. for the adaptations made to Berlin the Ministerialerlass of February 22, 1921, Ministerialblatt für die Preussische innere Verwaltung 1921, p. 55.
21. Verwaltungsbericht der Stadt Berlin 1924-27, Vol. I, p. 27.
22. Sec. 11 of the Städteordnung für die sechs östlichen Provinzen, Preussische Gesetz Sammlung 1853; Also Sec. 16 of the Gesetz über die Zuständigkeit der Verwaltungs- und Verwaltungsgerichtbehörden, Preussische Gesetz Sammlung 1888, p. 237.
23. Ibid. Cf. Sec. 26, sen. 1, of the Gesetz über die vorläufige Regelung verschiedener Punkte des Gemeindeverfassungsrecht für die Hauptstadt Berlin, Preussische Gesetz Sammlung 1931, p. 39.
24. Gesetz über die vorläufige, etc., lex cit., Sec. 26, sen. 2; also Zuständigkeitsgesetz, lex. cit., Sec. 19.
25. See Wells, op. cit., p. 141; ante, p.

26. Sec. 59 of the Kommunalabgabengesetz, Preussische Gesetz Sammlung 1893, p. 152.
27. Sec. 132 of the Gesetz über die allgemeine Landesverwaltung, Preussische Gesetz Sammlung 1883, p. 165.
28. Ibid., sections 28-35; also Hatschek, Lehrbuch, Vol. II, p. 17.
29. Ante, p. 87 and authorities cited.
30. Landesverwaltungsgesetz, lex. cit., sec. 37.
31. Ortsgesetz über die Bildung des Stadtausschusses der Stadtgemeinde Berlin, contained in Körner and Brell, op. cit., p. 136.
32. Verwaltungsbericht der Stadt Berlin 1924-1927, Vol. I, p. 28.
33. See for a full discussion of this point Peters, Grenzen der Kommunalen Selbstverwaltung in Preussen, p. 266 et seq. Compare Dominicus, in a note in the Deutsche Juristen-Zeitung, Vol. 31, p. 757 (1926).
34. Ante, pp. 129 to 143 and 222 to 232.
35. Cf. Richtlinien zur Aufstellung der Haushaltspläne der Bezirke in Volksschulangelegenheiten, Dienstblatt der Stadt Berlin 1922, Vol. VIII, p. 87.
36. Verzeichnis der gemäss Sec. 1 des Baumschutz-Gesetzes vom 29 Juli 1922 unter Schutz gestellten Uferwege in den Dauer- städtischen Wäldern Gemeindeblatt der Stadt Berlin 1925, p. 564 et seq.
37. Richtlinien für die Neuregelung des Hebammenwesens, Dienstblatt der Stadt Berlin 1924, Vol. VII, p. 152; ibid., 1925, Vol. VII, p. 48.
38. Richtlinien für die örtliche Zuständigkeit auf dem Gebiet

der Wohlfahrtspflege, Dienstblatt der Stadt Berlin 1925, Vol. VIII, p. 7.

39. Satzung für die Krankenversicherung der Hausgewerbetreibenden, Dienstblatt der Stadt Berlin 1923, Vol. I, p. 19.
40. In pursuance of Section 5 of the Arbeitsnachweisgesetzes (Reichsgesetzblatt 1928, Vol. I, p. 667), in conjunction with the Prussian administrative order of 1922 (Ministerialblatt der Preussischen Handess- und Gewerbeverwaltung 1922, p. 257), and the orders issued by the Magistrat and council in pursuance of mandates from the city supervisory board, discussion of which, in detail, is contained in Körner and Brell, op. cit., pp. 197-202.
41. Ante, p. 186.
42. Before the War the Oberpräsident of the Province of Brandenburg, who was appointed by the Prussian Minister of the Interior, himself an appointee of the Crown, supervised Berlin in behalf of the national government. It had no direct dealings with Prussia per se. See Munro, Government of European Cities (2nd ed.) pp. 345 and 347.
43. Supra, n. 23.
44. In response to a request for an opinion relative to the practicability of preparing such an analysis, function by function, in July, 1930.
45. In a letter to the writer under date of September 12, 1930.
46. Government of European Cities (2nd ed.), p. 378.
47. Contemporary Municipal Government in Germany, pp. 101-102.

HISTORICAL

The beginnings of Berlin are lost in the darkness of the Middle Ages. While it is probable that both Berlin and Alt-Köln were settlements of some importance during the entire thirteenth century, and perhaps even earlier, documentary evidence of their existence is lacking before 1237 in the case of Köln and 1244 in that of Berlin.¹

It is interesting to note that Berlin virtually appeared on the horizon of history in a federalistic character.² In 1307 Berlin and Alt-Köln, the former a settlement of 73 hectares extent on the left bank of the Spree, the latter an island in the Spree, formed a commercial and defensive union. The governing body of Berlin was at that time an elective council (Rath) of twelve members. From these twelve were chosen two elders (Altermänner) who were entrusted with the administrative affairs of the city. Köln had at this time only six councillors and one elder. For the purposes of "grosstadt" legislation the two bodies were merged into a Rathskollegium; for controlling their internal affairs they continued to meet and act as before the union. Likewise the elders merged into the magistrat for the combined city. Fidicin records that the functions of the collective councillors and elders paralleled closely those of the Hansa council, being chiefly concerned with internal and external trade, and with military organization for purposes of mutual aid and defense.³ This union was the nucleus of a syndicate of cities in the Mark of Brandenburg which in time became powerful in central European trade.⁴ The Berlin-Köln union, however, was

dissolved at the time Frederick, the second Elector, deprived the city of its virtually freistadt status which the cumulative grants of privileges under Ludwig I, Ludwig II, Karl, and the first Elector Frederick, had established for it.⁵

Meanwhile the groundwork for the metropolitan problem was being laid. In 1358 Ludwig I had chartered the city of Stralau; this action was followed in 1364 by the recognition of Lichtenberg; and in 1370 Pankow was chartered. All of these cities were within a radius of less than four and one-half miles from the Rathaus, which is slightly north of the center of then Berlin-Köln. The area of Berlin was not increased during this period; it was 73 hectares, or about 180 acres.

Neither Fidicin nor any other historian of Berlin, records the gradual growth of small settlements around Berlin after the charters mentioned above; and it has been found impracticable to prepare an exhaustive compilation of these satellite charterings.⁶ In 1640 a small annexation of 10 hectares was made, but it included no chartered municipalities.

At the beginning of the Thirty Years' War (1618) Berlin had a population of about 14,000.⁷ Shortly after the accession of Frederick William, the Great Elector, this population had, due to the ravages of war and epidemics, fallen to scarcely 6,000 persons.⁸ In 1662, according to Fidicin, Friedrichswerder was incorporated.⁹ In 1681 it was annexed to Berlin, bringing the city's total area to 217 hectares.¹⁰ By 1688, due primarily to industrial development under the patronage of the crown, as well as to French immigration as a consequence of the revocation of the Edict of Nantes, Berlin's population

had grown again to well over 20,000.¹¹ This growth, it should be mentioned, continued steadily until the time of the Napoleonic occupation.¹² Frederick William meanwhile had, before his death, completed another city near Berlin, which he called Dorotheenstadt.¹³

King Frederick I became sovereign of Prussia in 1701. To him is due the construction of Friedrichstadt, the designation of Berlin as the royal Residenzstadt, and the unification of Berlin, Köln, Friedrichs-Werder, Friedrichstadt, and Dorotheenstadt in a single administrative unit. This was the birth of the modern city of Berlin. The union was brought about in 1709.¹⁴ It increased the city's area to 626 hectares, and gave it a population of 57,000 persons.¹⁵

Intermittently throughout his reign King Frederick was occupied with the enlargement of Friedrichstadt and Dorotheenstadt, and the construction of a customs wall around Berlin. In 1737 the then area of Berlin was enlarged to include the additions to Friedrichs- and Dorotheenstadt, and the northern and eastern suburbs.¹⁶ Around this area Frederick built his customs wall, and the area is defined to the present day by the Stadtring of the electric tramways, which occupies virtually in its entirety the situs of Frederick's wall.¹⁷ Within this area is contained 1330 hectares¹⁸; the population of the annexed area is not known, but a mathematical projection places it at approximately 7,000. This gave the municipality a total population of about 78,000 in that year. The annexation did not include any municipalities which had been recognized by the law.

In 1825 another annexation of only 70 hectares was made.

A mathematical projection places the annexed population of ²² this year at something above 800 persons. During the 88 years intervening between the annexation of 1737 and 1825 the population of Berlin had increased from 78,000 to 219,000.¹⁹

A general territorial integration and annexation of contiguous unincorporated area occurred in 1841. This increased the municipal jurisdiction to 3,510 hectares, and its population by some 2,000 persons.²⁰ The annexed area was, in fact, rather sparsely populated, and Fidicin records that it was much opposed by many burghers of the innen-stadt.²¹

In January of 1860 another large scale annexation program went into operation. Wedding, Gesundbrunnen, parts of Charlottenburg, of Schöneberg, of Tempelhof, and of Rixdorf were annexed to Berlin.²² These annexed areas contained 35,447 persons and embraced 2,410 hectares.²³ This brought the area of Berlin to the level which it maintained, with rather inconsequential increases, until the unification of 1920. An annexation of 1881 added 141 hectares, another of 1885 contributed 256 hectares, and a third in 1915 added 246 hectares.²⁴

The annexation laws of Prussia were, subsequent to the Stein-Hardenberg reforms, exceedingly difficult of successful operation. They involved action on the part of the central ministry, the annexed territory, and the annexing municipality in cases involving the annexation of incorporated territory. Inasmuch as the state rearranged its area of administration without regard to municipal boundaries, as in the extension of the Berlin Police District in 1900 and 1907,

it had little interest in the problems of local geographical jurisdiction.²⁵ Too, changes in Berlin's area required the assent of the Crown before the war.²⁶ It is little wonder that under these difficulties Berlin's annexations were chiefly of unincorporated territory. Meanwhile, satellites had grown up on every hand, reaching, as has been noted, as far back as the history of Berlin itself. Many of these were incorporated territories, and therefore selbständig.²⁷

The following tables indicate statistically the growth of Berlin's population from the beginning of the nineteenth century to the time of the Zweckverband. Certain obvious conclusions emerge from the population movements which they record:

1. The outlying suburbs have been growing much faster than any of the parts of the City of Berlin as it existed before 1920.
2. On a calculation of the percentage increase between 1910 and 1928 which avoided the marked fluctuation of the immediate post war period,²⁸ it is evident that four of the six inner districts have declined markedly in population, while the total decline of the old city is approximately three per cent.
3. Dr. Weber's data accompanying his table indicates that the central part of the old city has in fact been declining steadily since 1860.²⁹
4. A study of the population working sheets in Dr. Büchner's Statistical Bureau in Berlin shows that the same thing has been happening for the denser centers of population in

the area which was suburban prior to 1920.

5. From this it appears that Berlin as it existed prior to 1920 was in fact a gigantic scheme of satellites grouped around the central city, which satellites were themselves nuclei of smaller municipalities in their own hinterland. It is evident from the accompanying map and tabulation of populations and areas of the component parts of the existing administrative districts that this fact provides the real basis for the geographical alignment produced by the 1920 statute.³⁰

GROWTH OF BERLIN AND SUBURBS FROM 1801 - 1871¹

	<u>1801</u>	<u>1822</u>	<u>1840</u>	<u>1858</u>	<u>1871</u>
Old territory- inside city walls		181,838	279,782	367,352	
Old territory - outside city walls		7,708	24,105	70,635	721,270
Annexation of 1861				(29,951)	
Annexations of 1878 and 1881					4,000 (app.)
Military, ship, populations		16,763	18,739	20,470	3,002
Total city 1881	173,440	206,309	322,626	458,637	825,937
Suburbs within 10 kilometers	8,735	16,398	27,420	30,558	57,802
Metropolitan Police District	182,175	222,707	350,046	489,195	883,739
Suburbs within 15 kilometers	196,266			521,118	929,041

1. Arranged from Dr. Adna Ferrin Weber's The Growth of Cities, p. 466.

POPULATION GROWTH WITHIN PRESENT ADMINISTRATIVE AREAS¹ 1871 - 1928

	<u>1871</u>	<u>1890</u>	<u>1900</u>	<u>1910</u>	<u>1919</u>	<u>1924</u>	<u>1928</u>	Per cent in- crease <u>1910-1928</u>
Kreuzberg				421,536	366,299	368,288	385,493	- 8.550
Wedding				348,682	337,193	343,188	358,683	2.868
Friedrichshain	828,815	1,581,318	1,892,216	361,421	328,062	328,101	337,974	- 6.487
Prenzlauer Berg				304,548	311,631	321,146	335,386	10.126
mitte				341,235	292,779	287,806	309,715	- 9.237
Tiergarten				298,750	273,502	278,178	288,001	- 3.374
Total innen-stadt				2,076,172	1,907,466	1,928,805	2,015,252	- 2.934
Charlottenberg	20,876	80,063	192,634	308,703	325,084	339,948	350,072	13.368
Neukölln	11,442	43,314	101,636	252,105	279,447	282,875	307,584	22.006
Schöneberg	4,555	32,932	107,048	207,685	218,928	225,904	242,978	16.993
Lichtenberg	9,617	31,500	58,030	164,221	183,706	194,097	212,797	29.579
Wilmerdorf	2,106	7,322	37,650	123,200	157,944	170,966	189,870	54.115
Steglitz	3,340	23,959	50,082	117,530	146,666	155,866	178,615	51.973
Spandau	22,989	51,305	72,383	91,076	104,360	108,187	121,737	33.665
Reinickendorf	3,681	17,879	33,806	77,366	92,476	100,390	124,741	61.234
Pankow	7,593	15,197	33,545	76,303	94,399	97,764	110,481	44.992
Treptow	1,921	10,845	28,104	71,985	89,138	95,085	104,318	44.916
Tempelhof	3,919	10,170	17,320	40,580	60,060	65,850	79,996	97.131
Cöpenick	8,821	25,351	37,314	51,875	56,919	63,352	74,789	44.171
Weissensee	2,310	23,127	38,875	50,305	54,553	56,194	63,065	25.405
Zehlendorf	1,999	5,865	11,547	25,152	32,913	41,288	51,547	105.025
Total suburbs				1,658,086	1,896,582	1,997,666	2,212,610	33.444
Total	931,984	1,960,147	2,712,190	3,734,258	3,804,048	3,924,471	4,227,862	13.218

1. Compiled from Statistisches Jahrbuch der Stadt Berlin 1928, p. 5, and Verwaltungsbericht der Stadt Berlin 1924-1927 (second series), p. 16. The differences between the statistics given for corresponding years here and in Dr. Weber's table may be explained by the fact that the grossstadt area in the present table includes municipalities within 20 kilometers from the Rathaus, while Dr. Weber's grossstadt included only those within 15.

The steady agglomeration of population and the gradual increase in governmental subdivision tended rapidly to make of Berlin what Professor Reed characterizes as "an example of the metropolitan problem at its worst."³¹ Metropolitan conditions developed in almost every phase of the public service.³² In the public utility field it was felt very keenly in transit, water supply, gas supply, electricity and sewage disposal. But health, charities, city planning, and education also were hampered by inadequate geographical jurisdiction. Probably the taxing authorities themselves, forced to compete in supplying services on vastly differentiated taxpaying-ability bases, were most deeply conscious of the inequities and waste of the jurisdictional chaos which marked Berlin before the 1920 unification.³³

Water.

The Berlin altstadt waterworks were constructed in 1856.³⁴ In 1885 Charlottenburg completed her municipal supply.³⁵ Between 1890-1905 Lichtenberg, Pankow, Reinickendorf, Tegel, and several other small districts completed local water supply services.³⁶ Many of the populous districts around Berlin obtained their supply from a single large company which purchased from the central government the exclusive right to drain the Grunewald district abutting on the Havel.³⁷ There were, nevertheless, at the time of the consolidation seventeen companies and municipally owned departments operating twenty-five water-works systems in the Berlin area.³⁸

It is, of course impossible to present conclusive statistics²⁶ relevant to the lack of economy which the multiplication of services caused. The rates, however, exhibited extreme variations, particularly as between the municipal and private companies. These variations were due to two things: 1) the extremely favorable concessions which the companies were able to obtain from the central government; 2) the generally small-scale of the operations of most of the public works.³⁹ Thus, for example, a large central concessionaire operating in the suburbs of Berlin and supplying over 600,000 consumers was able, due to its favorable concession to undersell Berlin's water charges, and to pay, at the same time, a 14 per cent dividend on a capital investment of seven and one-half million dollars.⁴⁰ Its water rate was at that time approximately 17 pfennig per cubic meter, although the rate varied slightly from municipality to municipality. The Berlin municipal company the same year (1910) at a very slightly higher rate showed a profit of approximately \$700,000.⁴¹ Its capital investment at that time is difficult of estimation on a basis comparable to that of the concessionaire, but it was probably not less than nine millions. Several of the smaller companies, both private and municipal, were, during the same period, able barely to meet their carrying charges.⁴²

A more drastic reminder of the costs of unintegrated public services is given in the difficulties which ensued from several different companies and municipalities drawing their supply from the same source. The intervention of the central government was necessitated on countless occasions in the decades between 1895 and 1915 due to the attempt of

one municipality to divert the water supply of another area. The present New York-New Jersey controversy was reenacted in miniature over and over again. It should be added that the adjudications made by the central ministry were not infrequently as unacceptable as the New York controversy's resolution by the courts.⁴³

Equally potent as a cause of inter-municipal friction was the problem of sewage disposal. During the decade immediately preceding the outbreak of the war no less than thirty-nine controversies arose between the city of Berlin and outlying districts, and between the suburbs themselves, concerning the hazard which one community's Abwassermengen presented to another's water supply.⁴⁴ These conditions are held accountable for more than one epidemic which swept the entire metropolitan area.⁴⁵

Gas

Prior to the consolidation of 1920 there were 43 gas companies supplying Berlin with gas through 43 different and totally uncorrelated systems.⁴⁶ In addition to the high production costs occasioned by the multiplicity of producing units, the rates varied unduly, and, in addition, the attempted inter-municipal operations of several plants, both public and private, was an unending source of friction and retaliation between the various local governments within the metropolitan area.⁴⁷

The Berlin plant, organized on a large scale and supplying virtually the whole of its then area, was able to produce, in 1907-08, 226,713,000 cubic meters of gas, or approximately

100.66 cubic meters per head of population. For this gas it obtained 12.35 pfennig (approximately 4¢) per cubic meter. Charlottenberg's plant, also a large one, produced in the same period 40,575,000 cubic meters, a per capita production of 156.36 cubic meters, for which it received 13 pfennig. Spandau, however, with a small plant producing only 2,605,000 cubic meters, a per capita consumption of 35.46 cubic meters, was forced to charge 15 pfennig.⁴⁸ Instances of this sort might be multiplied for any given fiscal period.⁴⁹ This condition is significant in relation to metropolitan government from three angles: 1) the high cost of production due to the difficulties of inter-municipal operation of gas plants; 2) the inequality of charges as between different portions of the metropolitan area; 3) the consequent discouragement of the domestic consumption of gas, frequently in the poorer and more populous sections.⁵⁰

From a survey of the gas charges recorded in the municipal statistical compendium for German cities, it appears that a modal charge for gas in the Berlin area may be reasonably fixed, for the period of 1907-08, at approximately 14.75 pfennig per cubic meter.⁵¹ Translated into American terminology, this represents a cost of approximately \$3.00 a thousand feet - admittedly a stiff price. A comparable figure for a large New York company for the same period is \$1.97 per thousand.⁵² The figure for the Berlin plant is over 20% lower than the general modal charge; \$2.40 a thousand is still, however, expensive fuel and light. The obvious fact is that gas can be produced and distributed for less. It is impossible to allocate definitely the proportion

due to technological improvement and to unified administration. The 1928 Statistisches Jahrbuch der Stadt Berlin, however, reveals a modal charge of between 13.12 and 13.44 pfennig per cubic meter.⁵³ The changed commodity index as between 1908 and 1928 suggests a more substantial saving than the bare figures reveal. Considering the superior technological position of the German public works generally in the earlier period, it seems probable that a considerable portion of the reduction may be attributed to unified administration. To this degree, the argument for integration on the basis of public works administration probably is vindicated as far as gas production is concerned.

Dr. Vertelsmann points out that the multiplication of production units was a very natural, and almost necessary, consequent of the numerous governmental units which regulated local affairs throughout the region.⁵⁴ As Dr. Reed has noted, not a main could be laid by companies, either public or private, operating in more than one municipality, without weeks, months, or even years of negotiation.⁵⁵ A member of the present Berlin Gas administration pointed out one case in the outlying area in which a municipal company was forced to conduct negotiations over a period of seven years before being permitted to extend its system into two adjacent communities, and when the extension was finally permitted, it yielded less than 250 service connections. A member of the Cöpenick administration recalled a municipality which withheld gas from its inhabitants for a number of years, in the face of favorable offers from the Berlin municipal company, while specula-

ting on the advisability of installing its own production facilities. It is not improbable that municipal rivalry and jealousy was in considerable measure responsible for the multiplication of small and uneconomical producing units.

Electricity

Before the 1920 consolidation there were 15 electricity plants operating in the Berlin area.⁵⁶ At the time of the consolidation only 6 of these were municipal plants.⁵⁷ Berlin, the fifth, acquired her plant in 1915.⁵⁸ The rest of these plants were mixed or private plants.

As Dr. Adolph points out, the problems encountered in electricity supply are very directly related to the governmental sub-division of the area served.⁵⁹ As in gas, production, distribution, and price are the factors to be considered in counting the cost of governmental territorial disintegration.

Two additional factors appear, however, in considering electricity production which are not present in other phases of utility operation except transit. These are: 1) state regulation and supervision; 2) the general proviso in electricity franchises allowing the municipality to take over at the expiration of a stated time, and for the payment of an agreed sum, the production and distribution facilities.⁶⁰ The first of these, according to a member of the present Berlin electricity administration, tends to preserve a uniform, if somewhat expensive, scale of electricity charges. On the other hand, it greatly facilitates expansion and inter-municipal operation of electricity companies. The second gene-

rally tends to discourage the extension of facilities to hitherto unserved areas, the disinclination increasing proportionately to the proximity of the date at which the municipality may acquire the plant. He regarded the number of companies serving the Berlin area at the time of the union as a very reasonable result of the operation of these two influences. It should be noted, furthermore, that to a considerable degree the difficulties in securing franchises and agreements outside the native municipality of the electric works tended, as in gas, to deter expansive electricity operation.

The following table illustrates the general effect of the conditions which have been described in a representative preconsolidation fiscal year⁶¹

City	Total Production	Modal Lighting Charge	Profits
Berlin	307,455,000	40 pfennig p.KWH	6,283,600 M.
Charlottenberg	27,552,000	45 " "	2,348,370 M.
Neukölln	6,385,000	40 " "	385,995 M.
Lichtenberg	5,501,000	40 " "	240,771 M.

In comparison with current modal lighting charges, liberally placed at not over 25 pfennig per KWH, the argument for centralized electricity administration seems to have been reasonable⁶²

In connection with general agitation for electricity consolidation the central authorities urged this method of rate lowering for social and industrial purposes⁶³ As Dr. Böss has pointed out, prior to the period of low rates which has followed the consolidation of the area, domestic electricity consumption in Berlin was much lower than in other German cities.⁶⁴ Furthermore, it was felt that the decentralization

of population, which the removal of industries to the outer area was accomplishing, was being impeded by the high rates which prevented the electrification of many industrial establishments.⁶⁵ Hence, the electricity problem became important as an integral factor in the larger problem of housing and planning.

These problems could, of course, have been solved without territorial integration and union. The identical problems have been solved in other German areas without consolidation.⁶⁶ Many municipalities, however, were abandoning the operation of electricity plants which they had constructed or acquired in the first decades of the present century, and the Prussian government previously had taken definite steps to discourage this tendency.⁶⁷ It was agreed, according to a present member of the Prussian administration, that a reversal of the established policy would have had generally a deleterious effect. Furthermore, the amalgamation of many of the companies which, under the terms of their franchises, shortly were to revert to public ownership probably would have been impracticable from the view-point of expense.

Transit

The territorial disintegration of the metropolitan area from the administrative point of view apparently did somewhat retard the development of transit facilities in Berlin.⁶⁸ The Prussian Local (Light) Railway Act, however, delegated to the state supervision and control over these facilities.⁶⁹ The approval of the central authorities is necessary to the construction of transit lines, and this approval may be given without regard to the attitude of the municipal authorities.

Further, contracts, agreements, and franchises may be altered by the central administration without regard to either the utility companies or the local governing body. The Prussian ministry in 1904 declared that city trams came under this law, and its action was sustained.⁷⁰ Hence the development of the tramway systems has been little affected by the multiplicity of jurisdictions with which it has been concerned.

It is evident, however, that transit enterprises under this scheme may or may not be developed according to a pre-conceived transit plan, depending entirely on the interest and foresight of the state in the more general problem of planning.⁷¹ While the Prussian government is hardly to be criticized for its actions in this respect, the need for local transit planning had long been recognized, and was specifically provided for in the Zweckverband law.⁷²

The metropolitan problem in transit was the absence of local facilities for planning the transit system, particularly in relation to municipal planning, and the inability to unify and coordinate administration on the basis of local requirements. The correction of these two defects was, in fact, the fundamental argument brought forward in the case for consolidation from the transit point of view. Secondly, the rationalization of the fare system was important in many sections of the area.⁷³ Transfers between subway, elevated, tramways, and buses had not been worked out, and it was felt that a solution of this problem was virtually impossible except under unified administration.

Education, Charities, and Health.

With the exception of the epidemic hazard which munic-

palties having low standards of health administration presented to the entire region;⁷⁴ the essential problem in education, charities, and health which arose from the multiplication of local authorities is that of financial equalization.⁷⁵ As Dr. Drigalski has noted, an important function of city health administration relates to the suppression and control of communicable diseases of a serious character, but the conception of the appropriate sphere of public health authorities in Germany has long transcended such a limited view.⁷⁶ Children's clinics, maternity welfare, public nursing, and similar features have long been the tasks of the public authorities.⁷⁷ It is probably more important that these facilities be provided for the poorer municipalities than for wealthier ones in the opinion of Dr. Drigalski. The great variation in taxpaying ability between the municipalities in the Berlin area effectively prohibited the extension of these services in necessary degree to the poor cities. The same argument applies to education. Many lawsuits were caused by the attempts of paupers in the poorer municipalities to migrate to the wealthier sections where relief facilities were more adequate.⁷⁸ Hence, the basic problem in these functions was, according to the Prussian administration, that of financial equalization and the effective subsidization of the services operating in the poorer sections.⁷⁹

The accompanying table represents a novel attempt to judge the effectiveness of the central budget as a mode of financial equalization. The table proceeds on a number of hypotheses, some or all of which may be invalid in certain respects. A careful study of the administrative ordinances governing the operation of the national income tax in Prussia

and the districts from which income tax returns are made, as well as the elimination of certain types of tax returns which obviously did not represent local tax bearing capacity and in fact resulted in general only from the corporate fiction, has been made. A percentage relationship of the income tax distributions has been arrived at which the writer believes represents a fair indicia of district taxpaying ability. It is because of the feasibility of the elimination of these factors which would otherwise have invalidated the income tax statistics as indicia of tax bearing capacity that the income tax has been weighted at 70 per cent. The State housing and building taxes for various reasons which it is impossible to explain in this place are not particularly valuable in indicating local taxpaying power, while the municipal taxes are of a thoroughly miscellaneous character having no discernible relation to wealth-producing activity or any substantive capacity for taxation. It should be added that several officials of the district and of the central city administrations, as well as of the Prussian Ministry of the Interior agreed with the results obtained by the table in a general way, but were not prepared to support the weighted ratios which the writer utilized as a permanent standard in this theoretical calculation of taxpaying capacity. The writer agrees with these reservations.

Planning

The difficulties under which schemes for regional, or

FINANCIAL EQUALIZATION BETWEEN THE ADMINISTRATIVE DISTRICTS¹

	1913	1926	1913	1926	Capacity	Diversion
	Per Capita	Per Capita	% of Total	% of Total	Index ²	
	Expenditure	Expenditure	Expenditure	Expenditure		
Alt-Berlin	91. M.	84 M.	56.3	42.5	56.8	+14.3
Charlottenberg ³	120	115	11.7	10.1	11.2	+1.1
Neukölln	57	102	4.9	7.6	2.3	-5.3
Schöneberg	76	99	5.2	5.9	5.4	-.5
Lichtenberg	56	96	3.1	4.9	1.9	-4.0
Wilmsdorf	93	103	4.2	4.6	7.1	+2.5
Steglitz	64	100	3.0	4.1	3.0	-1.1
Spandau	68	125	2.1	3.5	3.8	+ .3
Reinickendorf	67	114	1.8	3.0	1.0	-2.0
Pankow	69	119	1.9	3.1	1.0	-2.1
Treptow	61	110	1.6	2.7	1.3	-1.4
Tempelhof	84	114	1.1	2.0	1.4	-.6
Cöpenick	58	151	1.0	2.5	1.0	-1.5
Weissensee	73	137	1.2	2.0	.8	-1.2
Zehlendorf	96	138	.9	1.5	2.0	+ .5
Total			100.0	100.0	100.0	

1. Compiled from Dr. Ernst Karding's "Bezirkshaushalt und Stadthaushalt" in Brenner and Stein, Probleme der Neuen Stadt Berlin, p.17 et seq. and the Statistisches Jahrbuch der Stadt Berlin 1928, p. 288 et. seq. The statistics for the calculation of the capacity index come from Statistisches Jahrbuch Deutscher Städte 1907, Ibid. 1910, Ibid. 1913, the Statistisches Taschenbuch der Stadt Berlin 1926, and the Berlin Jahrbuch mentioned above, and several mimeographed tables in the Berlin Magistrat's Bibliothek.
2. The capacity index is a purely theoretical calculation made according to the following formula: Index, or I. equals $.7R$ plus $.2S$ plus $.1M$ where R is the proportional averaged

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- payment under the Reich income tax laws for representative years, S the state ground and building tax payments, and M the various municipal taxes levied by the locality. These items were calculated according to the percentage which the contribution of each district bears to the total collected in Berlin for the years 1907, 1910, 1913, 1925, 1928, and the result was corrected to the general price index carried in the statistical compendia for the same year, using 1913 as 100. Averaged percentages for the years 1925-1930 resulted in negligible variations of the 1926 figures given above. The diversion which, if the assumptions are valid, represents the difference between what the individual districts are able to pay and what they actually need for current expenses, is calculated by subtracting the capacity index from the 1926 percentage. All figures in this table exclude capital outlay, and utility expenditure.
3. The corrected diversion for Charlottenberg should actually be much higher. Its high post-consolidation budgets are due to the reluctance of the central authorities to discontinue its many excellent social institutions which serve, in fact, more than the Charlottenberg area. Figures for the equalization of this discrepancy are not available.

conditions a general regional plan, or even a municipal plan

for an individual commune, was made hardly worth while.

Planning

The difficulties under which schemes for regional, or even municipal, planning operated in the period before the union has been described by Dr. Dawson as follows:⁸⁰

"Within this large area - to all intents and purposes a single community - administrative anarchy prevails, as illustrated by the absence of any uniform plan of town extension, street building, or traffic regulation, unequal taxation, conflicting practices in poor relief and educational policies, etc. For a distance of over twelve miles in various directions the boundary of Berlin consists of streets which are common to the city and the suburbs, so that it is only necessary to cross the street in order to enter another jurisdiction, while forty Berlin streets are continued in adjacent communes without break of any kind. In a memorial on the subject addressed to the Government several years ago, the Chief Mayor stated: 'The city of Berlin in the execution of traffic schemes has to encounter almost insuperable obstacles in consequence of the absence of organization in Greater Berlin. Every individual commune carries out its own traffic policy without regard to the interests of the whole or even of its neighbor commune.' Not only so but the adjacent communes willfully obstruct each other whenever there is the slightest conflict of interest. A few years ago the municipality of Berlin proposed to erect a hospital on a piece of land belonging to it in a neighboring commune. This friendly neighbor not desiring the presence of the hospital, its council promptly prepared a building plan for the area to which Berlin's land belonged, and ran a street through the site, which, in consequence, became useless for the purpose intended."

As Dr. Heiligenthal points out, the conditions relative to zoning were even more chaotic.⁸¹ Villa colonies in the suburbs had factories and sewage disposal plants placed in immediate proximity by the zoning provisions of adjacent municipalities. Continuing streets changed character in toto from one commune to another. While the baupolizei were able, in some measure, to maintain a uniform width on continuing streets, and to regulate the set-back, beyond these limitations ~~and~~ use literally ran rampant. Under these conditions a general regional plan, or even a municipal plan for an individual commune, was made hardly worth while.

Regional arterial thoroughfares were, under such conditions, utterly out of the question. The result was that at virtually every focal point of traffic movement, not only within the then city of Berlin, but in quite equal measure in the suburbs, a marked condition of traffic congestion prevailed. But the rationalization of traffic circulation which has, under unified administration, almost completely solved the problem of congestion without considerable actual modification of street capacities, was even less possible.⁸²

Summary

Dr. Delbrueck has summarized metropolitan conditions in Berlin in the years immediately preceding the consolidation in the following words:⁸³

"The large number of municipal administrations existing side by side before amalgamation often led to unnecessary duplication, likewise to constant friction between the various neighboring communes. Between 1901 and 1918 the City of Berlin was involved in no less than 739 suits against suburban communities, dealing with such questions as to whether this or that community should care for a pauper and 255 similar suits were brought by suburban communities against the City of Berlin. Added to this there were numerous suits brought by one of Berlin's neighboring communities against some other. Moreover, such things as traffic systems, gas and electricity installations had been created for the individual communes and it stood to reason that a system of coöperation would be more practical and cheaper and would do away with a number of superfluous employees. Moreover, this decentralization became intolerable during the war, when the community had to take in hand the task of procuring food-stuffs for the inhabitants. For instance, it would happen that one community had five pounds of potatoes per person while another had only three pounds...But the decisive arguments which brought about the creation of Greater Berlin were not so much those of a practical nature as those based upon that underlying conception of democracy whence sprung also the universal franchise. Naturally there were suburbs among those forming the new Greater Berlin, where well-to-do members of the community lived, others where the population was almost entirely composed of laborers and small shopkeepers. Since the outlay of the various communities was relatively the same, it naturally came about that the taxes were particularly burdensome in the poorer communities. Therefore, a compromise had to be worked out whereby the masses of the poorer population profited."

Without forcing the view of the 1920 consolidation as a project in social reform, it would not be too much to say that this latter reason probably was the deciding factor. This view is concurred in by former Oberbürgermeister Dr. Böss, who says:⁸⁴"The purpose of the unification of the historic city of Berlin with 93 adjacent cities, towns, communes, and manorial districts was the equalization of the burden of government throughout the entire area." And as Ministerialdirektor Dr. von Leyden has phrased it,⁸⁵"What we want to achieve in Berlin is a system of equalization of taxation on the one hand, and of public services on the other."

It is in the light of these objectives that the administrative arrangements of Berlin must be judged, in addition to their relations to the ordinary functions of municipal administration.

The conditions which have been described naturally precipitated much interest in methods of cooperative action, particularly on the part of those municipalities located immediately outside of Berlin. Even the hitherto lethargic Prussian administration, probably as a result of its difficulties in the transit dispute in 1904 and other similar conflicts, became interested in the integration of the Berlin urban area.⁸⁶ It had, in fact, as early as 1894 proposed the unification of the rest of Charlottenburg, additional parts of Rixdorf, Schöneberg, and Tempelhof, parts of Wilmersdorf, the entire districts of Treptow, Stralau, Voxhagen-Hummelsberg, Lichtenberg, Plötzensee, as well as practically all of Weissensee and Reinickendorf, with Berlin.⁸⁷ The Berlin council, however, was entirely unwilling to proceed upon the basis of unconditional and outright consolidation.⁸⁸ Too, since several of the proposed areas were not incorporated as cities, and hence exercised varying degrees of powers and were under varying restrictions, a satisfactory conditional union was apparently impossible without additional legislation.⁸⁹

After considerable discussion, and an ineffectual attempt on the part of the ministry to force the unification in 1896,⁹⁰ it was finally conceded that outright consolidation was impracticable.⁹¹

The next thought of the ministry was that the outlying areas might be erected into selbständig units, and by this method a conditional consolidation effected. Subsequently Rixdorf (after 1912 Neukölln), Schöneberg, Lichten-

berg, and Wilmersdorf, none of which were incorporated as cities on the same legal basis as Berlin, were officially chartered.⁹²

Ten years elapsed, however, and programs of voluntary coöperation failed to materialize. Finally, in 1911, the well known Zweckverbandsgesetz was passed.⁹³ The law specifically reserved to all of the areas which it conditionally and partially united, their communal autonomy and independence except for the problems delegated to the Zweckverband. The union included Berlin, Charlottenburg, Schöneberg, Rixdorf, Deutsch-Wilmersdorf, Lichtenberg, and Spandau, and the Landkreisen Teltow and Niederbarnim. To these latter two the act specifically reserved their autonomy and self-government. The area of the new union was 352,218 hectares, and the population approximately 3,947,300.⁹⁴

The legislative organ of the Zweckverband was the Verbandsversammlung. This was composed of the Oberbürgermeister of Berlin sitting as president and 100 members chosen from the participating areas according to population. The Verbandsversammlung acted by majority vote, and the organic act required two-fifths of the total membership for a quorum.

The executive organ of the Zweckverband was the Verbandsausschuss. This was composed of the Oberbürgermeister of Berlin as chairman, a representative of each of the Berlin magistrat members, the first bürgermeister of each of the six next largest participating communities, 8 members elected by and from the Verbandsversammlung, the chairmen of the Kreis, or county, boards, and the Verbandsdirektor.

The authority of the Verbandsdirektor was, within the functional limitations imposed by the organic act, parallel to those of a bürgermeister. He was chosen by the council for a term of six to twelve years, and his appointment required the confirmation of the Crown.

The law establishing the Zweckverband outlined the jurisdiction of the new area to include the following functions:⁹⁵

1. Regulation of the public relations of all rail transportation except the Prussian state railway.
2. Participation in the establishment of the construction and housing requirements and regulations of the area, and cooperation in the promulgation of the building police ordinances.
3. Acquisition and maintenance of open spaces (forests, parks, meadows, lakes, gardens, playgrounds, athletic fields, etc.).

The activities of the Zweckverband were financed by a levy against the participating municipalities according to the ratios agreed upon by the council.⁹⁶ Since the law specified no other basis for contributions upon the localities' parts, the finance system in practice quickly became virtually a crude sort of benefit special assessment.⁹⁷ The advent of the war within a short time after the Zweckverband was fully organized prevented any really adequate test of its practicability. Within the three years from 1911-1914 it had been active in acquiring certain stadia, had assisted rather desultorily in formulating, in conjunction with the Prussian baupolizei, regulations governing street and building con-

struction - regulations, incidentally, which broke down completely after the first two years of the war, and had made some plans concerning rapid transit. In this latter phase, however, little progress other than the beginning of the elevated was made before the Zweckverbandsgesetz was annulled.⁹⁸

The criticisms which have been made of the Zweckverband are therefore largely a priori. The obvious weaknesses of the union, however, probably are so striking as to obviate the need for demonstration in practice. Dr. Wermuth, in the Handwörterbuch für Kommunalwissenschaften, lists the following objections to the Zweckverband:⁹⁹

1. The constitution of the regional legislature removed it from organic touch with the people. Its selection by the governing bodies efficiently divorced it from direct contact with the sources from which the impulse to coöperative action was expected to derive.

2. Its administrative organization was overly bureaucratic. The only point of contact between the council and the administration was through the Verbandsdirektor - the single administrative official connected with the council and sitting with it.

3. Berlin contained most of the population and a vastly superior part of the taxpaying capacity, but controlled neither the council (40 out of 100) nor the administrative board (17 out of 35).

Dr. P. Hirsch, writing on Greater Berlin, in the same

work, adds the following faults:¹⁰⁰

4. The functional jurisdiction of the Zweckverband was too highly circumscribed to permit it effectively to meet the demands of the growing metropolitan problem.

5. No provision was made under the Zweckverbands-gesetz to enforce the assistance of the poor municipalities by those of larger resources.

To these, a Dutch commentator adds the patent observation that :¹⁰¹

6. The area comprehended by the Zweckverband law was not Berlin's true metropolitan area. This is adequately demonstrated by the fact that in 1920, when really substantive territorial rationalization was effected, Teltow and Niederbarnim were left out entirely, while the region was greatly extended in the intervening area to the north, southwest, and southeast.

Mention has already been made of the expansion of the areas of police administration. The police district under the jurisdiction of the polizeipräsident was, before the consolidation of 1920, actually much more extensive than at present. A Prussian law of 1889 conditionally permitted unified administration over the Berlin, Kreis Teltow and Kreis Niederbarnim areas.¹⁰² Laws of 1900, 1907, 1908, and 1909 expanding the area of the local police administration for Berlin subject to direct control by the police president were repealed at the time of the passage of

the 1920 law.¹⁰³

The whole of the province of Brandenburg had been brought under unified water supervision by the terms of a law of 1913.¹⁰⁴ The creation of this water district as a separate entity from the Zweckverband was apparently a confession of the territorial inadequacy of the Zweckverband, as well as a distinct recognition of a new element in the Berlin metropolitan problem. Actually, however, the Wasserbeirats constituted nothing more than a conservancy board without adequate powers in the acquisition of water rights and the distribution of water; it is hence unimportant in the history of attempts to solve the metropolitan problem.¹⁰⁵

Fragmentary laws affecting elementary education were of some effect in securing schools throughout the entire area, and in permitting and enforcing inter-municipal co-operation.¹⁰⁶ They were abortive in that they made no real attempt to get at the primary problem in school administration - financial equalization. Their extent was restricted to the point of providing only for transfers, inter-municipal contracts and agreements concerning educational facilities, and like matters.

During the war a number of special districts and unions were created. These were mainly in the nature of ad hoc commissions composed of ex officio members. There were eleven in number, all created during or immediately after the war, and all of which have been disestablished through the assumption of their functions either by the new muni-

city or by non-public organizations. Most of these unions were formed for the equal distribution of foodstuffs and supplies to the different municipalities. Their areas varied, but generally were much more extensive than the present city. These unions were: 1. The Foodstuffs Union; 2. The Animal Fat Union; 3. The Price Regulation Union; 4. The Beef Distribution Union; 5. The Horse Flesh Union; 6. The Clothing Union; 7. The Fish Union; 8. The Housing Union, an emergency organization working with the Zweckverband for the outside area; 9. The Flour Union; 10. The Coal Union; 11. The "Salvage" Union (Rettungsamt) and its subsidiary Demobilization Board.¹⁰⁷

In summary, the Berlin region, a social and economic organism of approximately four millions of inhabitants, attempted between 1911 and 1920 the solution of her metropolitan problem by the Zweckverband, a loose confederation formed for limited functional regionalization, and by a series of ad hoc bodies, none of which were able to stand the strain of wartime conditions. Berlin previously had refused to annex many of the outlying areas in their then geographical form; Dr. Dawson wrote in 1914 that the outlying areas would never accept voluntarily a merger with the central city, and that if such a unification occurred it would necessarily be by legislative fiat.¹⁰⁸ Furthermore, the annexation laws of Prussia virtually prohibited the forced integration of the urban area by outright consolidation. Short of direct state administration, the only alter-

native remaining was federalization of some type.¹⁰⁹

The legislation of 1920 is essentially a compromise arrangement attempting to reconcile the interests of the smaller communities in additional revenues and in a certain local selbständigkeit with those of efficient administration demanding adequate geographic jurisdiction, and at the same time to preserve the local self-government of the Reichshauptstadt on an equality commensurate with other German grosstädte and conformably with the German home-rule tradition.¹¹⁰

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1. There are many excellent histories of Berlin. Among the best from a bibliographical point of view are A. Schwebel, Geschichte der Stadt Berlin; F. Holtze, Geschichte der Stadt Berlin; and in particular the Geschichte der Stadt Berlin compiled by the Verein für Geschichte Berlins for the International Historical Congress of 1908. The most useful for a study of this sort has been E. Fidicin, Berlin, historisch und topographisch, dealing specifically with the historical development of the Berlin area up to 1843. Unless otherwise indicated facts contained in the section on the history of Berlin are drawn from Fidicin up to the publication of his work.
 2. See Baedeker, Berlin and Its Environs (6th ed.) for a good discussion of the topography of this union in terms of present day landmarks, particularly p. 42, and map opposite p. 51.
 3. Fidicin, op. cit., p. 6 contains a very concise discussion of this union.
 4. Including Brandenburg, Stendahl, Perlsburg, Prenzlau, Frankfurt, and Ruppin.
 5. Fidicin, op. cit., p. 9.
 6. Information is not lacking, however, which indicates that many of the suburbs had their beginnings shortly after Alt-Berlin itself. For example Spandau dates from 1232; Cöpenick was known to be the rezidenzstadt of the Slavish Prince Jaeze as early as 1157; Müggelheim was a colony of the Palatinate, and somewhat populous, in 1747. Cf. for additional charterings, Die Grosse Brockhaus, passim. The metropolitan problem in certain aspects evidently was

not long in arising. Fidicin writes as follows: "die Bürger von Berlin und Spandow mussten in voller Rüstung gegen einander kämpfen, zu Wasser und zu Lande. Wie die Hof so die Bürger. Gross war der Hang zu Völlerei. Der Rath erliess dieserhalb ernstliche Verbote; vor dem Bernau'schen Bierkeller in Berlin und am Gertrauden-Thore in Cöln befanden sich sogenannte Narrenkisten, vergitterte Käfige, in welche Vertrunkene gesteckt wurden, um darin ihren Rausch zu verschlafen und beim Erwachen von der versammelten Menge verhöhnt zu werden. Besonders wurde bei den Schmausereien der Gewerke viel getrunken, wobei es gewöhnlich zu Zänkereien und Thätlichkeiten kam. Das Recht Waffen zu tragen hatte sich zur Zeit der allgemeinen Unsicherheit gebildet ohne besondere Erlaubniss, wurde allgemeiner und bis auf die spätere Zeit beibehalten. Der Rath verbot das Waffentragen bei Gewerks-Aufzügen, und Joachim II. wollte es nur dem Adel, dem Hifgefinde, und ausserdem dem Stadtdienern erlauben, dagegen aber reclamirte der Rath." Op. cit., p. 17; these events transpired in 1561.

7. See Verwaltungsbericht der Stadt Berlin 1921-1924, Vol. I, p. 45.
8. Fidicin , op. cit., p. 22.
9. Fidicin, op. cit., p. 23.
10. Ibid., p. 25.
11. Baedeker, op. cit., p. 43.
12. Fidicin, op. cit., p. 40 et seq.
13. Ibid., p. 23.
14. See Verwaltungsbericht der Stadt Berlin 1921-1924, Vol. I, p. 9.

- Fidicin, op. cit., p. 27.
15. Statistisches Jahrbuch der Stadt Berlin 1929, pp. 2 and 5.
 16. Fidicin, op. cit., p. 29.
 17. Badeker, op. cit., p. 41. This wall was not torn down until 1868.
 18. Statistisches Jahrbuch der Stadt Berlin 1929, p. 2.
 19. Statistisches Jahrbuch der Stadt Berlin 1929, p. 5.
 20. Fidicin. op. cit., p. 45 et seq.
 21. Ibid., p. 47.
 22. See Luckas, Zentral- und Bezirksverwaltung der Stadt Berlin, p. 9.
 23. Verwaltungsbericht der Stadt Berlin 1921-1924, Vol. I, p. 45.
 24. See Statistisches Jahrbuch der Stadt Berlin 1929, p. 2.
 25. See Körner and Brell, Berliner Ortsrecht, pp. 99-102.
 26. See H.E. von Nussbaum, Die Rechtswirkungen der Eingemeindung nach preussischen Recht, p. 7 et seq., regarding the legal theory of "eingemeindung" underlying this requirement.
 27. See in this connection Jebens' excellent essay, "Erlangen Polizeiverordnungen usw. bei Erweiterungen des ihnen zuerst unterworfenen Bezirks ipso iure auch in den neuen Bezirksteilen verbindliche Kraft?" in Reichs- und Preussisches Verwaltungsblatt, Vol. 22, p. 509 et seq.(1901).
 28. Dr. Delbrueck estimates that over a million people left Berlin during the years immediately following the War. Op. cit., p. 27.
 29. Dr. Weber summarizes this data as follows: "The German census of 1895 gave Berlin an increase over 1890 of only 6.2 per cent, whereas its growth in the previous five

year periods had been from 16 to 20 per cent. It was soon discovered that the towns surrounding Berlin had increased tremendously, thus showing that Berlin had reached the point of 'saturation' and was overflowing. While Berlin added 98,342 persons to her population, the suburbs within a radius of 10 kilometers added 167,135, although in 1890 they had scarcely one-sixth as large a population as Berlin itself. All the districts in the business center (Berlin, Alt-Köln, Friedrichswerder, Dorotheenstadt, Friedrichsstadt) have been losing population since about 1861, a few earlier, some later."

Growth of Cities, p. 465.

30. See map and table ante, p. 64 ; also p. 107 , n. f. The same conclusion appears in the section on Berlin in Schott Die grossstädtische Agglomerations des Deutsches Reich 1871-1910 (Berlin 1912).
31. Municipal Government in the United States, p. 349.
32. An excellent description of the effects of governmental disintegration on the several municipal functions in the Berlin area is contained in the various articles in Brennert and Stein, op. cit., passim.
33. "Der Zweck des Gesetzes Gross-Berlin war offensichtlich der, die grössere Steuerkraft der wohlhabenden westlichen Gebiete den steuerarmen, aber aufgabenreichen Teilen im Osten und Norden nutzbar zu machen. Wie gross diese Unterschiede waren, erhellt, wenn man vergleicht, dass vor dem Kriege Charlottenburg und Wilmersdorf an Gemeinde-steuern über 60 Mark auf den Kopf der Bevölkerung aufbrachten.

Neukölln und Lichtenberg nur rund 24 Mark. Dort hatte man mühelos das Netz der städtischen Aufgaben erweitern und verdichten können, hier klafften überall Lücken, die aus eigener Kraft nicht zu beseitigen waren.

In den Jahren des wirtschaftlichen Aufsteigs vor dem Kriege wäre dieser Ausgleich verhältnismässig leicht gewesen. Jetzt sollte er geschaffen werden in Jahren schwersten wirtschaftlichen Niederganges, in einer Zeit, wo Währungsverfall und Geldentwertung in immer tollerem tempo jede gesunde Haushaltsführung unmöglich machten. Kein Wunder, dass deshalb der Zusammenschluss zu Gross-Berlin zunächst dem verkümmerten Osten keine grossen Verbesserung bringen konnte, und das die Aufrechterhaltung des Ganzen nur mit Opfern erkaufte werden konnte, die der vorher soviel besser gestellte Westen bringen musste," Dr. Ernst Karding, "Bezirkshaushalt und Stadthaushalt" in Brennert and Stein, op. cit., p. 17.

34. See Dawson, op. cit., p. 230.
35. Statistisches Jahrbuch Deutscher Städte 1912, Vol. XXI, p. 413.
36. Dr. -Ing. Reinhard Lobeck, Die Gross-Berliner Stadtentwässerung, sec. 4.
37. Dawson, op. cit., p. 229.
38. See Regierungsrat Karl Kühne, "Gegenwarts- und Zukunftsprobleme der Wasserversorgung von Berlin," in Brennert and Stein, op. cit., p. 425 et seq.
39. Dawson, op. cit., p. 229.
40. Ibid., p. 230.
41. Statistisches Jahrbuch deutscher Städte 1913, Vol. XXI,

- p. 413 et seq.
42. Ibid., p. 420; see also Dr. -Ing. Reinhard Lobeck, Die Gross-Berliner Stadtentwässerung, Sec. 1.
43. Stadtbaurat Hermann Hahn and Magistratsoberbaurat Fritz Langbein 50 Jahre Berliner Städtentwässerung 1878-1928 (Berlin 1928), p. 86.
44. According to a present member of the Berliner Städtische Wasserwerke A.G.
45. Cf. Dr. Götsch, Bericht über die Untersuchung der Dahme, Spree und Havel sowie der mit der Spree in Verbindung stehenden Schiffahrtskanäle, particularly the Report for 1922.
46. Wölbling, Bildung der neuen Stadtgemeinde Berlin, p. 11.
47. "Differenzen der Gaspreise in den Kommunen" in Kreis- und Gemeinde Verwaltung, Vol. IV, No. 1, Jan. 1911; see also Dr. Wilhelm Vertelsmann, "Die Gasversorgung in der Grossstadt" in Brennert and Stein, op. cit., p. 415.
48. These statistics from the Statistisches Jahrbuch deutscher Städte 1908, Vol. XVII, p. 515 et seq.
49. Cf. Ibid., 1913, Vol. XXI, p. 455 et seq.
50. See in this connection the statistics in Böss, op. cit., p. 1681.
51. This is an averaged price of the modal lighting rates for each of the 43 plants, and is derived from records in the Magistrats Bibliothek and the Statistisches Jahrbuch deutscher Städte 1908, Vol. XVII, p. 515 et seq., and accompanying tables.
52. Courtesy of Department of Water Supply, Gas and Electricity, New York City.

53. Pp. 269-271.
54. Op. cit., p. 417.
55. Op. cit., p. 350.
56. Wölbling, op. cit., p. 11.
57. Adolph, "Normung der Stromverteilung," in Brennert and Stein, op. cit., p. 434. Of these six the Berliner Vororts-Elektrizitätswerke G.m.b.H., the Tempelhofer Elektrizitäts-Lieferungs-G.m.b.H., and the Brandenburgische Kreis-Elektrizitätswerke G.m.b.H. were subsidiaries of the Markisches Elektrizitätswerke G.m.b.H., a provincial undertaking.
58. Dawson, op. cit., p. 227.
59. Op. cit., 435-439.
60. See in this connection de Grais, op. cit., pp. 434, 572, 591, and ordinances and statutes cited; also Dawson, op. cit., p. 226 et seq.
61. Statistisches Jahrbuch deutscher Städte 1913, Vol. XXI, p. 492 et seq.
62. Statistisches Jahrbuch der Stadt Berlin 1928, pp. 273-275.
63. See "Eingaben zu dem Gesetzentwurf betr. die Sozialisierung der Elektrizitätswirtschaft," Mitteilungen des Deutschen Städtetages, October 1919, p. 174.
64. Op. cit., p. 1680.
65. See Dr. -Ing. R. Heiligenthal "Wirtschaftliche Grundlagen der Dezentralisation" in Planning Problems of Town, City and Region, 1925, p. 131 et seq.
66. Cf. for example Wilhelm Gräfer, Kommunalverwaltung und Wirtschaft im Ruhrgebiet, p. 44-53.

Erleichterung ihrer Position in der Tatsache, dass sie 54
die einzelnen Gemeinden gegeneinander ausspielen
konnte, deren Interessen naturgemäss in mehr als einem
Falle aus- und gegeneinander liefen. Die Stadt Berlin
selber bemühte sich in den letzten Jahren durch Bau
eigener Strassenbahnlinien, deren verkehrliche Bedeutung
prozentual aber gering war, selbständigen Einfluss zu
bekommen. Ihre Bemühungen, nach Ablauf der Konzession
das Gesamtunternehmen in her Hand zu bekommen, wurde
erschwert durch das Verhalten der damaligen Aufsichts-
behörden, die die Interessen der privaten Unternehmungen
auch gegenüber der Stadt unterstützten. - Auf dem Gebiete
des Schnellbahnwesens existierte die durch die Initiative
von Siemens gegründete "Gesellschaft für elektrische
Hoch- und Untergrundbahnen A.-G.", die es in sehr
geschickter Weise verstand, sich eine wichtige Position
zu verschaffen. Die Initiative der Stadt Berlin auf
diesem Gebiet war nicht sehr erheblich. Erst kurz
vor dem Kriege fing Berlin an, eine eigene städtische
Linie, die Nord-Südbahn, zu bauen, während eine andere,
vielleicht noch wichtigere Linie, die Bahn Gesundbrunnen-
Neukölln, der A.E.G. übertragen war. Man muss sich
vor Augen halten, dass zur gleichen Zeit andere verge-
lichbare Weltstädte, wie London und Paris, über ein her-
vorragend ausgebautes Untergrund-Schnellbahnnetz
verfügten. - Die Omnibusgesellschaft stand durch einen
internen Vertrag zwischen Hochbahn und Strassenbahn
gewissermassen unter Kuratel; auf sie hatte die Stadt
überhaupt keinen Einfluss. Die Folge dieser Verhältnisse

67. See Dawson, op. cit., p. 229.
68. See Dr. Paul Willig, "Zur Vereinheitlichung des Berliner Verkehrswesens" in Brennert and Stein, op. cit., p. 285 et seq., at p. 287. In 1913 there were nine transit companies operating transit facilities in Berlin. The major tram company - the Greater Berlin Tramway Company - which carried over 80 per cent of the tramway traffic was, under the terms of its franchise, turned over to the city in 1919. This greatly facilitated transit unification. See Dawson, op. cit., p. 234.
69. Cf. in this connection de Grais, Handbuch der Verfassung und Verwaltung (24th edition, 1927) p. 705 et seq., and statutes and ordinances cited.
70. See a brochure published by the Berlin magistrat in 1905, containing among other studies a very thorough consideration of the law and the practical significance of this decision, entitled Berichte aus Anlass des Besuches der englischen Kommission zum Zweck des Studiums städtischer Einrichtungen im Auslands.
71. Stadtrat Ernst Reuter summarizes pre-consolidation conditions as follows:
- "Vor dem Kriege war die Einfluss der Stadt Berlin auf das Verkehrswesen ein ziemlich geringer. Die Hauptschwierigkeit lag in der damaligen kommunalen Zersplitterung. Neben der "Grossen Berliner Strassenbahn" existierten eine ganze Reihe anderer Gesellschaften, die zu einem Teil unabhängig neben der "Grossen" bestanden und zu einem Teil von ihr langsam aufgekauft oder beherrscht wurden. Die "Grosse" fand eine wesentliche

war ein ausserordenentliches Durcheinander in der Linienführungen in den Betriebsverhältnissen und Tarifen und vor allen Dingen eine starke Behinderung der natürlichen Verschmelzung der Berliner Vororte mit Berlin zu einem einheitlichen wirtschaftlichen Ganzen." See "Die Vereinheitlichung des Berliner Verkehrs" Der Städtetag (No. 10) October 20, 1928.

72. See ante, p.

73. Gustav Böss, "Die Verwaltungsgemeinde Berlin und ihre Aufgaben" Zeitschrift für Kommunalwirtschaft, (No. 21) 1928, p. 1679. Uniform fares have not yet been established in London, however. The writer recalls his own discomfiture at having to pay one and six to go from Bloomsbury to Woolwich on the Underground, after having many times travelled the same distance on the omnibuses for sixpence.

74. See in this connection Dr. G. Wolff, Die Influenzapandemie in Berlin; Dr. Seligman, Epidemiologie der letzten Diphtheriewelle in Berlin; Dr. Seligmann, Zur Epidemiologie des Scharlachs in Berlin.

75. See a brochure issued by the Magistrat, Denkschrift, betr. die Kurverpfliegungskostensätze in den Berliner städtischen Kranken- und Pfliegeanstalten; for a discussion of the equalization of welfare costs, see Dr. Böss, Die Not in Berlin; an excellent treatment of educational equalization is contained in Münch, Das Unterrichts- und Erziehungswesen Gross Berlin (Berlin 1912); "Städtische Schulschwester" in Mitteilungen des Deutschen Städtetages for August 1914, p. 493 deals

- especially with conditions in the Berlin suburbs; see also "Kommunal Schulpolitik in Gross Berlin" Stadtverordnete 1911, Nos. 21 and 22; Simon, Die Schulspeisung von Gross-Berlin (Jena 1913); Bauermeister, Schullasten Verteilung und Grossstadt-Dezentralization. (Berlin 1916).
76. Dr. Wilhelm v. Drigalski, "Über Leistungen und Probleme des städtischen Gesundheitspflege," in Brennert and Stein, op. cit., p. 129 et seq.
77. See Dr. Paul Frank, Das Berliner Öffentliche Rettungswesen, seine Entwicklung und jetzige Anstalt, passim.
78. See ante, p.
79. So according to an official of the Preussisches Ministerium des Innern, in an interview with the writer, in September, 1930.
80. Dawson, op. cit., p. 118.
81. See his very interesting section on 'Der Bauzonenplan als Vorarbeit für den Generalsiedlungsplan' in his article "Probleme des Generalsiedlungsplane" contained in Brennert and Stein, op. cit., p. 260 et seq.; also Gemünd, Die Grundlagen zur Besserung der städtische Wohnverhältnisse (Berlin 1913).
82. See Weiss and Hey, Die Berliner Strassenordnung vom 15. 1. 29., introduction.
83. "Berlin under Empire and Republic," Current History, October, 1925, p. 31.
84. Böss, op. cit., p. 1875.
85. Quoted in G. Montagu Harris, "English and German Local

Government Compared," Public Administration, April, 1930, 1930, p. 223, to this effect.

86. As early as 1875 desultory attempts had been made to arouse interest in the integration of the Berlin area. See Wermuth, "Gross Berlin. A. Bis zum Zweckverband," in Handwörterbuch der Kommunalwissenschaften, Vol. II, p. 400 et seq., for a resume of efforts in this direction.
87. See Luckas, Zentral- und Bezirksverwaltung der Stadt Berlin, p. 10.
88. Scholz "Gross-Berlin," in Zukunftsaufgaben deutscher Städte, edited by Mitzlaff and Stein, p. 66. Also Dawson, op. cit., p. 160.
89. Luckas, op. cit., p. 10.
90. Wermuth, op. cit., p. 401.
91. See Poensgen, "Paris, London, und Gross Berlin in ihren Verwaltungsorganisationen," in Delbrueck's Preussische Jahrbucher, Vol. 118, p. 396 et seq.
92. Luckas, op. cit., p. 10
93. Zweckverbandsgesetz für Gross Berlin vom 19 Juli 1911, Preussische Gesetz Sammlung, p. 123.
94. According to a memorandum from Dr. von Leyden of the Preussisches Ministerium des Innern. It has been found impossible to secure copies or to photostat the only map of the Zweckverband that I have been able to find, which is in the Geographischen Institut und Landkarten-Verlag of Julius Straube, Bülowstrasse 56, Berlin W. 57.
95. Par. 1, Sec. 1, Pro. 1-3.

96. F. Glum, Die Organisation der Riesenstadt, pp. 51 and 52.
97. M.J.W. Roegholt, Het Stadsgewest, p. 264 et seq.; of the provisions of the Belgian law of 1922, the text and discussion of which appears in L'Administration Locale for March 1932, pp. 205-215; cf. also the new Hesse Zweckverbandsgesetz, discussed by Dr. Rindfuss in the April 1932 issue of the Zeitschrift für Selbstverwaltung, p. 147 et seq.
98. See Most, Die Deutsche Stadt und ihre Verwaltung, Vol. I, p. 24, for a summary of the accomplishments of the Zweckverband and a critique of its principles.
99. Op. cit., p. 402 et seq.
100. "Gross Berlin. B. Die neue Stadtgemeinde Berlin," p. 406 et seq.
101. J. in 'T Veld, Nieuwe Vormen van Decentralisatie, p. 177.
102. See Preussische Gesetz Sammlung 1889, p. 129.
103. See Preussische Gesetz Sammlung 1900, p. 247; ibid., 1907, p. 37; ibid., 1908, p. 21; ibid., 1909, p. 533 in conjunction with Par. 33, Sec. 2 of the Act of 1920, lex cit.
104. See Preussische Gesetz Sammlung 1913, p. 53.
105. According to an official of the Berliner Städtische Wasserwerke A.G.
106. For example Gesetz betr. die Unterhaltung der öffentlichen Volksschulen, Preussische Gesetz Sammlung 1906, p. 335; see further in this connection Dr. Erna Treyhorn Wirt-

schaftliche und finanzielle Entwicklung der Berliner Volksschulen seit 1870 (Berlin 1928).

107. A summary of these special authorities is contained in J. in 'T Veld, op. cit., p. 176. An abstract of the constitution of the Wohnungsverband is contained in the Mitteilungen des Deutschen Städtetages for May 1920, p. 366 et seq. The following quotation with reference to the price-fixing unions is illustrative of the organization and operation, in general, of these ad hoc authorities:

"In der gemeinschaftlichen Preisprüfungsstelle für Grossberlin sind vier Fachprüfungsstellen gebildet, die ihre Weisungen von dem Zentralausschuss erhalten, dem Vertreter von Berlin und der Nachbargemeinde angehören. Städtische Fachausschüsse bestehen 1. für Obst, Gemüse, Kartoffeln, 2. für Fleisch, Fleischwaren, Fette, Fisch, 3. für Milch und ihre Produkte, Eier, Pflanzenfette, und Öle, 4. für Hülsenfrüchte, Reis, Griess, Graupen, Kolonialwaren und Konserven. In den Fachausschüssen sind Mitglieder der Stadtverwaltung, Angehörige der Produkten- und Grosshändlerkreise, Vertreter des Kleinhandels, des Vermittlergewerbes, der verschiedenen kaufmännischen und gewerblichen Verbände, der Gewerkschaften und der Verbraucher tätig."

"Die Errichtung von Preisprüfungsstellen bei den Gemeinden (nach dem Stande vom 25 Oktober)," Mitteilungen des Deutschen Städtetages, October 1915, p. 314.

109. This had been realized as early as the first months of

1919. Unterstaatssekreter Freund, the "Vater des Zweckverbandes," at that time laid before the Preussisches Ministerium des Innern a draft project for a conditional unification of the entire Berlin area. Even during the war this possibility had been considered by the various Bürgerbunden. See Verwaltungsbericht der Stadt Berlin 1921-1924, Vol. I, p. 10; also Victor Roack, Bürgerausschuss Gross-Berlin 1917-1920, *passim*, and Dr. Ernst Kaeber, Berlin im Weltkrieg, *passim*, for indications of a developing viewpoint favoring some variety of conditional unification.

110. The delicate nature of the "unfreundlich und misstrausch" relations which made consolidation extremely difficult, as well as the necessity for financial equalization are very completely set out in Kaeber, op. cit., p. 23 et seq. See also Verwaltungsbericht der Stadt Berlin 1921-1924, Vol. I, p. 10 et seq.

CHAPTER II ORGANIZATION OF THE AGENCIES OF GOVERNMENT
AND ADMINISTRATION IN THE GROSSSTADT AND AD-
MINISTRATIVE DISTRICTS UNDER THE ACT OF 1920

INTRODUCTION

Geography of the consolidation¹

The Consolidation Act of 1920 expanded the area of Berlin from 6,572 hectares to 87,810 hectares, making it geographically the second largest city in the world.² It increased its population from approximately two million to slightly less than four million persons, making it numerically the third largest city in the world.³ To do this it united with the original Corporation of Berlin seven other cities of the same juristic powers and authority and approximately the same administrative organization as that of Berlin itself. As has been noted earlier several of these cities were accorded municipal status as late as the earlier years of the twentieth century,⁴ but for many years previous they had been densely populated centers with a rather complex administrative organization and a distinct existence both politically and socially and to some degree economically from that of the then City of Berlin.⁵ These cities were Charlottenburg, Cöpenick, Berlin-Lichtenberg, Neukölln, Berlin-Schöneberg, Spandau, and Berlin-Wilmersdorf.

These cities varied in size from Berlin with an area of 16,430 acres or 25 $\frac{2}{3}$ square miles and a population of

1,907,486, to Wilmersdorf with an area of 3 1/5 square miles and a population of 139,406.

There were in addition to these seven cities fifty-nine rural municipalities or Landgemeinden, also varying from an area of 165 acres and a population of 364 in Niederschönhausen to an area of approximately 1330 acres and a population of 83,366 in Steglitz.

Finally there were twenty-seven manorial estates or Gutsbezirke, several of which were quite small, consisting of from 50 to 75 acres and with populations of 200 up, while one of the larger ones, Cöpenick Forst, extended over almost 7,000 acres but had a population of only 211.

The accompanying table and map indicate the geographical subdivision existing before the consolidation with the limits of present administrative districts and present interesting data with reference to their area, total population and population density.

The Municipal Government of the Pre-Consolidation Period.

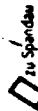
The seven cities which were annexed to Berlin by the act of 1920 had virtually identical administrative organization with that of Berlin proper. As von Leyden has noted, the City Government Act for the Seven Eastern Provinces of 1853 made no distinction in administrative structure or powers between cities such as Berlin and the smallest commune which had secured city status.⁶ The government of Berlin before 1920 was in principle identical with the magistratsverfassung established for the grosstadt in 1920 and described herein.

The rural municipalities, numbering 59 in the area in-

Die
STADT BERLIN
 mit den Verwaltungsbezirken
 und ehemaligen Gutschäften.
 Zonenentlang 10-15-20- u. 25-km Radius
 vom Berliner Rathaus gerechnet

Maßstab 1:250 000

gez. i. Stadtvermessungamt.



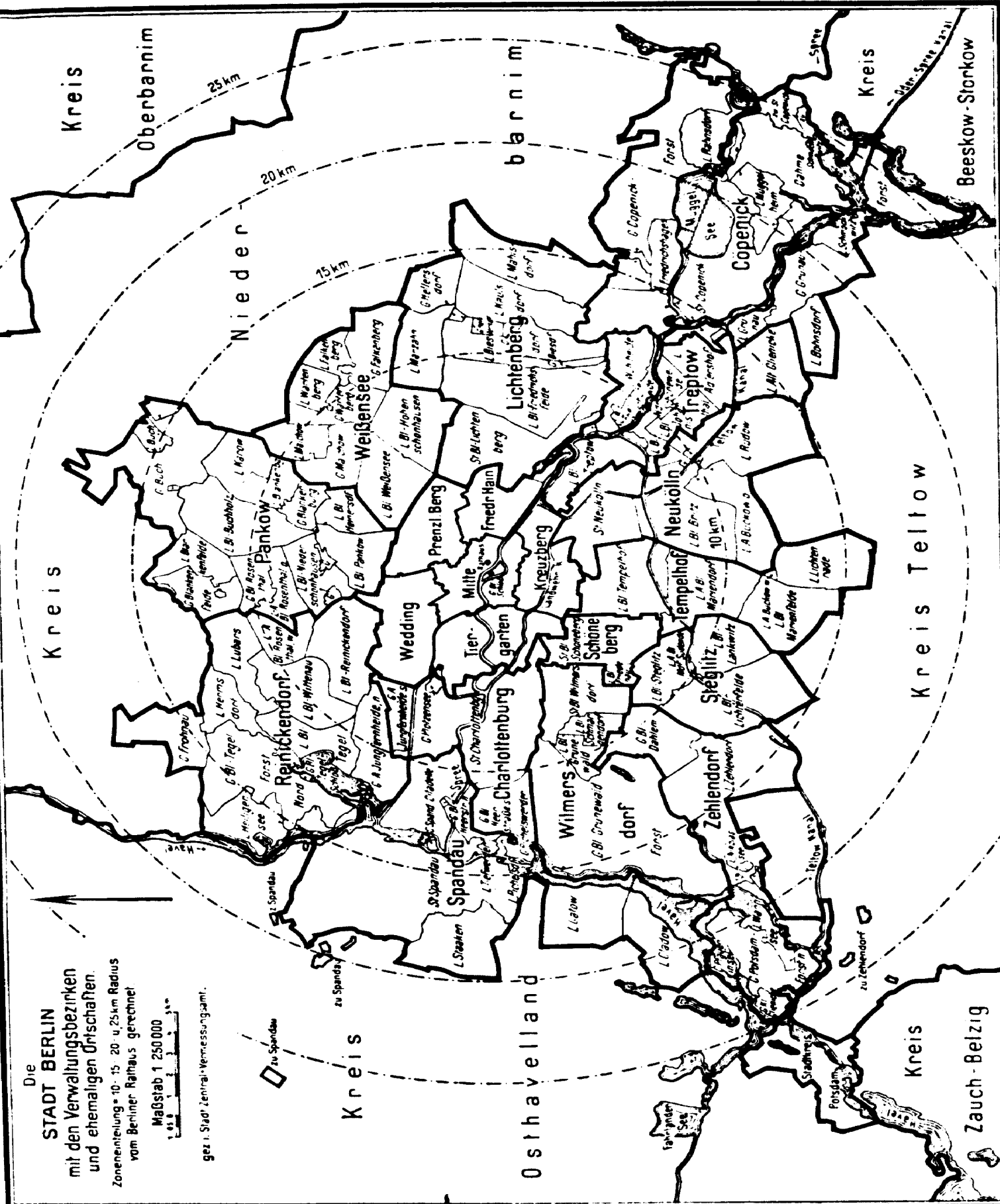
zu Spandau

Kreis

Osthavelland

Kreis

Zauch-Belzig



Abkürzungen: S. See, L. Landgraben, H. Hotel, G. Gutshaus, A. Anwesen, K. Kirche, O. Ostlich, S. Südlich, W. Westlich, N. Nordlich

AREA, POPULATION, AND POPULATION DENSITY OF SUBDIVISIONS
INCORPORATED IN GROSS-BERLIN IN 1920

Administrative Districts and Subdivisions	Area in Acres 1920	Population 1920	Population per Acre	Administrative Districts and Subdivisions	Area in Acres 1920	Population 1920	Population per Acre
1. Mitte				43. Johannisth.	992.5	5,474	5.5
1. Schloss)	2592.5	292,779	112.9	44. Adlershof	1572.5	12,665	7.6
2. Tiergarten	3390.0	273,502	80.7	45. Alt Glien.	2310.0	5,028	2.4
3. Wedding	3267.5	337,193	103.2	46. Wuhlheide	1525.0	54	.04
4. Prenslauer Berg	2637.5	311,631	122.8	16. Cöpenick			
5. Friedrichschain	1995.0	321,105	160.9	47. Cöpenick	7760.0	32,586	4.2
2. Stralau	280.0	4,957	177.0	48. Fried'hagen	1257.5	14,847	11.9
6. Kreuzberg	2670.0	366,299	137.2	49. Rahnsdorf	1642.5	2,801	1.7
7. Charlottenburg				50. Mägdelheim	1055.0	186	.8
3. Charlottenburg	5860.0	322,792	55.1	51. Schmöckw.	862.5	576	.9
4. Heerstrasse s.	1557.5	464	.3	52. Bohnsdorf	1375.0	2,026	1.5
5. Plötzensee	130.0	1,601	12.3	53. Gränau	620.0	3,550	5.7
6a. Jungfernheide s.	882.5	227	.3	54. Cöpn. Forst	6472.0	211	.03
8. Spandau				55. Grä.-Dahmer F.	10250.0	127	.01
7. Spandau	12312.5	95,513	7.8	17. Lichtenberg			
8. Staaken	2765.0	5,537	2.0	56. Lichtenberg	3610.0	144,662	39.8
9. Tiefwerder	75.0	804	10.7	57. Friedrichsf.	4315.0	24,404	5.6
10. Pichelsdorf	307.5	399	1.3	58. Biesdorf	2327.5	2,945	1.2
11. Gatow	3095.0	609	.2	59. Kaulsdorf	2470.0	3,375	1.3
12. Cladow	3245.0	928	.3	60. Mahlsdorf	3275.0	6,118	2.9
13. Spandau Zit.	57.5	234	4.1	61. Marzahn	1820.0	745	.3
14. Heers., n. (Ruhl.)	450.0	309	.7	62. Biesdorf	495.0	117	.3
15. Pichelswerder	190.0	27	.1	63. Hellersdorf	1430.0	1,331	.9
9. Wilmersdorf				18. Weissensee			
16. Wilmersdorf	2082.5	139,406	66.9	64. Weissensee	2100.0	45,880	2.2
17. Schmargendorf	680.0	11,583	17.0	65. Malchow	1177.5	481	.4
18. Grunewald	647.5	6,448	9.9	66. Wartenberg	870.0	244	.4
19. Grw.-Forst	9425.0	507	.5	67. Falkenberg	715.0	351	.5
10. Zehlendorf				68. Hb'schö'hausen	2852.5	6,733	3.0
20. Zehlendorf	5390.0	20,561	3.8	69. Malchow	1432.5	363	.3
21. Nikolassee	247.5	1,980	8.0	70. Wartenberg	1185.0	153	.1
22. Wannsee	1740.0	3,979	2.3	71. Falkenberg	1852.5	348	.2
23. Dahlem	2042.5	6,224	3.0	19. Pankow			
24. Kl. Glien.	432.5	79	.2	72. Pankow	1572.5	57,935	36.8
25. Pfauenins	245.0	45	.2	73. Nie'schö'hausen	1377.5	18,907	13.7
26. Potsdam Forst n.	3040.0	25	.01	74a. Rosenthal e.	1197.5	1,620	1.3
11. Schöneberg				75. Blankenfelde	1367.5	549	.4
27. Schöneberg	2340.0	175,093	74.8	76. Bucholz	2887.5	4,906	1.7
28. Friedenau	360.0	43,833	121.7	77. Buch	710.0	3,795	5.4
12. Steglitz				78. Karow	1332.5	949	.7
29. Steglitz	1442.5	83,366	57.8	79. Blankenb.	1000.0	1,160	1.2
30. Lichterfeld	3510.0	47,213	13.4	80. Heinersdorf	985.0	1,005	1.0
31a. Mariendorf-Süd	237.5	3,690	15.5	82. Nie'schö'hausen	165.0	364	2.2
32. Lankwitz	1752.5	12,397	7.1	83. Rosenthal	852.5	129	.2
13. Tempelhof				84. Blankenfelde	1297.5	360	.3
33. Tempelhof	2882.5	34,365	11.9	85. Buch	4030.0	2,564	.6
31b. Mariendorf	2565.0	17,009	6.6	86. Blankenberg.	705.0	156	.2
34. Marienfelde	2377.5	3,849	1.6	20. Reinickendorf			
35. Lichtenrade	2252.5	4,837	2.1	87. Reinickendorf	2552.5	41,261	16.2
36a. Buckow w.	32.5	-	-	74b. Rosenthal w.	1030.0	4,433	4.3
14. Neukölln				88. Lääbars	1815.0	4,239	2.3
37. Neukölln	2925.0	262,128	89.6	89. Hermsdorf	1315.0	7,664	4.8
38. Britz	3330.0	13,477	4.0	90. Heiligensee	2162.5	2,045	.9
36b. Buckow e.	2342.5	2,395	1.0	91. Tegel	1440.0	20,590	14.3
39. Rudow	3500.0	1,447	2.5	92. Wittenau	2230.0	10,203	4.6
15. Treptow				93. Tegel-F.-N.	3837.5	77	.02
40. Treptow	1945.0	30,704	1.6	94. Tegel-Schl.	1277.5	727	.6
41. Oberschönewd.	707.5	25,612	3.1	95. Frohnau	1932.5	1,190	.6
42. Niederschönewd.	970.0	9,611	1.0	6b. Jungfernheide n.	2092.5	44	.02

(Note: Small letters following a subdivision indicate that the subdivision has been divided between two administrative districts in the general territorial integration of 1920, n indicating north, s indicating south, e indicating east, and w indicating west. This table does not include about 6 hectares of unallocated land (No. 81) which was obtained from the Gemeindebezirk Lindenbergl in 1922. Where two subdivisions have the same name, the former Landgemeinde is placed first, the Gutbezirke last.)

corporated in new Berlin, are also in Prussia constituted as corporations at public law⁷. In every such commune containing more than 40 electors a representative body is established called the common council (Gemeindevvertretung)⁸. This council consists of the communal director (Gemeindevorsteher), from 2 to 6 aldermen, and members popularly elected to make the total council number not less than 6 nor more than 144 according to a population ratio set up in the rural municipalities law⁹.

The duties of the council are described in some detail in the law¹⁰. It is perhaps significant that the powers of this body are residual, comprising those not specifically assigned by the law to the communal director, and that it has in addition the function of supervising local administration but is specifically prohibited from attempting under any circumstances itself directly to administer the communal services.¹¹ The decision of the council is subject to review by the county authorities and the superior district authorities in certain matters such as the pledging of the public credit, sale of real property belonging to the commune, and similar actions.¹²

Blachley and Oatman describe the functions of the communal director in the following terms.¹³

"The communal director is the chief administrator of the rural commune. The aldermen are associated with him in the work of administration. Both the director and the aldermen are elected by the common council, and formally appointed by the county director. The communal director is chairman of the common council, and possesses a vote therein. He is to carry out laws,

ordinances, instructions from his superior authorities, and the decisions of the common council (except when the last-named appear to him in excess of power, illegal, or opposed to the general welfare or general interest, in which case he must suspend them and ask the supervisory authorities to decide the point). He has considerable powers of financial supervision; he appoints and supervises such local officers as the common council may decide to establish; and he has charge of apportioning and collecting local taxes. He is the local agent for police administration; several other related functions are bestowed upon him.

The preparation of the annual budget is a function of the communal director. The estimates are displayed to the public for two weeks before the budget is voted by the common council. A copy of the budget as finally passed is sent to the chairman of the county committee. After the close of the fiscal year, budgetary accounts are submitted by the communal director to the common council for review and discharge. The reports are opened to the public, and a copy of the vote of acceptance is sent to the chairman of the county committee."

The twenty-seven Gutsbezirke or manorial estates which were absorbed by greater Berlin in the Consolidation Act of 1920 are purely feudal survivals and are in a general way the equivalent of the English rural civil parishes.¹⁴ From a political and administrative point of view the activity of these parishes was of such little consequence that they were readily incorporated in the new administrative districts formed by the consolidation act. At the same time it is significant to note that the act itself provided the requisite machinery for the continuation of these parishes, and the devolution upon them of substantive administrative functions upon the concurrence of the grossstadt government and the district government in which the parish was located, that such preservation would be advantageous to the purposes of the community.¹⁵ It should be recorded parenthetically that

this provision of the law has been utilized in a number of districts and that some fifteen of the parishes, many dating back to the fifteenth and sixteenth centuries, preserve the semblance of governmental integrity to the present day.¹⁶

The act of 1920 further dissolved the Zweckverband of 1911 and all other public corporations in the Berlin area.¹⁷ Hence the local authority of the entire Berlin metropolitan government is derived from the organic statutes of 1920 and 1931 as supplemented by the general regulations of city government - primarily the City Government Law of the Seven Eastern Provinces of 1853 as amended.

THE GROSSSTADT GOVERNMENT UNDER THE ACT OF 1920.

The City Council (Stadtverordnetenversammlung)

The municipal powers of the new corporation of Berlin were, by the organic act, vested in a representative assembly of 225 members, elected for four year terms.¹⁸ Suffrage qualifications are prescribed by the Reich, and the privilege extends to all German citizens over 20 years of age.¹⁹ The Constitution of Weimar provides for the election of municipal legislatures according to the principles of proportional representation.²⁰ The Constitution of Prussia also requires proportional representation, but specifies the list system,²¹ and the Landtag makes a peculiar adaptation of that system for Berlin.²² The importance of Berlin's electoral system to the political and administrative developments within the last decade impels a somewhat detailed description.

Berlin is divided, for the purpose of electing members of the city council, into 15 election districts (Wahlkreise).²³

The geographical composition of these districts, with 1925 qualified electors is as follows:²⁴

67

District I Mitte	215,702	District X Zehlendorf	
II Tiergarten	221,121	Steglitz	191,934
III Wedding	251,061	Tempelhof	
IV Prenzlauer Tor ²⁵	232,872	XII Neuköln	209,874
V Friedrichshain ²⁶	244,848	XIII Treptow	116,460
VI Hallesches Tor ²⁶	287,784	Cöpenick	
VII Charlottenburg	252,888	XIV Lichtenberg	140,844
VIII Spandau	78,380	XV Weissensee	
IX Wilmersdorf	129,191	Pankow	186,356
XI Schöneberg	176,178	Reinickendorf	

Election judges and deputies therefor are appointed by the executive board of the administrative district in those districts which are co-terminous with election districts and by joint committee in the election districts which are combinations of the administrative subdivisions.²⁷ These judges number for each district from seven to nineteen members. Within three days of the date of the election the judges must appoint on the basis of party strength from three to six election auditors from among the voters of the electoral district and in addition thereto a clerk who may or may not be a resident or voter of the district.

The names of the electoral judges and deputies are made public in accordance with local custom at least seven days before the date of the election. For the purpose of securing uniformity in electoral practice and procedure the magistrat appoints for each administrative district a chairman (Stadtwahlleiter), a deputy, and an advisory committee of six members elected from the list of electors of the district. A separate organization is utilized for the performance of the magistrat's mandatory function as supervisor of district elections. The magistrat appoints in each election district an election committee of four members which is presided over by a chairman (Kreiswahlleiter), and to which in the first instance appeals

lie concerning elections in the district, whether to city or district councils.

The rolls of qualified electors are made up by the executive boards of the administrative districts. These rolls are published during a period of eight days beginning at least four weeks before the election. Objections to the rolls may be entered within fourteen days after the time appointed for registration. The law provides for the special inscription of names on the register even on election day when adequate evidence is presented indicating a valid reason for not having registered at the appointed time.

The party lists must be prepared at least a month before the date of the election. The magistrat issues an announcement appointing a final date upon which a party list may be submitted and a later date for the submission of party combination lists. The party lists are required to be in the possession of the election chairman at least two weeks before the date of election although list combinations may be submitted as late as eight days before the election day.

City election lists (Stadtwahlvorschläge) must receive the endorsement of at least twenty qualified electors as must also district election lists (Kreiswahlvorschläge) of candidates for the central council. These lists may contain half as many more names as there are actual offices to be filled. The practice in this matter however varies greatly. On several city lists shown the writer less than one third of the members actually elected by the party were shown on the lists. Every slate must have some peculiar designation or symbol to distinguish it from other party lists. This is in the nature of a trade mark and the symbols of parties are not permitted to be similar

or in any way misleading. Every slate furthermore must contain the name of some one person with whom the authorities may deal as representative of the party submitting the list in the event of election irregularities or questions of any sort concerning the party list or the election. The chairman of the election board is required to publish officially all of the lists for both city and district elections with explanations of lists and combinations immediately prior to the election. The polling places open at nine o'clock in the morning and close at five in the afternoon. Election officials are sworn in by the historic teutonic custom of striking hands.

When the voter goes to the polls he must vote the party ticket or not at all. Under the bound list system of proportional representation it is impossible to vote for any particular individual. Furthermore even list combinations are permitted in Berlin only for the city-wide tickets and not for the district lists of people to be elected to the central council. In elections of district councillors however combinations are permissible.

Three lists are made up. There is first, the city-wide list, which is not voted upon by the elector at all but is simply a list to which surplus voters of the party or combination in the election districts are transferred; second, the district list of candidates to the city council; third, the district list of district council candidates (Bezirksverordnetenwahlvorschläge). Elections to the district councils are not herein considered separately as the mechanics of nomination, election procedure, and supervision are in general identical with analogous methods in the election of

the central city council, while the tallying of votes for district councillors is identical with the second step of the electoral process as illustrated in the accompanying table according to the "d'Hondt" method.

The accompanying table illustrates in concise form the exact operation in the 1925 Berlin municipal elections of this utilization of the "d'Hondt" method of arriving at electoral quotients. It may be important at this point to correct a statement made by a very distinguished American scholar in the field of German local government, Dr. Roger H. Wells, in his article on proportional representation in German cities.²⁸ He makes the statement that the division of the total number of valid ballots cast divided by the number of members to be elected to the city council gives, when this quotient is divided into the total number of ballots cast in a particular district, the number of councillors to be elected from that district. In point of fact this calculation gives nothing more than the electoral quotient by which candidates are chosen. Otherwise never more than **fourteen** candidates of all parties would be elected from the city-wide list. This of course is palpably absurd, as sixty-six out of two hundred and twenty-five councillors were elected in the 1925 election from the city-wide list.²⁹ Six of the eleven parties represented in the Berlin city council as a result of that election were able to place candidates in the assembly only through the city-wide list.³⁰

It is significant to note that the "d'Hondt" quotient

ELECTIONS FROM CITY-WIDE AND DISTRICT LISTS

DISTRICT LIST ELECTIONS (ELECTORAL QUOTIENT: 8,236 VOTES. 1,853,129 VALID BALLOTS CAST)

ADMINISTRATIVE DISTRICTS	SOCIAL DEMOCRATS		GERMAN NATIONAL PEOPLES'		COMMUNISTS		GERMAN DEMOCRATS		GERMAN PEOPLES' PARTY						
	Total Ballots cast	Transferred to Elected city lists	Total Ballots cast	Transferred to Elected city lists	Total Ballots cast	Transferred to Elected city lists	Total Ballots cast	Transferred to Elected city lists	Total Ballots cast	Transferred to Elected city lists					
Kreuzberg	69,487	8	3,599	39,382	4	6,438	33,726	4	782	15,547	1	7,311	9,323	1	1,087
Wedding	60,307	7	2,655	20,958	2	4,486	54,024	6	4,508	9,813	1	1,577	4,137	-	4,137
Friedrichschain	56,921	6	7,505	22,950	2	6,488	42,314	5	1,134	11,117	1	2,881	4,589	-	4,589
Prenzlauer Berg	58,933	7	1,281	26,411	3	1,703	32,692	3	7,984	12,502	1	4,266	5,201	-	5,201
Mitte	39,569	4	6,625	27,261	3	2,553	21,369	2	4,897	15,115	1	6,879	7,244	-	7,244
Tiergarten	38,390	4	5,446	34,146	4	1,202	19,836	2	3,364	15,391	1	7,155	8,430	1	194
Charlottenberg	38,861	4	5,917	37,066	4	4,122	17,336	2	864	22,144	2	5,672	12,314	1	4,078
Neukölln	56,123	6	6,707	17,759	2	1,287	35,138	4	2,194	8,170	-	8,170	5,272	-	5,272
Schöneberg	27,526	3	2,818	33,732	4	788	10,159	1	1,923	14,973	1	6,737	10,053	1	1,817
Lichtenberg	31,493	3	6,785	15,433	1	7,197	21,140	2	4,668	5,866	-	5,866	3,515	-	3,515
Wilmerdorf	16,304	1	8,068	27,073	3	2,365	4,737	-	4,737	13,974	1	5,736	8,503	1	267
Spandau	19,071	2	2,599	9,645	1	1,409	5,840	-	5,840	2,222	-	2,222	2,566	-	2,566
Steglitz, Tempelhof, Zehlendorf	30,496	3	5,788	36,924	4	3,980	11,194	1	2,958	11,184	1	2,948	18,509	2	2,037
Pankow, Reinickendorf, Weissensee	36,031	4	3,087	22,805	2	6,333	22,215	2	5,743	8,827	1	591	7,234	-	7,234
Treptow, Obpenick	25,184	3	476	13,779	1	5,543	16,021	1	7,785	4,909	-	4,909	4,556	-	4,556
TOTALS		65	69,356		40	55,894		35	59,121		12	72,940		7	53,794

CITY-WIDE ELECTIONS (UTILIZING D'HONDT QUOTIENT)

	SOCIAL DEMOCRATS	GERMAN NAT'L PEOPLE'S	COMMUNISTS	GERMAN DEMOCRATS	GERMAN PEOPLES'	WIRTSCHAFT CENTER	IND. SOCIAL DEMOCRATS	GERMAN NAT'L LIBERTY	GERMAN SOCIAL	EVANGELICAL												
Total transferred plus list combinations	69,356	55,894	62,155	72,940	55,106	77,363	63,265	14,598	27,536	25,210	17,178											
Divide by (1)	69,356	(3)	55,894	(6)	62,155	(5)	72,940	(2)	55,106	(7)	77,363	(1)	63,265	(4)	14,598	(31)	27,536	(15)	25,210	(17)	17,178	(27)
(2)	34,678	(10)	27,947	(13)	31,077	(12)	36,470	(9)	27,553	(14)	38,682	(8)	31,632	(11)	7,299		13,768	(36)	12,605	(39)	8,589	(58)
(3)	23,119	(19)	18,631	(23)	20,715	(21)	24,313	(18)	18,369	(24)	25,788	(16)	21,088	(20)	4,866		9,145	(53)	8,403	(60)	5,726	
(4)	17,339	(26)	13,974	(33)	15,538	(29)	18,235	(25)	13,776	(35)	19,341	(22)	15,816	(28)	3,650		6,884		6,302		4,294	
(5)	13,871	(34)	11,179	(43)	12,431	(41)	14,588	(32)	11,021	(45)	15,472	(30)	12,653	(38)	2,920		5,507		5,042		3,436	
(6)	11,559	(42)	9,316	(51)	10,359	(48)	12,157	(40)	9,184	(52)	12,894	(37)	10,544	(46)	2,433		4,589		4,202		2,863	
(7)	9,908	(49)	7,986	(62)	8,769	(56)	10,420	(47)	7,872	(64)	11,052	(44)	9,038	(55)	2,085		3,934		3,601		2,454	
(8)	8,670	(57)	6,987		7,769	(65)	9,118	(54)	6,888		9,545	(50)	7,908	(63)	1,825		3,442		3,151		2,147	
(9)	7,706		6,433		6,906		8,104	(61)	6,123		8,596	(59)	7,029		1,622		3,059		2,801		1,909	
(10)	6,936		5,589		6,215		7,294		5,511		7,736	(66)	6,326		1,460		2,754		2,521		1,718	
ELECTED	8	7	8	9	7	10	8	1	3	3	2											

is utilized only in the tallying of the city-wide lists of city councillors. In district elections, wherein no transfer of votes from a geographical point of view is possible, the "d'Hondt" method is used entirely.

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List combinations are permitted in the district elections and in the city-wide lists, but not in the district lists for city councillors. As is evidenced in the tables, list combinations are frequent among certain of the parties; smaller parties not having a chance to elect even one councillor usually combine for the city lists with larger organizations. Thus in the 1925 election seven small groups failed to combine with other groups and failed to elect a single candidate³¹. However, not one of the small combining groups was able to muster enough votes to place even one candidate, as the candidates under combined lists are divided according to the voting strength of each party in the combination³². 20 parties offered candidates in 1925³³.

Organization and Procedure

The city council is, under the law, free to organize itself as it sees fit and to determine its own procedure. This it has done in a standing order which prescribes its operating technique in considerable detail³⁴. It elects annually a chairman (Stadtverordneten-Vorsteher) and three deputy chairmen (Stadtverordneten-Vorsteher-Stellvertreter). It elects annually also six auditors (Beisitzer) and an equal number of deputy-auditors (Beisitzer-Stellvertreter). In addition, a secretariat (Büro der Versammlung) is provided to be organized, and its members appointed by the chairman and his deputies in their collegial capacity (Vorstehen).

The order provides for the appointment of nine standing⁷² committees of the council:³⁵ 1). Finance; 2). Personnel; 3). Servants and Laborers; 4). Board of Hearing on appointments and pensions of officials and teachers; 5). Elections, so far as within the jurisdiction of the council; 6). Petitions and Complaints; 7). Audit; 8). Purchase and sale of real estate; 9). Unemployment and wages.

In addition to these nine standing committees, there is a superior committee (Altestenausschuss), which is, in effect, the steering committee of the council. It is composed of 17 ordinary members, nominated by the Fractions and elected by proportional representation. To the ordinary membership is added an equal number of deputies, bringing the total to 34. Provision is made, in addition, for the selection of special or temporary committees of the council, although the writer was informed that virtually the whole of the council's work is handled through its permanent organization.³⁶

For the purpose of facilitating balloting and internal procedure generally, official recognition is given to fractions. Ordinarily, of course, a fraction is composed of the adherents of a particular party within the council. Since, however, list combinations are permitted in the city-wide tickets, some fractions may represent a combination of parties. The Geschäftsordnung permits eight or more members of the council to organize a fraction, choose a chairman, and operate as a voting unit in the council.³⁷ Such groups have certain privileges in nominations, etc., which unorganized blocs do not enjoy.

The procedural orders of the council may be divided into

three sections. The first gives the council rules of procedure.³⁸ The second concerns the procedure of the several standing committees, and is specially designed for each committee in order to secure adequate hearing for the type of problem with which it deals.³⁹ The third is a general procedural code for the standing committees.⁴⁰ The general functioning of the council is readily understandable from a review of the main features of the first and last sections.

The arrangement and determination of the agenda is in the hands of the Vorsteher, although in ordinary sessions the council is not bound by the program which the president presents. It is further provided that at the first reading of measures, the debate shall be of a general character, indicating the attitude of the fractions in the council toward the purpose and broad method of the measure. Specific amendments are not permitted. The measure is then referred to committee by the president, and upon reading out of committee, the second reading follows. It is here that the specific debate occurs. The members of the magistrat may be summoned, or may appear, to explain the features of the proposal. In connection with certain sorts of measures, hereinafter explained, representatives of the district councils and of the district boards appear for debate, interpellation, and explanation. The council may decree a re-reference to committee and a third reading. In case the measure is called for third reading, the council may, on its own initiative. open debate de novo.

The council decrees the day and time of its own sessions on the first meeting of each year. It presumably meets weekly,

with a summer adjournment during July and August. A quorum of 33 per cent of the membership of the council is required to transact business, and the president may, in the absence of a quorum, adjourn the session. An extraordinary session may be called by the president or by the magistrat, and 25 per cent of the membership constitutes a quorum.

The procedural rules of the standing committees are, for particular types of business, rather minutely elaborated. Concerning action upon appointments and pensions, for example, detailed closure provisions, as well as complicated rules for reading measures out of committee on special schedules, are offered.⁴¹ The general rules for standing committees are, however, relatively simple.

The standing committees elect, by majority vote, their own presiding officer, his deputy, and necessary secretarial officials. The presiding officer, or in his absence the deputy, calls the meeting of the committee; one third of the committee's membership constitutes a quorum. The powers of the presiding official are very liberal; he may divide the questions presented to the committee and refer them to appropriate technical officers of the administration for information and advice. Committee powers in summoning persons of all sorts, officials of the central administration, of the district administrations, and private citizens, are extremely broad.

All questions referred to committees must be returned; measures can be carried indefinitely only by tabling, which is a procedure of the whole house. Once the committee acts, the reading out of its decision is automatic, and rereference

is only possible upon petition of the house, concurrence of the president, and majority approval of the council.

These requirements indicate a somewhat accelerated movement of legislative matters, at least as compared with analogous American bodies. Actually, the council is an extremely deliberate body. But measures go to the council in much better condition than is normally the case in municipal councils of other countries. Virtually all questions submitted to the council have received the careful scrutiny and revision of the magistrat and the technical officers of the government. Adequate information is immediately available upon which decision with accuracy and dispatch is practicable. All of these factors vastly simplify the work of the council and its committees.⁴²

Functions

Dr. Herbert Luckas has divided the functions of the Berlin city council into three classes:⁴³

1. It is the final authority upon all local functions (Gemeindeangelegenheiten) except insofar as it has itself delegated conclusive jurisdiction to the magistrat.

2. Under the revised Städteordnung it must give its advice to the magistrat upon all proposals or requests which that body makes.

3. It is responsible for supervision and control over the entire administration. In the performance of this duty it has, under par. 37 of the Städteordnung, complete investigatory powers and a definite right of control over the actions of the magistrat.

It is a commonplace - but an extremely important common-

place - of German municipal theory that cities may exercise residual powers.⁴⁴ They may, in fact, do anything which is not specifically in the law, or by reasonable implication, or by special veto of superior administrative authorities, forbidden them. The Städteordnung makes no attempt to determine the metes and bounds of "local" functions; the courts and superior administrative authorities are not guided by anything analogous to the stifling limitations which the "law of public purpose" imposes on American cities; nor does the organic act of the greater city contain any mention of what activities the corporation may or may not undertake. Such matters are, in Germany, left always in the first instance to the local government; these concerns form one of the major phases in the functioning of the Berlin council.⁴⁵

Concerning the second class of the council's task considerable criticism has arisen.⁴⁶ Dr. Luckas at least by implication deprecates the imposition of what is essentially, in many cases, a technical function upon a representative body.⁴⁷ Formerly the questions which the magistrat might refer to the council was rather highly circumscribed by law. Under the revised Städteordnung there probably has occurred a certain amount of irresponsibility, such as was occasioned in this country by the popular initiative and referendum. This is not, however, a condition peculiar to Berlin; the plaint that the magistrat is tending to avoid many of its responsibilities by referring tangled problems to the council is not infrequently encountered in large German cities.⁴⁸ On the other hand there has been a steady encroachment on the part of the council in

administrative affairs, which the magistrat has, of late, been unwilling definitely to resist.⁴⁹

In supervising and controlling administration the customary modes of action of the council may be summarized briefly. It selects the bürgermeister and his deputy, it chooses the magistrat, the members of the deputations elected from the council as well as the lay members. In describing the details of procedure reference has already been made to the type of measures which come before the council, as well as their volume. It should be noted here that all questions which affect municipal policy in any manner must be referred to the council for decision; unquestionably this encumbers the council with some trivial and unimportant work, but it insures the council's supremacy in matters of policy.⁵⁰

Post-war developments have not altered materially the conception of the rôle which the council customarily has assumed in municipal government. Its subject matter is prepared for it, its research is done by expert technicians, its bills are drafted by those competent in such matters. Actually, the hyper-politicalization of municipal legislative life, of which Dr. Norden, among others, complains bitterly, has done much to derogate the dignity which the Berlin council traditionally has enjoyed.⁵¹ Dr. Wells, in a letter to the writer, complained that the council was "noisy, disorderly, and its deliberation ineffective." Experience has sustained this opinion. German critics are not so restrained.⁵² There is good reason to believe, however, that these tendencies are in part only a temporary phase of political inflation. That they are attendant upon the electoral system is unquestionably

true; their occurrence in the present degree as a necessary consequent of that system is less conclusive.

The action of the council in giving effect to its decisions is either by local laws (Ortsgesetzen) or municipal ordinances (Gemeindebeschlüssen or Satzungen). Local laws require, for their legality, the approval of the Oberpräsident of the province of Brandenburg. The local law, it should be noted, becomes in effect an act of the state, with the full force of state sanction behind it in its execution. It becomes a Rechtsnorm. Usually the local law is organic in nature; for example, the requirement that the unpaid members of both city and district boards, the councillors of both the city and the districts, and the lay deputies be elected to the deputations by proportional representation is an Ortsgesetz. A law establishing the Siedlungswesen deputation, is however, effected by ordinance (Satzungen). The first binds the council just as completely as a provision of the Stadtverfassung; the second it is free to alter at will.⁵³

The Administrative Board (Magistrat)

The magistrat of Berlin consists of 30 members.⁵⁴ Of these 18 are professional administrators. The remaining 12 are laymen, elected from the council or summoned from private life to assist in the administration of the city. All of the members are chosen by the council. The paid members are employed by contract, and frequently come from other cities. They are selected because of technical efficiency and ability; they are examples of the professional municipal service for which Germany has become noted throughout the world. The unpaid members are elected by the council according to the principles of

proportional representation.

The paid members of the magistrat are, of course, the nexus of its organization and functioning. These include the first mayor (Oberbürgermeister), the deputy mayor (Bürgermeister), and, in Berlin, eight major departmental chiefs as well as seven paid members assigned to less important divisions of the administration. One of the members is head of the finance department (Stadtkämmerer), another is in charge of the legal department (Stadtsyndikus). The health activities of the city are under the direction of still another, the Stadtmedizinalrat. In the engineering department there are four chief functionaries, the superintendent of surface structural engineering (Hochbau), the superintendent of underground construction (Tiefbau), the director of transit (Verkehr), and the superintendent of mechanical engineering (Maschinenbau). The city superintendent of schools is also in Berlin a member of the magistrat; he is called the Stadtschulrat. The eight other paid members of the magistrat are assigned to key positions on the various deputations, and complete the technical directorate for the city's services.

Partly as a check, partly as a mode of liaison between the internal operations of the administrative board and the council and the citizenry, and partly to leaven the mass of high-priced technical ability which the paid section of the magistrat represents, laymen, who may or may not have knowledge of the subject matter with which they are dealing from a technical point of view, are interspread throughout the tech-

nical services. Their functions are mainly to give common-sense counsel and to act as official observers. This is a long-established practice in German local government. It is, in many ways, the most successful method of lay participation in public administration which has yet been devised, although in post-war times the appointments are usually clearly partisan, and the value of the lay members has definitely declined.⁵⁵

Organization and Procedure

The organization and working methods of the magistrat are quite simple. The mayor is the head of the board. He calls its sessions, and either he or his deputy conducts its meetings. He arranges its agenda. He assigns the members to the various departments of the government, coordinates their work, inspects their activities, and supervises generally the execution of the decisions which the magistrat makes within its sphere of action. The relation of the mayor to the magistrat is, in both law and fact, rather elastic.⁵⁶

The sessions of the magistrat are not public. Decisions of the magistrat are made by a majority of its membership. Generally speaking, the ordinary procedural rules of the city council apply also to its sessions, although the magistrat is quite independently capable of ordering its own procedure.

It should be mentioned that the magistrat is, despite the definite terms of office provided for by law, and the complete power of the council to replace the unpaid members with each change in the council's personnel, organized upon

a permanent basis. After the election of 1925, for example,⁸¹ three of the unpaid members retired and were replaced; the other nine were reelected as a matter of course.⁵⁷ The retirements were, so the writer was informed, by request of the retiring member in each case, and were of no extraordinary political significance.

Functions

Paragraph 56 and related sections of the Städteordnung outline in a general way the powers and functions of the magistrat. It is here that the character of the magistrat as a second chamber of the municipal council becomes apparent. It is, of course, not properly conceived of as a part of the legislative branch. For practical purposes, the magistrate collective functions as prescribed by law indicate a tendency to separate to a considerable degree the legislative and representative functions.

In the first place the magistrat prepares, virtually in toto, the matters which come before the council. These may, of course, take the form of mere general suggestions, of detailed ordinances affecting policy, or of reports to the council concerning which the latter body has no jurisdiction. The council may initiate legislation on its own motion. Under any circumstances, whether it is a proposal originating in the council or a magistrat proposal which has been amended by the council, the magistrat is given a veto power. The disagreement may be carried to the provincial Oberpräsident and to the Prussian Ministry of the Interior for final resolution.

In the second place, the magistrat possesses an ordinance

power entirely outside the jurisdiction of the council. This⁸² power is in large measure the result of its authority and responsibility in the administration of all municipal services. Except for measures which involve the expenditure of funds or the alienation of municipal property the authority of the magistrat is conclusive in the conduct of municipal services. The Berlin magistrat has several times, and very properly, emphatically disallowed counciliar proposals which related to the internal administration of municipal departments. It holds that the public influence which ought to be present in the administration of local services is adequately provided in the representation of the council and the burghers on the deputations.

As a German official who is familiar with American local government summarizes it, "The magistrat has the veto power of a chief executive under the strong-mayor type of city government, and the ordinance power which is declared to be an integral part of the city-manager plan." The ordinance power of the magistrat is, however, vastly broader and more firmly rooted in both law and tradition than that which any American manager has yet apparently attempted to exercise.

The more important functions of the magistrat are to be observed as it fills the rôle of the executive arm of the city government. In this capacity its functions are as follows:

1. It is the budget-making authority for the city. Its task here is two-fold. In the first place it must prepare the budget for the central administration, which spends about one-third of the money which Berliners put into current expenses, and virtually all of the capital outlays made. In the second

it must take the budgets which the district boards submit to it, coordinate the proposals and bring the totals within the probable range of governmental revenue.

2. It is the agency of financial administration.

After the council has received and adopted the budget, and the rate to meet the budget's requirements has been set, the complete administration of fiscal affairs returns to the magistrat. Actually, of course, this function is delegated to the Stadtkämmerer, who is the municipal controller. He is charged with general supervision of the collection of taxes, both those collected by the central administration and the district authorities, the reporting of revenues, the monthly audit, and, in fact, with every phase of budgetary execution.

3. The magistrat is the custodial agent of the city. It is charged with the care, maintenance and supervision of all public works and enterprises in the city insofar as not regulated by state authority. The authority of the council may be established in cases involving public works administration only when the action of the magistrat involves the expenditure of municipal funds or the alienation of municipal property.

4. The magistrat appoints all the paid civil service employees, except the paid members of the magistrat, itself, who are chosen by the council. The council is entitled to have the names of functionaries being considered for appointment submitted to it, and it maintains a standing committee to consider magisterial appointees. But its authority is only advisory, and the magistrat is in no manner inhibited finally from making the appointment which it deems best.

Some appointments, however, are subject to approval by the

state. Educational functionaries in the higher ranks are notable examples of this class.

5. A special type of authority in administrative supervision and control is delegated to the magistrat in section 27 of the organic act. This section of the law reads as follows: "The magistrat, in all cases, retains the power to restrain action under resolutions of the district assemblies, the district boards, and the district deputations, if the municipal interest urgently so requires, or if the resolutions of the district authorities exceed their competence or violate the laws. The resolution whereby the magistrat restrains the carrying out of resolutions of the district assembly shall state the reasons for the veto."

The purpose of this provision is perhaps obvious. In the first place it is probably the only acceptable method of controlling the subordinate units in a manner which will enable the state authorities and the municipal council to enforce against the magistrat the responsibility for local administration which the Städteordnung imposes upon it. In the second place, the action anticipated necessitates the construction of complex legal and technical questions, and German theory does not place such matters as appropriately within the jurisdiction of the representative branches of the local government.⁵⁸

The authority of the magistrat is not, however, conclusive. Section 28 of the organic act provides that if the magistrat and the district authority concerned are unable to agree, appeal shall be had - again, not to the council - to an arbitral board, to consist of two city council appointees,

and two district council appointees, which four choose the umpire member of the board. In case the four disagree, the provincial Ober-Präsident makes the fifth appointment. This provision, insofar as it is significant to the relations between the district and the city will be treated in a later section.

The function of the magistrat as an agency of external supervision and control is frequently of equal importance with its internal duties. The Reich constitution contains a number of provisions which definitely impose obligations and restrictions upon municipalities.⁵⁹ The enforcement of these is a function of the magistrat.⁶⁰

Finally, the magistrat must be viewed as an organ of state control. The Städteordnung charges it with the administration of state laws and ordinances in the Berlin area.⁶¹ It does not, as in other municipalities, assume responsibility for the administration of the Ortspolizei in its collegial capacity, although the Police President of the Berlin Police District shares his powers with the Oberbürgermeister of Berlin, particularly as regards building, road-construction, and school police.⁶²

As an organ of the state, the magistrat is endowed when so acting with all the sanction which paragraph 132 of the Landesverwaltungsgesetz provides.⁶³ It goes without saying that when the magistrat is acting in this capacity its responsibilities toward the council are suspended.⁶⁴

The First Mayor (Oberbürgermeister) and Mayor (Bürgermeister)

Reference has already been made to the selection of the mayor. The organic law of the city provides also for a deputy mayor, to be chosen by the council. The functions of the "bürgermeister" are the same as those of the oberbürgermeister, and all his actions are in the name of the first mayor. He is, in short, the alter ego of the first mayor insofar as the first mayor wishes to delegate the "power of attorney" to him. He has no functions by virtue of his position, although he sits in the magistrat. In point of fact a very considerable portion of the first mayor's duties is delegated to the mayor, and the position in Berlin has commanded several outstanding figures, such as Ritter and Scholz.

The functions with which the mayor is charged, in addition to that of generally supervising the magistrat and of appointing certain members of the deputations, may be outlined as follows:⁶⁵

1. He is the responsible agent for the performance of any state or national functions delegated to the city and not assigned to other authorities.
2. He exercises disciplinary power over the paid civil service below the grade of magistrat.
3. Under paragraph 37 of the Städteordnung⁶⁶ and paragraph 15 of the Zuständigkeitsgesetz⁶⁷ he must veto any action of the magistrat which in his opinion violates the law, transcends the authority of the magistrat, or by which the state welfare or the welfare of the city is imperiled. Appeal in such cases lies directly to the Prussian Ministry of the Interior.

4. His connection with the local police administration has been previously mentioned.

It is readily to be observed that the powers of the oberbürgermeister do not in any sense give him substantive control over the city administration. Paragraph 57 of the Stadteordnung definitely imposes the directory functions of the municipal administration upon the magistrat acting in its collegial capacity, and when the magistrat so acts the oberbürgermeister is only primus inter pares. Prior to the reforms of 1931 the bürgermeister had no formal coördinating power over the other members of the magistrat. His authority in placing them in the administrative structure of the city was of no importance as to the paid members because the paid members were distinguished specialists employed by the council for particular posts to which the oberbürgermeister was compelled to assign them by virtue of their own proficiency. While he has always had under paragraph 37 of the Stadteordnung and paragraph 15 of the Zuständigkeitsgesetz⁶⁸ the power and duty of vetoing any action of the magistrat which in his opinion violates the law or transcends the authority of the magistrat as prescribed in the Stadteordnung or by which the state welfare or the welfare of the city is brought into jeopardy, the exercise of this power is frowned upon throughout the entire Prussian administration,⁶⁹ has been severely circumscribed by the Prussian administrative courts,⁷⁰ and is generally criticised as exercising a disruptive influence upon the unity of city government.⁷¹

The Supervisory Committees (Deputationen)

The administrative organization of a municipality as

complex in character and diverse in activities as Berlin is vastly more elaborate than would be indicated by the relatively simple structural arrangement of the magistrat. In addition to the general oversight exercised by the magistrat in its collegial capacity, a number of advisory committees have been created. The number of these, as well as their composition, is regulated by municipal ordinance. There are nineteen of these deputations in the Berlin administration at the present time, which are designated as follows:⁷²

Public Works	Taxation and Finance
Forests and Agriculture ⁷³	Savings Bank
Business and Professions	City Bank
Welfare	Supervisory Board for the Public Utilities of <u>Ortsteil</u> Buch
Health	Cattle Yards and <u>Slaughter</u>
Retemaking and Price Regulation	Houses
Labor	Markets
Buildings and Structures	Street Cleaning and Cartage
Transit	Technical and Vocational School
Education (<u>Secondary and elementary supervisory</u>)	Physical Education and Development

Selection

There are four types of members of these supervisory committees;⁷⁴ first, the paid members of the magistrat, who are assigned to their respective deputations by the oberbürgermeister; second, the members of the administrative boards of the districts who are nominated by the chairman of the district boards and chosen by the oberbürgermeister of the city; third, the unpaid members of the magistrat, who are elected by the city council according to the principles of proportional representation; fourth, the lay members of the deputations (Bürgerdeputierten), who are also elected by the council according to the principles of proportional representation.

The table below indicates the composition of the more important deputations by classes of members:⁷⁵

Deputation	<u>Magistrat</u> Members	District Chairmen - nominees from district boards confirmed by <u>oberbürgermeister</u>	City Councillors	<u>Bürgers</u>
Meat Markets and Slaughter Houses	2	1	11	3
Forests	2	1	9	3
Secondary and Tech- nical Schools	2	2	17	
Arts and Cultural Development	3	2	17	9
Welfare	3	2	17	9
Health	3	2	17	5
Habitations and Building	3	2	11	5
Street Cleaning and Trucking	3	2	11	5
Fire Protection	3	2	11	5

Organization and Procedure

There are no special statutes governing the organization or procedure of the deputations, nor does the Städteordnung impose any obligations upon the supervisory committees regarding such matters. The council and magistrat have, in ordinances governing matters supervised by deputations, prescribed certain procedural requirements in considering these matters.⁷⁶ In case the council or magistrat has not spoken, the deputations regulate themselves. It is the general practice, so the writer was informed, for a chairman to be chosen by the members, and a regular periodic schedule of sittings arranged. In its pro-

cedure it is essentially a hearing committee; the presence of magistrat members who are dealing directly with the problems before the deputation obviate the necessity for calling witnesses, etc., in its normal procedure, although it has adequate power in this connection.⁷⁷

Functions

The deputations must be regarded as subordinate and assisting organs to the magistrat. They meet, discuss the agenda which has been prepared by the chairman and the technical officials attached to the deputation, hear and formulate proposals concerning the phase of the city's business with which they are entrusted, and finally submit a report to the magistrat. The decision of the deputation is in no case conclusive, as such, although ordinarily it carries much weight, and in many instances is traditionally final.⁷⁸

The deputation acts only in a collegial capacity. Its members, unlike the magistrat officers, have no individual functions resulting from their membership in the deputation.⁷⁹

THE ADMINISTRATIVE DISTRICTS (VERWALTUNGSBEZIRKE)

INTRODUCTION

Juristic Character

"To safeguard local interests, to provide for self-government, and to relieve the municipal authorities of the city of Berlin, a district assembly and a collegiate district board shall be organized in each administrative district."⁸⁰

On the basis of this pronouncement of purpose, much controversy has arisen as to the juristic character of the twenty administrative districts established by the unification laws. Are the administrative districts municipal corporations? The journals of proceedings of the Prussian legislature indicate a tendency not to distinguish, in discussing the districts, between the corporation, in the name of which the central city authorities act, and the collective Bürgerschaft, whom the district authorities are supposed to represent.⁸¹ Dr. Luckas insists that a distinction is fundamental.⁸² He is not entirely supported in this position by judicial decision; the courts have declared that the district as such, and not its citizenry, are at least for certain purposes to be recognized as juristic persons - Rechtssubjekt.⁸³ Stier-Somlo agrees that the district council, does not act in the name of the Bürgerschaft from a juristic point of view.⁸⁴ At the same time the districts have, for many purposes, been taken out of the operation of the Städteordnung and cognate statutes,⁸⁵ although this argues little for or against their juristic personality.⁸⁶ Körner and Brell state bluntly that the districts are not juristic persons.⁸⁷ Luckas summarizes his discussion

by saying that the districts may be bodies corporate for the purposes of the central administration but not as regards external relations.⁸⁸ This is considered an overly-simplified resolution of the problem by many students of German local government.⁸⁹ It must be admitted, nevertheless, that the administrative districts lack many elements and attributes which local governmental units of an accepted corporate character possess. The vitality of the administrative districts as a fact, however, completely submerges jurisprudential refinements of the theory of public corporations.

Size and Composition of District Council

The electoral technique by which members are elected to the city council has already been described in discussing the electoral system in Berlin generally. It should be noted that the organic act provides for the number of deputies in the district assembly according to the following schedule:⁹⁰ Districts with

less than 50,000 inhabitants	15 district councillors
50,000 - 100,000 inhabitants	30 district councillors
100,000 - 200,000 inhabitants	40 district councillors
more than 200,000 inhabitants	45 district councillors

Members elected to the city councils from the different districts are also seated in the district council and where several administrative districts are combined to make an election district, they are seated in the district council of their home district or are assigned by the municipal council to a district council.⁹¹ Hence every member of the city council is also a member of a district council. Thus

there are in Berlin 780 district councillors who with the 225 central councillors make a total of 1,005 municipal legislators. The significance of the duplication of personnel of central and district councils will be discussed in a later section dealing with relations between the central city and the administrative districts.

THE DISTRICT COUNCIL (BEZIRKSVERORDNETENVERSAMMLUNG)

Organization and Procedure.

The organic act lays the groundwork of the district council's organization and procedure.⁹² It is required annually to elect from among its membership a chairman, a secretary, and deputies for each of the officers. It is required to hold regular meetings, and special sessions are provided to be summoned by the chairman when necessary, and under conditions of call and notification to be determined by a standing order. The meetings of the district council are open to the members of the central magistrat and their deputies, as well as the members and deputies of the district board, and these members must be heard as often as they desire to speak. Sessions are provided under ordinary circumstances to be public, but by special order the public may be excluded. The chairman or his deputy presides at all sessions, and is responsible for the agenda and the orderly procedure of the council. In ordinary meetings one more than half the membership constitutes a quorum; if, however, the meeting is called for the purpose of considering a matter which has been up before, the actual number of members present and voting constitute a quorum. The summons issued for the special session, the first meeting having been adjudged incompetent to act,

must specifically call attention to this fact. Resolutions may be adopted by a majority vote, and a tie vote is considered a negation. Members not voting and invalid votes cast count in establishing a quorum but not in calculating the majority. Beyond these requirements the district council regulates its own functioning; the last section of the paragraphs dealing with procedure provides, "The district council shall determine its own rules of order."⁹³

In point of fact, the procedure of the district councils is far from satisfactory. They seem to suffer from the same overly-political tendencies which Dr. Wells has noted as characteristic of the grosstadt legislature. The writer's experience with several of the councils confirms this estimate. Wedding and Neukölln seemed particularly disorderly. These conditions have been remarked upon by many German critics,⁹⁴ and their suppression, as will be seen, is an integral part of the current reform legislation.⁹⁵

Functions

Section 22 of the organic act summarizes in succinct form the tasks for the performance of which the administrative districts were created. It reads as follows:

"Subject to the limitations of the principles established by the municipal authorities, the district assembly shall legislate upon all affairs of the district.

"The district assembly is responsible for the supervision of the administration of those municipal services and institutions of its Verwaltungsbezirke which are intended principally to serve the interests of the Verwaltungsbezirke. It shall, as a basis for the municipal budget, annually prepare a report upon the needs of these institutions and services, and shall submit it as a proposal to the magistrat, through the district board. In preparing the budget for the city of Berlin, special appropriations shall be adopted for the purposes of the districts, and shall

be assigned to the districts to be put into effect. To put into effect these appropriations, the organs of the district shall be given an appropriate field of action.

"The resolutions of the district assembly, except for its rules of order, shall be put into effect by the district board.

"The district assembly has the right to investigate the carrying out of its resolutions and the use made of the means available for the local institutions and purposes of the Verwaltungsbezirke. It may, for this purpose, require from the district board, complete access to its records.

"The district assembly has the duty of electing all honorary officials of the district.

"The district assembly, through the district board, shall transmit to the municipal authorities requests, suggestions, and proposals concerning its Verwaltungsbezirke.

"The competence of the district assembly may be enlarged by joint resolution."

Section 23 of the organic statute also charges the district council with the function of electing the district board, the chairman of the district board, and his deputy.

Section 26 of the statute provides for the appointment of district supervisory committees, or deputations, by joint resolution of the district assembly and the district board.

Section 29 of the act empowers the district council, through joint resolution with the district board, and with the approval of the central magistrat, to subdivide the districts into parishes (Ortsteile), and to provide for legislative and administrative organization within these parishes, and to confer upon these subordinate units powers and functions, within the limits of the field of action of the district as defined by the grossstadt council.

The District Administrative Boards (Bezirksamt)

Size and Selection

The original act of April 27th, 1920, set the number of the district board members in each administrative district at seven. It was understood that this restriction applied to only the paid members. An addendum to the act which appeared in the final statute of July 20th allowed the modification of the number of members by local law, which requires the approval of the higher authorities, provided that at the same time the proportion of paid and unpaid members were prescribed.⁹⁶ In point of fact, no boards were erected under the terms of the original act. During December of 1920 and January 1921 the new Ortsgesetz governing this point was worked out.⁹⁷ It provided for boards varying from 5 paid members in Weissensee to 10 paid members in Neukölln. Unpaid members also varied, from 4 in Weissensee, Pankow, Spandau, and others, to 7 in Charlottenburg, Wilmersdorf, Neukölln, and several others. This number was again modified in conformity with the Prussian Law of 1924 governing personnel expenditures.⁹⁸ The new act contracted the boards to the extent of 1 to 3 paid members in every district; the unpaid membership was not altered. Again, in 1926, another Ortsgesetz was offered, which increased the total paid membership to 107, adding one paid member each in six districts.⁹⁹ The unpaid membership was at the same time increased from 107 to 127.

As noted above the board members are elected by the council; the local law governing the election of unpaid members to the magistrat applies also to district board unpaid members.¹⁰⁰

The paid members, like their prototypes in the central magistrat, are employed for terms of twelve years; the unpaid members are elected for a four year period.

Organization and Procedure¹⁰¹

The chairman and his deputy are chosen by the district council. The chairman is given the title of district bürgermeister, and the members are called Bezirksräte. The rules previously noted for the conduct of the sessions of the council of the district are repeated virtually in toto for the district boards. The sessions of the board are open at all times to members of the central magistrat, who must be heard as often as they desire. Sessions are called by the bürgermeister, and he acts as chairman. Disciplinary power over the district bürgermeister is in the hands of the grossstadt Oberbürgermeister; over the Bezirksräte and the other administrative officials of the district in the bürgermeister of the district board.

The political aspects of the district board vary from district to district. In Charlottenburg and Steglitz, for example, long experience with the bürgermeisterverfassung, or centralized executive, type of administrative organization impels an observance of the non-partisan tradition on the part of the bureaucrats.¹⁰² In Weissensee, however, the district board is thoroughly partisan from top to bottom; including the paid members. The bürgermeister and two other paid members are Social Democrats; the fourth is a member of the German National People's Party.¹⁰³ Under the present electoral procedure all unpaid members of all boards or deputa-

tions are, of course, thoroughly partisan.

Functions

The organic statute outlines the functions and duties of the district boards as follows:¹⁰⁴

"The district boards are the administrative boards of the district. Also they are executive organs of the magistrat and must conduct, in accordance with the principles established by the magistrat the affairs which the magistrat assigns to them. They are subject to the control of the magistrat.

"The magistrat must hear the chairmen of the district boards sitting in joint session before acting upon:
1) the budget; 2) any changes in functional allocation between the grossstadt and district administrations;
3) the veto of any measures or acts of the district councils, boards, or deputations, under par. 27 of the act.

"The district boards are responsible for the administration of the municipal services and institutions of their Verwaltungsbezirke, except those administered directly by the magistrat. The district boards appoint all their officials, though without prejudice to the right of the magistrat to replace officials for the good of the service; the reasons for such replacements are to be communicated to the district board concerned. The authority to represent the municipality externally may be granted to the district board by local act (Ortsgesetz).¹⁰⁵

"The district boards have the duty of mediating between the district assemblies and the municipal authorities."

As previously noted, the district boards concur with the district assemblies in the creation of district deputations and in the erection of parishes within the district and the allocation of functions, as well as the provision of administrative machinery for these subordinate units.

This rather guarded statement of district powers and functions has led to almost universal error on the part of foreign students in the conception of the relative adminis-

trative rôles of central and district administrations.¹⁰⁶ It is to be observed that the statements herein contained are designed to insure the necessary powers of control to the central magistrat, and, in connection with other portions of the organic statutes, to provide an elastic groundwork and method of rearranging the functional allocation between central and local government upon a purely pragmatic basis.¹⁰⁷ The conclusion that the city is centrally administered because of this power of control and intervention is as erroneous as identifying German and French local governments in general because of the power of higher authorities in Germany to intervene and control or displace local authorities under certain circumstances.

District Bürgermeister

It is not difficult to ascertain the reasons for the differentiation between the administrative structure in central and local administration which has produced a district executive head with substantial powers of leadership and control. In the first place the Prussian administration and the Prussian legislature were in agreement as to the desirability of establishing a district administration which was simple and direct in operation and sufficiently integrated to permit direct control by the magistrat in times and on subjects which demanded central intervention.¹⁰⁸ In the second place the Landgemeinde was the dominating type of administrative organization in the Berlin area prior to the consolidation.¹⁰⁹ As has been previously noted the communal director headed a unified and centralized executive branch of local administration.¹¹⁰ Hence although the language of the statute

provides for a collegiate district board its intent is clearly to establish the bürgermeisterverfassung. Thus, for example, the district bürgermeister has complete control over all of his administrative subordinates even including his colleagues on the district board,¹¹¹ and while the district board in its collegial capacity exercises a very considerable ordinance power, this ordinance power is specifically prescribed in the organic act.¹¹²

THE SUPERVISORY COMMITTEES (DEPUTATIONEN)

Selection

The supervisory committees are composed of members of the district boards from both paid and unpaid categories, of district councillors, and of citizen deputies.¹¹³ The paid members of the district board are assigned by the bürgermeister, all others are elected by the council according to the principles of proportional representation. These committees vary greatly in size and composition within the districts and as between districts. The general practice is to preserve about the same relation between paid and unpaid board members, councillors, and citizen deputies as occurs in the grossstadt deputations. Because of the detailed and diverse nature of the work of the district administration its supervisory structure is vastly more complicated than is that of the grossstadt administration. The following tabulation gives the deputations and boards which Charlottenburg uses in supervising the district's affairs.¹¹⁴

Health and Nutrition
 Housing
 Finance, Taxation and Real
 property
 Arts and Sciences
 Schools
 Supervisory Board for Higher
 Technical Education
 Official Personnel
 Care of Youth
 Inheritances
 Building Alterations
 War Veterans Relief
 Supervisory Board for District
 Children's Officials
 Welfare

War Survivors Relief
 Building and Transit
 Cartage and Street Cleaning
 Depository Supervisors
 Board for Gifts to City-Hall
 Gallery
 Board for Young People's
 Homes Union
 Directorate for Welfare Center
 Athletics
 Curators for Academy of Social
 Hygiene
 12 Boards of Directors, Super-
 visors, and Curators of
 Public and Quasi-public Medi-
 cal, Charitable, etc. Institu-
 tions

Organization and Procedure

The district deputations, like the grosstadt committees, hold regular meetings at which they discuss the phases of municipal services supervision entrusted to them. The district bürgermeister appoints their presiding officer, but the district deputations select their own deputies and secretarial officials.¹¹⁵ Their procedure is in every respect analogous to that of the grosstadt deputations.¹¹⁶

Functions

The organic act expressly states that the deputations shall be subordinated to the district boards under all circumstances.¹¹⁷ Their function is to review, consider, and recommend to the district board. They may, by local act, be accorded the right to represent the city externally. Their decisions are not conclusive upon the district board. The dignity of the findings of the deputations, it should be mentioned, varies greatly from deputation to deputation within districts, and also greatly between districts. Charlottenburg deputations, for example, enjoy the same high regard in district affairs which many of the grosstadt deputations have. Like American legislative committees, some of the deputations

are used to give political undesirables innocuous and obscure positions - "political lethal-chambers for Communists," was the description accorded them by a Charlottenburg official.

SUMMARY

The Act of 1920, in consolidating the 95 governmental units in the Berlin metropolitan area, proceeded distinctly upon the hypothesis that the 20 administrative districts would constitute vital and active agencies of administration in supplying the requisite public services of metropolitan conditions. The fourteen districts created from area outside the hitherto jurisdiction of the Berlin authorities were, in each instance, centered upon relatively populous towns, to which were annexed those portions of the outer "sub-nucleus" hinterland judged to have similar problems and similar interests, and which, with the outlying center as a nucleus, would constitute a vital and homogeneous political and administrative organism. The division of the former city of Berlin into six administrative districts proceeded from the belief that the pre-consolidation metropolis was too large economically to administer the devolved administrative functions with the administrative apparatus best suited to the needs of the outlying districts. It proceeded further from the conviction that the old city was not, within itself, a unified municipality from a social and economic point of view in the sense in which the outlying districts were expected to constitute such. Finally, the outlying districts themselves felt that if the old city were continued as a single administrative district it would completely dominate the new city, and that whatever local independence which might otherwise accrue to them by virtue of the federated admin-

istrative structure would be abrogated. It should be mentioned that the partition of the former city of Berlin was much opposed in 1920, and has continued to be a mooted point in every discussion of the reform of the city government. At the same time, proponents of metropolitan federalism have held firm to the viewpoint that the administrative functions of the districts should be uniform and that the administrative apparatus should be in large measure closely similar for all districts. It is felt that this would be impossible if old Berlin were reconstituted as a single administrative district.

The electoral provisions set up in the law governing Berlin elections have both helped and been helped by the accuracy with which the territorial integration of 1920 erected homogeneous organisms. As was repeatedly pointed out to the writer by German students and officials, the objection to the Verhältniswahl - that it tends unduly to emphasize the relations of the representative to the party at the expense of his responsibility to his constituency - current in other Prussian cities has been largely eliminated by the duplication of functions of the Berlin city-councillors. The vast majority of grossstadt councillors are elected from constituencies in the administrative districts per se; they sit in the district council meetings with full rights and are important figures in the district's governmental life; their fractional caucuses in the city council operate, to a considerable degree, in much the same manner as the London Standing Joint Committee of Metropolitan

Boroughs, and in these meetings the constituency receives careful consideration. As a German student explained it to the writer, it is little wonder that under such circumstances the local representatives go to the central council in much the same frame of mind that diplomatic emissaries go to a disarmament conference. It is, in his words, "not so much that the central magistrat, which I regard as the single important agency in the grosstadt government vitally predisposed toward governmental and administrative centralization, is weak in its relations with the central council, as it is that the political organizations are strong in dealing with the magistrat; and it must be remembered that in Berlin when one speaks of municipal politics one speaks of it in terms of district political organization." He further pointed out that in several instances in which the administrative structure had been made the foot-ball of the contending political factions, the action of the central council in attempting to weaken the position of opposing parties in districts in which the majority party of the city council was not the majority party of the district council, the functional allocation between city and district, which is effected by ordinary counciliar resolution, had been rearranged sometimes to the actual loss of the functional jurisdiction of the administrative subdivisions generally, and that the political system by and large had injected a considerable element of instability into the entire functional allocation. As will be seen in a subsequent chapter, this problem is

definitely dealt with in the reform legislation of 1931.

The Act of 1920 set up for the administration of the affairs of the central city government a collegial executive - the magistratsverfassung. The oberbürgermeister was not given substantial authority in the control of administration, and the politicization of the magistrat which came as a result of the democratic tendencies and the vitalization of the political parties following the Revolution, substituted political for executive allegiance in the administrative organization, which former had before the Revolution enabled the magistratsverfassung to provide satisfactory and responsible government despite a formally headless administrative structure, but under present circumstances broke down completely and brought about conditions which disgraced the central administration, deposed the oberbürgermeister, and at least precipitated the drastic reforms of 1931.

The Act of 1920 erected in the twenty administrative districts into which the new city was divided administrative arrangements strikingly similar, as regards actual functioning, to those of the former Landgemeinden. The district bürgermeister was the effective head of the local administration, and was so held in responsibility by the local councils. Unlike the communal director of the Landgemeinden, he is not the chairman of the council under the 1920 Act, but he is made such under the reform legislation of 1931. The ordinance power of the Kollegiales Bezirksamt is also somewhat broader than under the bürgermeisterverfassung as it generally operates, and distinctly less unified than in the Rhine provinces. On the other

hand, the fact that the district administrations have become largely dominated by partisan influences has prevented in considerable degree the disintegration in fact which is somewhat possible in law. Students of Berlin government generally have agreed that the district is at an enormous advantage in dealing with the central city, even in purely administrative affairs, because the district operates administratively and politically as a unit. It is impossible to determine the degree to which this unity of district administration, within its functional jurisdiction, is due to the constitutionally stronger position of the district executive or to the results of the political system. It is equally difficult to evaluate unified administration, as administration, under such conditions. At the same time, it is perhaps noteworthy that the reform legislation of 1931 further consolidated the constitutional administrative position of the district bürgermeister, and completely established his dominance in district affairs.

1. See accompanying map and table.
2. Los Angeles is the largest with an area of 420.5 square miles or 107,648 hectares.
3. New York City (1930) 6,930,446; County of London (1931) 4,396,821; Berlin (1928) 4,227,862. Berlin has by this time probably surpassed London.
4. Supra, p.
5. See, for example Berlin als Einheitsgemeinde, a brochure issued by the Charlottenburg Magistrat in 1920; Jentsch, Der Ausbau der öffentlichen Selbstverwaltung; Stadtrat Dr. Reiss summarizes the facts indicating the consciousness of a separate existence on the part of the outlying districts, and the recognition of this condition in the 1920 act, in the following terms: "Haben denn die Berliner zwanzig Bezirke eine Eigenart? Die Begründung zum Entwurfe des Gesetzes von 1920 betont, dass die Nachbargemeinden des alten Berlin - dem Charakter der angrenzenden Stadtteile von Berlin sich eng anpassend - untereinander so verschieden seien wie diese Stadtteile untereinander, denen sie auch in der sozialen Gliederung der Bewohner nahestehen; zum Beweis werden die Wohnungsverhältnisse angeführt. Weiter heisst es, die Teile des einheitlichen Wirtschaftskörpers seien so verschieden wie die Teile des menschlichen Körpers, und wie diese seien sie in ihrer Funktion aufeinander angewiesen. Aus diesen Bemerkungen lassen sich bereits zwei Gesichtspunkte herauschälen, die für die Eigenart der zu verschmelzenden Gemeinden als entscheidend angesehen worden sind: die

funktionelle Bedeutung für die gesamte neue Gemeinde, den einheitlichen Wirtschaftskörper, und ihre soziale, gewordene, durch die angrenzenden Alt-Berliner Teile beeinflusste Eigenart. Bei der Gruppierung der Gemeinden und Gutsbezirke zu Verwaltungsbezirken sollte dann nicht schematisch die Bevölkerungszahl massgebend sein, sondern auf wirtschaftliche Zusammengehörigkeit und Verwandtschaft der einzelnen Kommunen Bedacht genommen werden, ja sogar den Wünschen der Beteiligten Rechnung getragen werden. Man muss sich mit durch die bisherige Entwicklung geschärftem Auge diese Stellen der Begründung vergegenwärtigen: spricht aus ihnen doch geradezu die Rücksicht, wenn nicht die Zusicherung, den aus verschiedenen Gemeinden zusammengeschweissten Verwaltungsbezirken ihre soziale und funktionelle Eigenart zu belassen und zu bewahren, ja sie durch die Zusammenfassung verwandter Teile noch mehr auszuprägen; freilich findet sich daran geknüpft die Erwartung, dass später die Interessen der früher selbständigen Gemeinde- und Gutsbezirke sich allmählich mehr und mehr im allgemeinen Interesse der Einheitsgemeinde auflösen würden, dass die Teile sich zu einem 'homogenen Körper' verschmelzen würden. Wie das letzte gemeint ist, ist nicht ganz klar, da wohl die Verschmelzung zu einem Ganzen denkbar erscheint, aber kaum eine Homogenität etwa des Grunewaldbezirks Wilmerdorf mit einem der nördlichen Innenbezirke erzielt werden kann."

"Aufgaben der Stadtverwaltung und regionale Struktur" in Brennert and Stein, Probleme der neuen Stadt Berlin, p. 23 et seq. A more popular exposition of this same point is given by a Berlin litterateur, Karl Scheffler, in a chapter

"Die neuen Stadtteile," contained in Berlin, ein Stadtschicksal, p. 179 et seq.

6. Dr. V. von Leyden, Die Berliner Verfassung, p. 8.
7. Landgemeindeordnung für die sieben östlichen Provinzen, Preussisches Gesetz Sammlung 1891, p. 233 et seq.
8. Landgemeindeordnung, etc., lex cit., Sec. 5.
9. Ibid., Sec. 49.
10. Ibid., Sec. 102.
11. Ibid., Sec. 103.
12. Ibid., Sec. 114.
13. Government and Administration of Germany, p. 318 et seq.
See also Landgemeindeordnung, etc., lex cit., Sections 74, 75, 84, 88, 90, 91, 119, 120, 139-145.
14. According to a memorandum from Dr. von Leyden.
15. Gesetz über die Bildung einer neuen Stadtgemeinde Berlin vom 27 April - 7 Oktober 1920, Sec. 29.
Preussisches Gesetz Sammlung 1920, p. 123 et seq.
16. See "Verwaltungsbezirk Treptow," which is Verwaltungsbericht der Stadt Berlin 1924-1927, Vol. XXIII, p. 8;
"Verwaltungsbezirk Neukölln," Ibid., Vol. XXII, p. 5;
"Verwaltungsbezirk Tempelhof," Ibid., Vol. XXI, p. 5;
"Verwaltungsbezirk Weissensee," Ibid., Vol. XXVI, p. 5;
See also Syndikus Steinberg, Die Auflösung der Gutsbezirke, ihre Auswirkungen, insbesondere die Auseinandersetzung, passim.
17. Gesetz über die Bildung, etc., lex cit., Sec. 3.

18. Ibid., Sec. 8.
19. Reichsverfassung, Art. 110; A concise statement of the Reich statutes on this point is contained in de Grais, Handbuch der Verfassung und Verwaltung (24th edition), p. 26 et seq.
20. Ibid., Art. 17. Dr Roger H. Wells summarizes the requirement of the federal constitution as follows: "Article 17 of the German Constitution, after stipulating that the legislature of each state shall be directly elected 'according to the principles of proportional representation' contains the following sentence: 'The principles governing the election of state representatives shall also apply to municipal elections.'" There are three points to be noted with reference to the wording of this sentence. In the first place it applies only to Ortsgemeinde, a term which includes both cities and towns, but does not include other local authorities, such as counties, provinces, ad hoc districts, etc....In the second place, the federal requirement pertains only to the popularly elected town or city council. This excludes, for example, the Magistrat in Prussian cities, a body which is chosen by the council but exercises legislative powers as well as serving as the collegial executive...Finally, it will be noted that the federal mandate does not require any special type of proportional representation, but only that such elections shall be according to the principles of the Verhältnismahl. Hence, it would be entirely permissible to use the Hare system

of the single transferable vote as is done in Cleveland." "Proportional Representation in German Cities," National Municipal Review, Vol. XVII, p.398, (July 1928).

Opponents of the selection of the unpaid members of the magistrat and the deputations by proportional representation place considerable reliance upon these facts. Opponents of p.r. in counciliar elections also contend that if the Prussian Constitution and laws could be amended, Berlin's near-provincial status might remove its elections from the Reich mandate. But neither the Reichstag nor the Prussian Landtag regard Berlin as a province. See the law governing elections to the Reichsrat (Reichsgesetzblatt 1921, Vol. I, p.446) and the Prussian Staatsrat (Preussische Gesetz Sammlung 1920, p. 90).

21. Preussische Verfassung, Art. 74.

22. Verordnung zur Sicherung einer geordneten Verwaltung in der Stadtgemeinde Berlin vom 30 July 1921.

Preussische Gesetz Sammlung 1921, p. 445. See also Verordnung zur Ausführung der Wahlen zu der Stadtverordnetenversammlung und Bezirksversammlung der Stadtgemeinde Berlin von 26 August 1925, Ibid, 1925, p. 109; Wahlordnung für die Wahlen der Stadtverordneten und Bezirksverordneten in Berlin vom 26 August, 1925, Ministerialblatt für die Preussische innere Verwaltung 1925, p. 911.

23. Gesetz über die Bildung, etc., lex cit., Sec. 14 and Annex 2.

24. Statistisches Taschenbuch der Stadt Berlin, p. 224.
25. Also Prenzlauer Berg.
26. Also Kreuzberg.
27. This is a summary of the main provisions of the statutes and administrative orders cited in note 22; supra. For a very thorough criticism of this system in general, and particularly as it operates in some of the smaller administrative districts, see Dr. Johannes Schauff, "Kritik am preussischen Kommunalwahlrecht," Tremonia No. 282 (October 13, 1929).
28. Op. cit., p. 400, n. 3.
29. Verwaltungsbericht der Stadt Berlin 1924-1927, Vol. I, p. 18.
30. Wirtschaft, Center, Independent Social Democrats, German National Liberty, German Social and Evangelical. See Statistisches Taschenbuch, etc., p. 224. In the 1921 Elections 62 members were elected on the city-wide lists, the German Socialists and the Center being the only two of the nine parties represented in the council placing candidates only in the city-wide election lists. See Verwaltungsbericht der Stadt Berlin 1921-1924, Vol. I, p. 52.
31. These being Staegemanns National Union of Landlords and Householders, Workers, German Workers, Resolute (Entschiedene) Democrats, National Economic Union, and the German Bourgeoise. See Taschenbuch, etc., p. 224.
32. The Sparerbund and the National Liberal Reichs Party entered combinations, but failed to place candidates with 4,100 and 1,312 votes respectively, as the

lowest quotient which elected under the d'Hondt calculation was 7,336. See Taschenbuch, etc., p. 224; see also the accompanying table herein.

33. See accompanying table and notes 31 and 32, supra.
34. Geschäftsordnung für die Stadtverordnetenversammlung der Stadt Berlin, the text of which is reproduced in Körner and Brell, Berliner Ortsrecht, p. 108. et seq.
35. Geschäftsordnung, etc., lex cit., Sec. 13. It should be mentioned that the committees of the council are elected by proportional representation, but the auditors and deputies mentioned above are chosen by absolute majorities.
36. Ibid., Sec. 13.
37. Ibid., Sec. 11; this practice is analogous to the fraction provision of the procedural orders of the Reichstag: see Giese, Grundriss des Reichsstaatsrechts, p. 84 et seq.; and Luckas, Zentral- und Bezirksverwaltung der Stadt Berlin, p. 35, for special privileges of organized fractions in the Berlin council. For an interesting commentary on the vitality of the fractions, see "Vereitstellung städtischer Sitzungsräum für Stadtverordneten fraktions-sitzungen" in Mitteilungen des Deutschen Städtetages for August 1921, p. 352.
38. Geschäftsordnung, etc., Art. III, Secs. 32-52; also Art. I, Secs. 1-15. All debate is limited to five minutes per speaker. Closure may be applied by the president upon petition of 15 members. Virtually all special actions of the council are initiated upon petition by

a minimum of 15 members. An analysis of the types of measures by sources coming before the council is also illuminative of the nature of the council's deliberative procedure. For the period from July 1, 1920 to March 31, 1924 the council heard and acted upon 3100 acts of the magistrat which required counciliar confirmation, 140 magistrat reports, 400 independent motions of members of the council, 120 questions put by councillors in interpellation, and 170 petitions and grievances. From 1924 to 1928 the corresponding figures were 2080, 344, 495, 306, and 235. Verwaltungsbericht, etc., 1921-1924, Vol. I, p. 54, and Vol. I of the second series (1924-1927 Verwaltungsbericht) p. 20. See also below, p.

From 1920-24 the council convened in 134 ordinary and 64 extraordinary sessions. From 1924-28 ordinary sessions numbered 118, and extraordinary 47. Verwaltungsbericht, etc., 1921-1924, Vol. I, p. 54, and Vol. I, second series, p. 20.

39. For examples see Satzung für das Finanz und Steuerwesen, Gemeindeblatt der Stadt Berlin 1925, p. 7, as amended; Satzung für die Sparkasse der Stadt Berlin, Körner and Brell, op. cit., p. 157; Satzung für das Schulwesen, Dienstblatt, etc., 1924, Vol. VIII, p. 584; Körner and Brell, op. cit., p. 178 and ordinances cited.
40. Geschäftsordnung, etc., lex cit., Secs. 53-64.
41. Geschäftsordnung, etc., lex cit., Secs. 24-27.
42. See Geschäftsordnung, etc., lex cit., Secs. 16-23, and

Oertel. Die Städteordnung für die sechs östlichen Provinzen der Preussischen Monarchie vom 30. 5. 1853., p. 184 et seq.

43. Luckas, op. cit., p. 31 et seq.

44. "The Prussian law furnishes no definition of the conception of the commune and its functions. Therefore recourse must be had to the common law...But according to the common law of Germany...the commune does not pursue more or less isolated ends, but has the right to engage in all relationships of public life. The commune can accordingly embrace within the sphere of its operations everything which furthers the welfare of all, or the material interests and intellectual development of the individual. It can establish, take over and support enterprises of general utility, which serve these purposes. The autonomy of the commune upon all these territories will be limited only by state supervision." Entscheidungen des Oberverwaltungsgerichts, Vol. XII, p. 155 et seq. (at p. 158); Ibid., Vol. XIII, p. 89. The translation is that appearing in Blachly and Oatman, op. cit., p. 304.

45. See von Leyden, op. cit., p. 5 et seq.

46. See for example Dr. Ernst Landsberg "Berliner Verwaltungs Reform. In Wechselwirkung mit Finanz- und Wirtschaftskreise" Berliner Tageblatt (No. 427) August 16, 1930 (Dem.); Dr. Kurt Jeserich "Die Reform der Berliner Verwaltung" Der deutsche Volkswirt No. 25 (1930); Dr. Th. Mosheim "Die Reform der Berliner Verfassung" Reichs- und Preussischesverwaltungsblatt

No. 13 (1930); Bezirksverordneten Carl Perls "Zur Verwaltungsreform in Berlin" Selbstverwaltung und Demokratie No. 9 (1930); Stadtinspektor Dieke (Berlin-Schöneberg) "Die Organisation der grosstädtischen Verwaltung" Rundschau für Kommunalbeamte No.30 (1929); Hermann Friedemann "Berlin von heute. Seine Stadtverwaltung und seine Wirtschaft" Berliner Börsen-Courier (No. 246) May 30, 1929.

47. Op. cit., p. 65; for an excellent statement of the effects of this function of the council see von Leyden, op. cit., p. 14 et seq.
48. See Meyer-Lülmann, Ein Querschnitt durch die deutsche Stadtverfassung, Sec. 41 et seq.
49. "The Berlin Magistrat...was a kind of little parliament. In it the political contrasts of the city council were again reflected. Too often the Magistrat showed itself weak in its dealings with the council. Of a unified administration, of a great policy, of a strong will which must dominate such a giant organization as Berlin there was no talk. Hence it is not surprising that, as was repeatedly emphasized in the hearings before the state legislature's hearing committee, the administration was split open and the leading men lost their perspective." Norden, "Berlin's New Government," in National Municipal Review for December 1931, p. 699.
50. See for a thorough discussion of the control function of the council Ledermann-Brühl, op. cit., p. 172 et seq.
51. Prof. Dr. Walter Norden "Die Berliner Verfassungsreform.

Im Spiegel anderer Weltstadt- Verfassungen" Berliner Tageblatt (No. 147) March 27, 1930 (Dem.).

52. For example Luckos, op. cit., p. 64; see also an editorial, "Geschäfte der Berliner Stadtverwaltung," in Magazin der Wirtschaft, No. 40, 1929.
53. See in this connection Stier-Somlo, op. cit., Vol. I, p. 53 et seq. Blachly and Oatman, op. cit., have an excellent chapter on "Forms of Administrative Action," the principles of which are largely applicable to local government. See p. 606 et seq.
54. Paragraphs 11 and 13 of the Act of 1920 regulate the size and composition of the Magistrat.
55. See Munro, Government of European Cities (1st edition) p. 168, for the commendable features of the unpaid magistrat-member system. Norden, in "Berlin's New Government," op. cit., p. 698, is convinced that the change in the economic background of the Berlin council in post-war times has destroyed the usefulness of this device in cities such as Berlin.
56. This is true only as regards the bürgermeister under the magistratsverfassung. See Solomon, "Powers and Duties of the Burgomaster," Public Management, June, 1927.
57. Verwaltungsbericht der Stadt Berlin 1924-1927, Vol. I, p. 21.
58. See Luckas, op. cit., p. 39.
59. For example Articles 110, 119, 122, 133, 143, 146, 148 of the Reichsverfassung.

60. See in this connection Blachly and Gatman, op. cit., pp. 298-301.
61. Par. 56, Sec. 2. The extraordinary importance of this function is due to the unique position which Berlin occupies as a separate state administrative district from the Province of Brandenburg in which it is located. While the provincial ober-präsidenten is the supervisory president for the Berlin area the magistrat serves as the bezirksausschuss. See Ortsgesetz über die Bildung des Stadtausschusses der Stadtgemeinde Berlin, the text of which appears in Körner and Brell, op. cit., p. 136.
62. Körner and Brell, op. cit., p. 62.
63. Preussisches Gesetz über die allgemeine Landesverwaltung vom 30. 7. 1883. Preussische Gesetz Sammlung 1883, p. 165.
64. Luckas, op. cit., p. 40.
65. Städteordnung, etc., lex cit., Sections 58-63; Gesetz über die Zuständigkeit der Verwaltungs- und Verwaltungsgerichtsbehörden, vom 1. 8. 1883., Preussische Gesetz Sammlung 1883, p. 237. An excellent English summary of the general powers of the chief executive are given in Solomon, op. cit.
66. Städteordnung, lex cit.
67. Zuständigkeitsgesetz, lex cit. Apart from his administrative functions it should be mentioned that he is the authority of initial instance as regards complaints

against municipal officials except himself, in which latter occurrence the Prussian Ministry of the Interior is the court of first instance. See Weiss, "Kommunalverfassung," in Deutscher Kommunal-Kalender 1926, p. 273 et seq.

8. Städteordnung, lex cit.; Zuständigkeitsgesetz, lex cit.,
9. Luckas, op. cit., p. 44.
10. See Entscheidungen des Preussischen Oberverwaltungsgerichts, Vol. 74, p. 46; Ibid., Vol. 78, p. 67 et seq.
11. See in this connection the comments of the Prussian Minister of the Interior before the Landtagsausschuss, contained in Drucksache des Preussischen Landtags, No. 6990, p. 59. For a general commentary on the Berlin Oberbürgermeisters rôle in recent years see "Die Berliner Oberbürgermeister. Ein Rückblick auf das Werden der Reichshauptstadt," Deutsche Allgemeine Zeitung (No. 91) Feb. 23, 1930.
12. Verwaltungsbericht der Stadt Berlin 1921-1924, Vol. I, p.56; Ibid., 1924-1927, Vol. I, p. 21.
13. This deputation is in effect a board of management for the vast farming estates of the City of Berlin, which is the largest landholder in Germany at the present time.
14. See in this connection the Ortsgesetz für die Durchführung der Verhältnisswahl gemäss Par. 12, 13, 23 and 26 des Gesetzes vom 27. April 1920, Gemeindeblatt der Stadt Berlin 1922, p. 256; Ortsgesetz über die Zuwahl von Mitgliedern der Bezirksämter zu den zentralen Verwaltungsdeputationen und sonstigen ständigen Verwaltungskörpern, Dienstblatt der Stadt Berlin 1924, Vol. I, p. 140.

75. Satzung für den Vieh- und Schlachthof, Dienstblatt der Stadt Berlin, 1925, Vol. 1, p. 175; Satzung für das Forstwesen, ibid., 1924, Vol. I, p. 14; Satzung für das Schulwesen, ibid., 1924, Vol. I, p. 584. (The secondary and technical schools deputation consists in addition to those indicated in the table of one school principal, one member elected by the teaching staffs of these schools, and two representatives of employers and employees of the municipality named by the city council.); Satzung für das Kunst- und Bildungswesen, ibid., 1924, Vol. I, Supplement; Satzung für das Wohlfahrtspflege, ibid., 1925, Vol. I, p. 317; Satzung für das Gesundheitswesen, ibid., 1924, Vol. VII, p. 48; Satzung für das Siedlungs- und Wohnungswesen, ibid., 1925, Vol. V, p. 18; Satzung für das Stadtreinigungs und Fuhrwesen, ibid., 1924, Vol. V, p. 18; Satzung für das Feuerlöschwesen, ibid., 1925, Vol. I, p. 296.
76. See for example Richtlinien für den Unterstützungsausschuss der Wohlfahrtsdeputation und Grundsätze für das allgemeine Unterstützungswesen, Dienstblatt, etc., 1925, Vol. VII, p. 7; Verwaltungsbestimmungen und technische Richtlinien für die Unterhaltung von Kunstdenkmälern, ibid., 1925, Vol. I, p. 411.
77. See in this connection Par. 26 of the Instruktion für die Stadtmagistrate vom 25. 5. 1835, which is discussed in detail in von Kamptz' article in the Annalen des Deutschen Reichs für Gesetzgebung, Verwal-

tung und Volkswirtschaft, Vol. XIX. p. 733 et seq. (1887).

8. See Ledermann-Brühl, Die Städteordnung für die sechs östlichen Provinzen der Preussischen Monarchie, Anmerkung 2 to Par. 35 (2nd ed.). See also Entscheidungen des Reichsgerichts in Zivilsachen, Vol. 64, p. 108; ibid., Vol. 73, p. 205; ibid., Vol. 94, p. 254.
9. For a very interesting discussion of this point see Dipl.-Komm. E. Bechtold, "Hat der einzelne Stadt- oder Bezirksverordnete ein selbständiges Aufsichtsrecht?," Kommunale Umschau No. 21 (1930).
10. Act of 1920, Par. 14, Sec. 3.
11. Drucksache der Verfassunggebenden Preussischen Landesversammlung 1919-1920, No. 1286, Sp. 56. "Vertretung der Bürgerschaft des Verwaltungsbezirke" is the phrase used in describing the district council in this document which is the occasion for the debate.
12. Op. cit., p. 54. The Reich courts have indeed declared that the collective citizenry cannot be considered as legal persons. Entscheidungen des Reichsgerichts in Zivilsachen, Vol. 76, pp. 89-90, which concurs with the English law.
13. Entscheidungen des Preussischen Oberverwaltungsgerichts, Vol. 76, p. 88.
14. Op. cit., Vol. I, p. 274.
15. For example, as regards administrative organization, city functions, etc.
16. This point is developed in Steinberg, op. cit., in the introduction.
17. Op. cit., p. 18.

88. Op. cit., p. 55.

89. According to the district officials of several districts and at least one member of the Prussian Administration. The divergence has existed from the outset apparently. Cf. Herz and Brell, op. cit., p. 9:

"Das Stadtverfassungsgesetz vom 27. April 1920, das den aus 94 kommunalen Einheiten bestehenden Berliner Wirtschafts- und Verkehrsbereich zu einer neuen 'Stadtgemeinde Berlin' zusammenfasste, löste im Verlauf seiner Entstehungsgeschichte lebhaft literarische und parlamentarische Erörterungen über die organisatorische Gestaltung einer derartigen Grossgemeinde aus. Die verschiedenen Lösungsversuche für die allgemein als dringlich anerkannte Notwendigkeit, an die Stelle der kommunalen Zersplitterung eine planmässige Verwaltungsgemeinschaft zu setzen, gruppierten sich um zwei gegensätzliche Grundauffassungen. Während der Bürgerausschuss Gross-Berlin die bisherigen Einzelgemeinden mit sonderörtlichen Zuständigkeiten aufrecht erhalten und sie lediglich durch einen Gesamtverband zur Erfüllung der Gemeinschaftsaufgaben ergänzen wollte, setzten sich die Linksparteien (SPD. und USP.) für einen straffen Zusammenschluss in einer Einheitsgemeinde ein. Der von den Ministern Hirsch und Heine der verfassunggebenden preussischen Landesversammlung im November 1919 vorgelegte Gesetzentwurf entschied sich für den Gedanken der Einheitsgemeinde, da das Kernproblem in dem Missstand liege, dass ein in sich

geschlossener und zusammengehöriger Wirtschafts- und Verkehrskörper in getrennte und selbständige Verwaltungsbezirke zerlegt ist, wobei gleiche Aufgaben mit ungleichen Mitteln gelöst werden sollen." (Begründung S. 32). Abhilfe könne daher nur "durch straffe Zusammenfassung der Zusammengehörigen Gemeinden Gross-Berlins" geschaffen werden, als das "natürliche Mittel" hierfür biete sich die vom Entwurf vorgesehene Einheitsgemeinde (Begründung S.36). Als Ausgleich für diese Konzentration der Verwaltungsbefugnisse wurde eine Dezentralisation vorgeschlagen, durch die "den Teilen die Möglichkeit zu wirtschaftlich selbständiger, kraftvoller eigener Tätigkeit gegeben werden" sollte."

Abgeordnete Leid, quoted in Herz and Brell, op. cit., p.10:

"Meine Damen und Herren, wir wollen aber wirklich eine Einheitsgemeinde, und deswegen haben wir von Anfang an uns auf den Boden des Regierungsentwurfs stellen können. Wir haben allerdings gesehen, dass dieser Gedanke der Einheitsgemeinde im Ausschuss stark durchlöchert worden ist, und wenn wir uns heute den Entwurf, wie er uns aus dem Ausschuss zur Beratung und Beschlussfassung zugegangen ist, näher ansehen, so finden wir, dass zwar in par. 1 des Gesetzes von einer einheitlichen Gemeinde Gross-Berlin die Rede ist, dass aber dieser Gedanke in der Fassung der übrigen Bestimmungen nach den verschiedensten Richtungen scharf durchbrochen ist. In Wirklichkeit trägt dieser Gesetzentwurf den Namen einer Einheitsgemeinde nur äusserlich, aber der Sache nach

finden wir Bestimmungen, die eine starke Selbständigkeit der Bezirke mitsichbringen und eigentlich eine gross Konzession an den Charakter der Gesamtgemeinde darstellen, und ich verstehe eigentlich nicht, wie die Anhänger der Gesamtgemeinde sich mit einer solchen Lebhaftigkeit, wie sie heute hier gezeigt haben, selbst von ihrem Standpunkt aus, überhaupt noch gegen diese Vorlage wenden können." Hirsch and Heine in Drucksache der Verfassungsgebenden Preussischen Landesversammlung 1919-1920, No. 1286, p. 37.

"Dass auch die Einheitsgemeinde nicht einfach die früheren Einzelgemeinden zu toten Bezirken herabdrücken will, denen jede selbständige kommunale Tätigkeit unterbunden ist, versteht sich von selbst. Der Angelpunkt des Entwurfs ist im Gegenteil die zweckmässige Dezentralisation der Verwaltung im Sinne einer möglichst freien Stellung der örtlichen Verwaltungsbezirke. Das Bestreben war hierbei, den Verwaltungsbezirken Selbständigkeit zu geben, soweit der Gedanke der Einheitsgemeinde dies irgend zuliess. Unter allen Umständen muss aber eine gedeihliche Entwicklung des Gesamtkörpers sichergestellt werden."

Abgeordnete Wutzky, in Herz and Brell, op. cit., p.11:

"Ich bin aber doch davon überzeugt, dass die Verteilung der Geschäfte zwischen der Zentrale und den einzelnen Bezirksverwaltungen eine solche werden wird, dass der Gross-Berliner Magistrat in der Hauptsache eine mehr direktive Tätigkeit, eine mehr beschliessende, grundsätzliche Tätigkeit ausüben und an Verwaltungsaufgaben selbst

so wenig wie möglich beteiligt sein wird."

Prussian Ministry of the Interior in Ausführungsbestimmungen vom 29. Juli 1920 zu dem Gesetz vom 27. April 1920, Ministerialblatt für die Preussische innere Verwaltung 1920, p. 279:

"Damit die Teilnahme der Bezirke an der Verwaltung eine legendige und arbeitsreiche wird, ist grundsätzlich daran festzuhalten, dass die Bezirke in möglichst weitem Umfange an der Verwaltung beteiligt werden. Zentral sollen nur diejenigen Dinge verwaltet werden, bei denen die Natur der Sache dies verlangt. Auf den sonstigen Gebieten sollen die städtischen Körperschaften sich darauf beschränken, allgemeine Richtlinien für die örtliche Verwaltung aufzustellen und ihre Durchführung zu überwachen."

Superior Administrative Court in Entscheidungen des Preussischen Oberverwaltungsgerichts, Vol. 76, p. 88:

"Es kann jedoch nicht unberücksichtigt bleiben, dass das Gesetz vom 27. April 1920 in der neuen Stadtgemeinde Berlin etwas vollkommen Neues geschaffen hat, das in der früheren preussischen Gesetzgebung keinerlei Vorbild fand."

90. Act of 1920, Par. 15, Sec. 2, Div. 2.
91. Ibid., Sec. 1, Div. 1 and 2.
92. In paragraphs 16-21.
93. Act of 1920, Par. 21.
94. Cf. for example "Geschäfte der Berliner Stadtverwaltung,"

Magazin der Wirtschaft, No. 40, 1929; Lange, "Berliner Gemeindegeseztentwurf und Staatsratvorschläge," in Germania, No. 166, April 9, 1930.

95. See ante, p.
96. See Luckas, op. cit., p. 55, for a treatment of the provision appearing in the Act of April 27, 1920 before its modification on October 7, 1920.
97. For the Ortsgesezt über die Zusammensetzung der Bezirksämter und die Besoldung ihrer Mitglieder see the text in Körner and Brell, op. cit., p. 126.
98. See Verwaltungsbericht der Stadt Berlin 1924-1927, Vol. I, p. 23.
99. See Gemeindeblatt der Stadt Berlin 1927, p. 30; Dienstblatt der Stadt Berlin 1927, Vol. I, p. 33.
100. Ortsgesezt für die Durchführung der Verhältniswahl, etc., Par. 1, lex cit.
101. See on this point generally Körner and Brell, op. cit., p. 56; see also paragraphs 23 and 24 of the Act of 1920 for the sections of the organic law regulating district board organization and procedure.
102. The non-partisan administration of these two places seemed particularly noteworthy to the writer during field investigation. There are doubtless other districts in which the old professional tradition still prevails. See Verwaltungsbericht der Stadt Berlin 1924-1927, Volumes 15 (Charlottenburg) and 20 (Steglitz).
103. Ibid., Vol. 26; Likewise Neukölln, ibid., Vol. 23;

Tempelhof, ibid., Vol. 21; Treptow, ibid., Vol. 23.

Nonpartisanship in fact may be said to be the exception rather than the rule.

104. Par. 25, Sections 1, 2, and 3.

105. See *supra*, p.

106. Dr. W.B. Munro says, for example, that the government of Berlin is "decentralized in form but centralized in fact." *Government of European Cities* (2nd edition), p. 378. As I show subsequently, if Mirabeau's axiom, "Administrer c'est gouverner; gouverner c'est régner; tout se réduit là" is true, the converse of Dr. Munro's statement is more descriptive of Berlin's government, even under the Act of 1920 before the reform of 1931.

107. See von Leyden, op. cit., p. 10 et seq.

108. Cf. Ministerialblatt für die Preussische innere Verwaltung 1920, p. 280 et seq.

109. 57 out of the 94 governmental units, 40,097 hectares out of a total area of 87,810 hectares, and a population of 579,430 out of a total of 3,804,048 in 1919.

110. Supra, p.

111. Act of 1920, Par. 24, Sec. 6.

112. Ibid., Paragraphs 25 and 26.

113. The district boards are at liberty to prescribe, through concurrent resolution with the assembly, the composition of all deputations except education. The law requires that these deputations shall be composed of from 1 to 3 members of the district board, an equal number of district councillors, one to three people

practically familiar with education - at least one of whom must be a teacher, one pastor each representing the collective evangelical and the catholic churches, and in districts having more than 20 Jewish scholars - one person named by the Rabbi. Art. 44 of the Gesetz betr. die Unterhaltung der Öff. Volksschulen, Preussische Gesetz Sammlung 1906, p. 335. Proportional representation is required in the case of all elections to district deputations except the appointments of district board members thereto, whom the district bürgermeister names. Ortsgesetz für die Durchführung der Verhältniswahl, etc., Gemeindeblatt, etc., 1922, p. 265.

114. See Verwaltungsbericht der Stadt Berlin 1924-1927, Vol. 15, p. 11.
115. See Körner and Brell, op. cit., p. 60.
116. Luckas, op. cit., p. 62.
117. Par. 26.

CHAPTER III: THE ALLOCATION OF FUNCTIONS BETWEEN
CENTRAL AND DISTRICT GOVERNMENTS AND THE
REORGANIZATION OF PUBLIC UTILITIES.

FUNCTIONAL ALLOCATION

As has been indicated previously the organic statute of the Berlin consolidation contemplated substantive administrative decentralization.¹ The following table indicates the detailed functional allocation which has been made by the central authorities in pursuance of section 22 of the organic act:

DISTRIBUTION OF FUNCTIONS BETWEEN STADT AND BEZIRKE GOVERNMENTS

STADT

BEZIRKE

1. Taxation and Finance.²

- | | |
|--|--|
| 1.a. Formulation of general principles of finance and taxation procedure. | |
| 1.b. Complete local control in the reorganization of the national monetary system, under the direction of the <u>Reich</u> government. | |
| 1.c. Sale of script, administration of accumulated capital, incurring of debt, insofar as the administration is not vested in the <u>bezirke</u> . | 1.c. Administration of accumulated capital, sale of script, and incurring of liability only so far as such powers are conferred. |
| 1.d. Elasticizing of local finance through budgetary transfers and equalization of governmental costs. Introduction of progressive fiscal methods. | 1.d. Formulation of the outlines of the district budgets. |
| 1.e. Funding and retirement and administration of loans and short time borrowings; determination of terms of bonds and their security. | |
| 1.f. Administration of mortgages in which the <u>grosstadt</u> has an interest. | |

- 1.g. Administration of all undedicated public realty, and of dedicated public realty lying outside the bezirke.
- 1.h. All individual tax revisions are reserved to the central government, to be decided according to principles established by the appropriate board of the central Magistrat.
- 1.i. Payment of all riot damages.
- 1.j. Passage of all tax ordinances, tax budget, preparation of tax statistics.
- 1.k. Amelioration of hardships imposed through orders of district boards through revision and distraint.
- 1.l. Advice and assistance in the preparation of new national and state laws concerning the fields of finance and taxation affairs.
- 1.m. Revision of the delimitation of fiscal functions is reserved to the central administration, in so far as not vested particularly, by the act creating the grosstadt, in certain central or district bodies.
- 1.g. Administration of all dedicated public realty lying within the districts.
- 1.h. Suggestions of remissions, revisions, and grants of grace, to the central board.
- 1.j. Assessment and collection of taxes in so far as not performed by the central body.
- 1.n. Administration of escheats and forfeitures.

2. Transportation³

- 2.a. Care of the general city transportation interests.
- 2.b. Supervision of all city transportation enterprises, and their administration is so far as private administration has not been preserved.
- 2.c. Protection of community interests as the granting authority:
- (1) Under the conditions of sections 37 and 76 of the labor ordinance.
 - (2) Concerning the light railway laws, to be administered in close cooperation with the Magistrat Deputation on underground structures.
- 2.d. Formation of plans for the socialization, reorganization, and expansion of the general transportation network.
- 2.e. Research and investigation toward the solution of particular transportation problems (foot, water, and recreational traffic, foreign traffic, carriage, omnibus, and automobile traffic).

2.f. Performance of functions delegated by the city.

3. Education.⁴

A. Elementary and secondary.

- 3.a. Determination of policy for general educational concerns.
- 3.b. Outline of the budget.
- 3.c. Fashioning general administrative principles.
- 3.d. Outlining general problems of projects to which the attention of the schools will be directed.
- 3.e. Elaboration of the direction of instruction.
- 3.f. Provision for the training of teachers.
- 3.g. Direction and assistance of extension activities, supplementary to the efforts of the bezirke.
- 3.h. General supervision of sectarian and charitable schools.
- 3.i. General supervision of private schools.
- 3.j. Preparation of the list of eligible school-post applicants, assistant-masters, and kindergarten teachers.
- 3.k. All functions not specifically delegated to central administration.

B. Trade and Professional Schools.

- 3.l. Determination of general administrative principles.
- 3.m. Expression of opinion for the assistance of the magistrat in determination of policy and formation of the budget.
- 3.n. Formation of the budgets.
- 3.o. Passage of by-laws concerning the trustees and advisors.
- 3.p. Approval of general instructional principles.
- 3.q. Arrangement for the selection of directors and their deputies, and the provision for cooperative student education.
- 3.r. Instructions for the principals, administrative officers, and instructors.

- 3.r. Organization of instruction of adults in the trade skills.
- 3.s. Determination of the fields which the trade and professional schools treat.
- 3.t. Determination of the concerns of the continuation schools.
- 3.u. Preparation of the list of eligible instructors, and of the courses of instruction.

- 3.v. Supervision over school maintenance and cleaning
- 3.w. Provision of janitors, matériel, and equipment.
- 3.x. Determination of instructing personnel.
- 3.y. Provision of materials requested by the Büro, and of the minor necessities of the schools.
- 3.z. Organization of institutions to supervise and care for students.

4. Food Supply.⁵

- 4.a. Determination of general principles governing the regulation of the food supply.
 - 4.b. Regulation of the provision, conservation, distribution and sale of necessities, in so far as not delegated to the bezirke.
 - 4.c. Control over the greater markets.
 - 4.d. Administration of municipal market halls, in so far as not delegated to the bezirke.
 - 4.e. Administration of the central cattle and pig slaughtering houses, and the greater meat market halls, and the flesh incinerator.
 - 4.f. Establishment of appropriate prices, dues, charges, rents, and exchange values.
- 4.c. Administration of minor markets.
 - 4.e. Administration of local cattle and pig slaughtering houses.

5. Health⁶

- 5.a. The formulation of general principles for the promotion of the public health.
- 5.b. The formation of the health budget.
- 5.c. Administration of the following institutions, organizations and projects:
- (1) Institutions for personal reform.
 - (2) Bucher institutions and the Virchow homes for the permanently disabled.
 - (3) All institutions for the promotion of public health located outside of the city, except those owned by the districts, the administration of which is retained by them.
- 5.d. Public ambulance service, the maintenance of a central hospital register, and the apportionment of patients to the several institutions, health resorts, and hospitals.
- 5.e. Provision for health stations for advice and home treatment of the sick.
- 5.f. Schools for nurses and midwives.
- 5.g. Supervision of pharmacies and pharmacists.
- 5.h. Review of district action to create new health administration agencies and to construct new buildings for health purposes.
- 5.i. Delimitation of functions between institutions and organizations.
- 5.j. Demarcation of quarantine zones and disinfection districts.
- 5.k. Supervision and control, and promotion of research in the disinfection institutions.
- 5.l. Employment of disinfection institutions for the general welfare. (During epidemics, etc.)
- 5.c. Administration of health institutions to the extent delegated by the Magistrat Deputation für das Gesundheitswesen, under section 2, par.3. (See 5.c. (3) under Stadt.)
- 5.k. Administration of disinfection stations, public baths, etc. located within the district.
- 5.l. The promotion of general social hygiene.

6. Planning and Housing?

A. General Planning.

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| <p>6.a. Determination of general settlement and building plans.</p> <p>6.b. Passage of general orders effecting the regional plan.</p> <p>6.c. Conducting the negotiations for uniform building lines in the contiguous parts of separate jurisdictions.</p> <p>6.d. Correlation of the plans of the district boards into the scheme of the regional plan through revision and review.</p> <p>6.e. Review by central expert body of underground and overhead architectural plans.</p> <p>6.f. Conservation of standing trees, and protection of the water front under the terms of the act of July 29, 1922.</p> <p>6.g. Preservation, by acquisition and maintenance, of adequate and appropriate parks and open spaces for the completion of a consistent and fitting regional plan.</p> <p>6.h. Supervision over such open land owned by the city and assigned to the appropriate <u>Magistrat</u> Deputation.</p> <p>6.i. Approval of extent and method of construction of public works affecting the regional plan.</p> <p>6.j. Review of protests against the operation of the <u>bezirke</u> plans in the <u>Magistrat</u> court.</p> | <p>6.a. Setting up building and building line specifications, and district plans in accordance with sections 3 and 4. (See 6.c. and 6.d. under <u>Stadt</u>.)</p> <p>6.b. Enactment of appropriate legislation for the effecting of the district plan.</p> <p>6.d. Advice and aid to the central government in the formation of the regional plan.</p> <p>6.f. Administration and enforcement of the laws for the protection of standing trees and water front according to the definitions of the <u>Magistrat</u>.</p> <p>6.j. Administration of the local district plans.</p> |
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B. Parks and Open Spaces.

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|---|---|
| <p>6.k. Determination of the general principles for the preservation of the municipal parks, gardens athletic fields, playgrounds, cemeteries, open spaces, and parkway colonies.</p> | <p>6.k. Management and administration within its competence, and according to the principles formulated by the central <u>Magistrat</u> of parks, gardens, athletic fields, playgrounds, open spaces, and cemeteries.</p> |
|---|---|

- 6.1. Supervision over the work of the district boards in acquiring new or expanding present possessions, and in making essential alterations for conservation under section 1. of the *Satzung*.
- 6.m. Outlining of general principles for the formation, in collaboration with the Magistrat, Deputations of the districts, of a general parks and gardens plan.
- 6.n. Control over general parkway colony questions and problems.
- 6.o. Control over district decisions of subdivision planning and the destruction of wooded areas.
- 6.p. Jurisdiction over cemeteries and the enactment of appropriate governing ordinances.
- 6.q. Assignment to the districts of needed space in the burial grounds.
- 6.r. Proper allocation and equalization of maintenance costs.
- 6.m. Collaboration with the central Magistrat in the formation of a parkway colonies plan, and its administration.
- 6.s. Enactment of regulations governing the erection of monuments in cemeteries and memorial places

C. Housing.

- 6.t. In matters not delegated to the central administration under section 8 (6.u. to 6.y.) the district boards are autonomous.
- 6.u. Formation of general rules of construction.
- 6.v. Arrangements for the general dissemination of information as to requirements, etc.
- 6.w. Supervision of the district boards' actions in the granting of franchises and the distribution of buildings.
- 6.x. Control over the situation of public buildings.
- 6.y. Decision of controversial matters in which the district boards become involved.

6.z. Administration, under the rules formulated by the central Magistrat, of building and construction requirements.

7. Fine Arts and Cultural Development⁸

- 7.a. Administration of the Brandenburg museums, the city library, the archives and magistrat library, and the people's libraries in districts 1 - 6.
- 7.b. Promotion of library and art development among the districts.
- 7.c. Acquisition of all works of art and their distribution to the different organizations and institutions.
- 7.d. Securing and having made pictures and paintings of local streets and scenes.
- 7.e. Support of the Theater and the Symphony, and the regulation of their prices and services.
- 7.f. Support of the Greater Berlin Peoples University, and of its related organizations.
- 7.g. Provision for public censorship of amusements.
- 7.h. Establishment of a Hall of Fame for the commemoration of famous Berlin personages.
- 7.i. The districts will perform any function not assumed by, and not inconsistent with, the action of the central government under section 2. (See 7.a. to 7.h. under Stadt.)

8. Social Insurance⁹

- 8.a. General insurance affairs, and jurisdiction over personal claims in so far as not given to the personnel bureaus of the districts. Power to regulate structure of local bureaus.
- 8.a. Jurisdiction over the ordinary concerns of insurance in its district.

- 8.b. Appointment of the assessor of insurance charges, and of his advisory committee.
- 8.c. Jurisdiction over applications for reductions in the rate of the common sick fund levy.
- 8.d. Jurisdiction over disputes arising between the bezirke.
- 8.e. General oversight of the sick fund according to the provisions of section 4, paragraph 3. (8.c. under stadt)
- 8.f. Jurisdiction over official complaints.
- 8.g. Handling of intercourse with the state board of control, the municipal corporation, including the combination of insuring agencies.
- 8.h. Decision of all points upon which the district boards are unable to agree.
- 8.c. Jurisdiction over the portion of the sick fund allocated to the particular district.
- 8.h. Discretionary judgment in all matters relating to ordinary insurance administration.

9. Professions and Labor¹⁰

- 9.a. Supervision over published labor information.
- 9.b. Establishment of departmental bureaus and the allocation of powers and functions to them.
- 9.c. Control over labor markets and the insurance of reports relative to the labor supply in case of strikes and unusual demands.
- 9.d. Maintenance of uniform labor prices through information to and cooperation with all other labor agencies in the city.
- 9.e. The control of relief administration in cases of unemployment and unsteady work.
- 9.f. Construction of public works in times of crisis, and the provision of training.
- 9.g. Control of the relief of overly congested living conditions.
- 9.h. Assistance and advice in the formation of rules and regulations by the Reich labor administration.
- 9.a. Administration of municipal employment bureaus in so far as not assumed by the central department of the city.
- 9.c. Assistance in the supervision of labor conditions, demands, etc. Cooperation in mediation with the central Magistrat deputation and the Reich labor department.
- 9.e. Administration and determination of necessity for and amount of relief in cases of unemployment or unsteady work.
- 9.f. Cooperation with central government in public works development in time of unemployment.
- 9.g. Control over living conditions of workers, supply of air, sunlight, etc.

- 9.i. Supervision over the local administration of rules and regulations published by the Reich labor department.
- 9.j. Approval of the utilization of foreign labor under the act of January 2, 1923.
- 9.k. Jurisdiction over complaints against the labor bureaus.
- 9.l. Furnishing of labor information to employers, etc.
- 9.i. Local administration of Reich labor bureau rulings to the extent delegated by central department and the magistrat.
- 9.m. Introduction and encouragement of vocational guidance in connection with school administration.

10. Trash and Garbage Disposal¹¹

- 10.a. Determination of the general principles of the cleaning plan.
- 10.b. Determination of charges, etc.
- 10.c. Dirt removal under the local law requirements.
- 10.d. Administration of central depots, and the performance of street cleaning functions for districts 1 - 6.
- 10.e. General supervision over all street cleaning activities, and supreme direction in coping with unusual conditions (excessive snowfall, etc.).
- 10.f. Administration of city dumping and disposal grounds.
- 10.g. Performance of all cleaning functions not assumed by the central board in Sec.2 (see 10.a. - 10.f. under Stadt.)

11. Fire¹²

- 11.a. Determination of general administrative principles.
- 11.b. Enactment of appropriate salary ordinances and rate schedules.
- 11.c. Administration of all professional fire-brigade affairs.

- 11.d. Instruction and supervision over the administration of volunteer fire-brigades.
- 11.e. Provision and maintenance of wagons, implements, alarms, and chemical equipment.
- 11.f. Administration of the reporting and recording of fires.
- 11.g. Provision of high pressure water supply for fire-fighting.
- 11.d. Administration of the affairs of the volunteer fire-brigades, in so far as not assumed by the central government.
- 11.h. Administration and maintenance of the fire station buildings and grounds.
- 11.i. Assumption of additional discretionary fire functions not assumed by central city nor inconsonant with the policy thereof.

12. Commerce and Arbitration. 13

- 12.a. Determination of general policy.
- 12.b. Supervision over corporations and their executive boards.
- 12.c. General oversight of the affairs of the small manufacturers and traders within the city, as well as the licensing and taxing of such.
- 12.d. Issuance of permits to conduct apprenticeships.
- 12.d. Formation of work books and work cards, and the promotion of the legalization of apprenticeship periods.
- 12.e. Revocation of such permits, and the prevention of abuses of apprenticeship under sections 126 and 128 of the Gewerbeordnung.
- 12.f. Determination of content of police regulations of such establishments, and of the rate of the industrial tax levy.
- 12.g. Supervision of workers' interests in the administration of the sick funds.
- 12.h. Alteration in the boundaries of sick fund districts. Aid to local and national sick funds.
- 12.i. Maintenance and supervision of the Workers and Traders Court.
- 12.j. Regulation of measures (weights, etc.)

- 12.k. Regulation of the issuance of liquor licenses and pawnbrokers permits.
- 12.l. Administration of the laws governing the extension of citizenship and the enfranchisement of foreigners.
- 12.m. Determination of the valuation of impermanent income debits, to the municipality assigned as obligations under Sec. 527 of the Reichsverfassungsordnung, and recommendations concerning exemptions of impermanent income for purposes of central taxation.

13. Public Welfare¹⁴

A. General Welfare

- 13.a. Care of the blind, administration of schools for blind children, municipal vocational schools for the blind, and municipal schools for blind adults.
- 13.b. Deaf and dumb care, administration of municipal schools for the deaf and dumb.
- 13.c. Administration of municipal "shelters."
- 13.d. Administration of municipal workhouses, itinerant laborers homes, and laboring institutions for the mentally subnormal.
- 13.e. Public kitchens and food supply, insofar as the district boards do not undertake to supply such facilities.

B. Child Welfare

- 13.f. As the state child welfare board: the functions prescribed in Sec. 13, Pars. 1-7 of the Reichs Jugendwohlfahrtsgesetz (Reichsgesetzblatt 1922, Vol. I, p. 633) to which is specifically added responsibility for the protection and care of illegitimate children.
- 13.g. As the board for the education of indigent children, maintenance of existing and provision of necessary facilities for the education of said children.
- 13.h. As the administrative agency for the public care of cripples, the performance of central administration funct-

ions prescribed in the Prussian Krüppelfürsorgegesetz (Preussische Gesetz Sammlung 1920, p. 280) and the prescription of general administrative principles governing the performance of delegated functions.

3.i. As the administrative agency for municipal institutions and charitable establishments, the administration of the following child welfare institutions:

- (1). The Berlin and Lichtenberg orphanages, and the Heinersdorf, Malchow, and Güttergotz childrens homes.
- (2). The Struveshof bei Ludwigsfelde farm school in Kreis Teltow, the Linderhof training school in Lichtenberg, the childrens shelter house in Zehlendorf, and the Kleinbeeren bei Grossbeeren house in Kreis Teltow.
- (3). The Templin childrens protective home and the Lichtenrade childrens home.
- (4). The Scheuen bei Celle and the Nest bei Köselin, as well as the Zossen childrens recreation camps.

3.j. As the agency for the public assistance of youth, the administration of central functions of youth care and the assistance of the activities of youth.

C. War Victims

3.k. Professional development and rehabilitation and training of untrained and unemployed war veterans and of war victims as defined by law, in accordance with the provisions of Reich and Prussian law (See de Grais, op. cit., p. 831 and statutes and ordinances cited).

3.l. Care of sick war victims.

3.m. Health care for discharged veterans.

3.n. Rehabilitation of war victims by capital grants and loans.

3.o. Apportionment and supervision of Reich grants for war victims paid to the districts.

3.p. Apportionment to the districts of the funds necessary for providing the minimum of subsistence for war victims established by the municipality, as well as the administration of institutions and funds provided for the Reich for the maintenance of the national minimum for war victims.

D. Institutional Welfare.

3.q. Administration or approval of all new charitable institutional undertakings.

- 13.r. Erection of municipal institutions and administration of existing institutions except those owned and operated by the districts.
- 13.s. Supervision of independent institutions so far as such supervision is not vested by charter or statute in some other agency.
- 13.t. Allocation of cases to institutions, and disposal of institutional earnings.
- 13.u. Administration of the following institutions:
- (1). Old Peoples Home in the Institute for the Assistance of Female House Workers,
 - (2). Dietrich-Thora Institution.
 - (3). Kaiser Wilhelm and Augusta Institution.
 - (4). Kube Institution.
 - (5). Mette Institution.
 - (6). Reuter Institution.
 - (7). von Schewe Institution.
- which institutions (1) to (7) are all located in Berlin.

13.v. The districts perform such functions of welfare administration, except cripple aid, as are not specifically given the central authorities herein. To the districts is particularly given the promotion of the general welfare in the district and the administration of all public institutions and agencies not herein specifically assigned to the central authorities.

14. Relations with the Press¹⁵

14.a. Regulation of relations of central administration with the press.

14.a. Regulation of district relations with the press insofar as the central administration is not involved.

15. Elections¹⁶

- 15.a. Unified regulation of elections.
- 15.b. Provision of ballots.
- 15.c. Settlement of election protests,
- 15.d. Performance of delegated electoral auditing functions.

15.a. Settlement of local election problems not covered by central regulations.

16. Personnel Administration¹⁷

16.a. Regulation of central administrative personnel.

16.a. Regulation of district administration personnel in accordance with section 25, paragraph 3 of the Act of 1920.

PUBLIC UTILITIES

Public Water Supply

The seventeen water companies which were engaged in supplying the Metropolitan area in the years immediately preceding the consolidation of 1920 have been reduced in number to four. Of these only two are of any consequence from the standpoint of persons and area covered. The Berlin Municipal Water Works Corporation and the Charlottenburg Water and Industrial Works Company are the two primary agencies in water supply. Of these the Berlin Municipal Water Works Corporation is by far the most important. The Grossstadt owns the complete stock of both corporations.

The accompanying table illustrates in concise form the degree to which technical and financial control have been centralized in water works administration:

Administrative District or Sub-division	Source ¹⁸	Administrative District or Sub-division	Source	Administrative District or Sub-division	Source
1-6 Old Berlin	Berlin	13 Tempelhof	Charl.	Hessenwinkel	Berlin
7 Charlottenburg	Berlin	14 Neukölln	Charl.	Wilhelmshagen	Berlin
Charlottenburg Heerstrasse	Charl.	15 Treptow	Berlin	17 Lichtenberg	Berlin
8 Spandau	Berlin	Treptow Johannisthal	Charl.	18 Weissensee	Berlin
Spandau	Berlin	Oberschöne.	Berlin	19 Pankow	Berlin
Pichelswerder	Charl.	Niederschöne.	Berlin	Pankow	Berlin
Tiefwerder	Berlin	Adlersdorf	Berlin	Niederschöne.	Berlin
Gatow	Berlin	Alt Gleinicke	Berlin	Rosenthal	Berlin
Stäcken	OH	16 Cöpenick	Berlin	Heinersdorf	Berlin
Cladow	Berlin	Cöpenick	Berlin	Blankenburg	Berlin
9 Wilmersdorf	Charl.	Friedrichsha.	Berlin	Karow	Berlin
10 Zehlendorf	Charl.	Rahnsdorf	Nb	Buchholz	Berlin
11 Schöneberg	Charl.	Müggelheim	ww	Blankenfelde	Berlin
12 Steglitz	Charl.	Grünau	Berlin	Buch	Buch
		Bohnsdorf	Charl.	20 Reinickendorf	Berlin
		Schmöckwitz	Charl.		

Gas Supply

The forty-three companies supplying gas to the metropolitan area in the year 1920 have been reduced to two. The only area without a supply of gas is the former Landgemeinde Muggelheim, which area has a total population of 200 persons. The Berlin Municipal Gas Works and the Gas Supply Corporation supply the major portion of the metropolitan area, and in addition the Berlin Municipal Gas Works operate extensively in the surrounding rural circles.

It should be mentioned that the Berlin Municipal Gas Works, while organized as a corporation, is owned entirely by the municipality, and that the Gas Supply Corporation is a private company. In 1926 the Berlin Municipal Gas Works produced 457,505,000 cubic meters of gas; for the same period the Gas Supply Corporation produced 153,457,000 cubic meters.¹⁹ The prices of the Gas Supply Corporation are, on the whole, about 20 per cent higher than those of the municipal company.²⁰

The following table shows the area of operation of these plants:

Administrative District or Sub-division	Source ²¹	Administrative District or Sub-division	Source	Administrative District or Sub-division	Source
1-6 Old Berlin	BStG			14 Neukölln	
7 Charlottenburg	BStG			Neukölln	BStG
8 Spandau	BStG	16 Cöpenick		Britz	BStG
9 Wilmersdorf	GB	Cöpenick	BStG	Buckow	GB
10 Zehlendorf	GB	Rahnsdorf	BStG	Rudow	GB
11 Schöneberg	GB	Friedrichs-		15 Treptow	
12 Steglitz	GB	hagen	BStG	Treptow	BStG
13 Tempelhof	GB	Bohnsdorf	BStG	Alt.Glein.	BStG
17 Lichtenberg	BStG	Schmöckwitz	BStG	Adlershof	BStG
18 Weissensee	BStG	Grunau	BStG	Johannisth.	BStG
19 Pankow	BStG	Muggelheim	ns	Niederschön.	GB

Electricity

The unification of the electricity supply for the metropolitan area has been considerably hampered by the terms of the franchises which many of the companies held, and also by the fact that many of the companies were of approximately the same size and resources, and the problem of amalgamation was hence complicated. Between the years of 1920 and 1929 the number of companies was gradually reduced, until in 1929 the principal company was the Berliner Elektrizitätswerke A.G., which supplied directly or indirectly about seventy-five per cent of the entire metropolitan area, and in addition operated quite extensively in the outlying rural circles.²²

This year, however, the entire production service was unified by the creation of the Berliner Kraft- und Licht Aktiengesellschaft.²³ To this corporation, of which the city of Berlin retains effective control, has been granted the exclusive right to produce current for consumption within the municipality. It also takes over the distribution facilities of the Berliner Elektrizitätswerke A.G., and will, of course, make arrangements with the other owners of distribution facilities, of which the total mileage is negligible, for the purchase of current. This completely unifies technical and financial control of electrical facilities, and, more importantly, standardizes electric rates throughout the entire metropolitan area. The accompanying table indicates the geography of the electricity supply prior to the founding of the new corporation, which, since it was organized only on May 11, 1931, has not yet been put completely in control.

Administrative District or Sub-division	Source ²⁴	Administrative District or Sub-division	Source	Administrative District or Sub-division	Source
1-6 Old Berlin	BEWAG	11 Schöneberg		Malchow	BEWAG
7 Charlottenburg	BEWAG	Schöneberg	Südwest	Wartenberg	BEWAG
8 Spandau		Friedenau	BEWAG	Falkenberg	BEWAG
Spandau	BEWAG	12 Steglitz		Hohenschön- hausen	BEWAG
Staaken	BKEW	Steglitz	BEWAG	Pankow	
Tiefwerder	BKEW	Lichterfelde	BEWAG	Pankow	BEWAG
Pichelsdorf	BKEW	Südende	MEW & BVEW	Niederschön- hausen	BEWAG
Gatow	BKEW	Lankwitz	BVEW	Blankenfelde	BEWAG
Cladow	BKEW	13 Tempelhof		Bucholz	BEWAG
9 Wilmersdorf		Tempelhof	MEW & TELG	Buch	Buch
Wilmersdorf	Südwest	Mariendorf	TELG	Karow	BEWAG
Schmargendorf	Südwest	Marienfelde	BEWAG	Blankenburg	BEWAG
Grunewald	MEW & BVEW	Lichtenrade	BEWAG	Heinersdorf	BEWAG
Grunewald-Forst	BEWAG	14 Neukölln	BEWAG	Rosenthal (Östl)	BEWAG
10 Zehlendorf		15 Treptow	BEWAG	Reinicken- dorf	BEWAG
Zehlendorf	BEWAG	16 Cöpenick	BEWAG		
Dahlem	BVEW	17 Lichtenberg	BEWAG		
Nikolassee	BEWAG	18 Weissensee			
Wannsee	Potsdam	Weissensee	BEWAG & MEW		

Transit

As has been noted previously, circumstances conspired with the authorities of Berlin in facilitating the unification of transit enterprises for the entire area. The property of the Greater Berlin Tramway Company to which the city fell heir in 1919 forms the core of the Berlin transit system. The municipality prior to 1920, had itself constructed some subways and elevateds, as well as certain tramways, although of an inconsiderable (approximately 25.4 kilometers) mileage.²⁵

The Reichsbahn and the Prussian State Railways, although important in the transit facilities of the metropolitan area, must be left out of account in considering the technical and financial unification of the Berlin transportation enterprises. As regards purely municipal transit facilities, it is important to note that the nine companies of pre-war days had been reduced, prior to the

general transit unification of 1928, to three - the street railways company, the subway and elevated company, and the omnibus company. The city owned outright the tramways and controlled the subway and elevated company, and through this the omnibus company, which latter was a subsidiary of the subway and elevated company. Control of the subway and elevated was secured in the union and refinancing of rapid transit facilities which occurred in 1924.²⁶

Fiscal considerations, however, necessitated a refunding of the city's obligations in respect of these undertakings, and this was done in 1928 in the formation of the Berlin Verkehrs Aktiengesellschaft, which entirely unified all except Reich and Prussian owned transit facilities in the Berlin region. This company is completely owned by the municipality and is capitalized at 400 million marks.²⁷

While the consolidation of 1928 did not materially alter the city's control of transit undertakings, it did facilitate extension planning²⁸ and fare rationalization, which latter was previously impossible because the fixed charges of the facilities were not pooled, and hence each enterprise was compelled to regulate its fares accordingly.²⁹

The primary objective of the formation of the general transit company, however, was to secure funds for the modernization of all transit facilities.³⁰ This has in large measure been accomplished, and, as Dr. Norden has indicated, the present difficulties of the transit administration are the restoring to profitableness, under the scheme of refinancing, of the transportation accommodations of the municipality.³¹

CITY-DISTRICT RELATIONS IN FINANCE, PERSONNEL,
AND DIRECT ADMINISTRATIVE CONTROL

Fiscal Relations between City and Administrative Districts

a. Budget. It should be noted at the outset that the centrally adopted budget for the City of Berlin is essentially an instrument of financial equalization rather than administrative supervision and control, is so considered by the municipal authorities of both grosstadt and verwaltungsbezirke, and so operates. A student of Berlin government has written the following to the writer:³² "German students of public finance are, on the whole, in agreement that the objective of territorial equalization of public revenues to public necessities cannot economically be fulfilled by grants from superior authorities. Subventions can never provide for anything more than minimums, and the rivalry of geographical units which is the primary cause of wasteful expenditure is not reduced by grants-in-aid. I believe that the projection and enforcement of an equalization of the costs of government was the dominating motive of the Prussian legislature in establishing a centrally determined budget for Grossberlin. In its operation, due to the extremely broad terms of the budget appropriations, it cannot be said to be of much significance for the control of the magistrat or the council over the administrative districts. Indeed, the Prussian government has more to say about expenditures in the districts than has the magistrat, if one considers that the magistrat in acting

as an agency of the state is highly circumscribed by the regulations of the government, and that the administrative courts offer very convenient remedies against arbitrary action under color of state authority."

If, then, it be conceded that the administrative district is, within the terms of its appropriation itemization, free in its conduct of district affairs as far as fiscal control per se is involved, the answer to the question, "How much of the total municipal budget is allotted to the districts?" may provide a very authoritative indication of their administrative and governmental status.

The following table indicates the proportion of the total municipal expenditure (excluding debt service and capital outlays) which are actually spent by the gross-städt administration:³³

1921.....	26	per	cent
1922.....	51	"	"
1923.....	46	"	"
1924.....	41	"	"
1925.....	35	"	"
1926.....	36	"	"

The 1926 figure apparently represents a crystallization point for central city expenditures, as the appropriations between 1926 and 1931 fluctuate slightly between 36 and 40 per cent.³⁴ The relatively high expenditures of the central administration in 1922-23 were due primarily to the fact that for those years it administered directly several important functions for the six inner districts

carved out of the city of Berlin as it existed prior to 1920.³⁵ These districts of course had no individual organization already existing around which to build the district government, and their administrative structure had to be built from the ground up. It should be mentioned further that no appropriation has as yet been made for the functions of the district in the field of professions and labor.³⁶ The local ordinance defining the sphere of central and district action in this respect provides for the devolution of substantial functions upon the administrative districts,³⁷ and when this is done it doubtless will impel a certain decline in the amount of the total expenditure spent by the central authorities.

The accompanying table, which gives the budget appropriation schedule of 1925, reiterates the facts presented in the previous section dealing with functional allocations. Certain significant conclusions emerge from this table:

(1) Educational costs consumed about 26 per cent of the total district budgets, and was the largest single item of expenditure. The costs of general administration were second and only slightly lower. Public welfare also took about 20 per cent.

(2) Even when extraordinary expenditures, which are frequently actually expended by central and district administrations jointly and sometimes by the districts independently, are included as central administration expenditures the proportion of the central administration is increased to only about 43 per cent.

THE BUDGET (1925)
APPROPRIATION
SCHEDULE

Appropriation Item	Kreuzberg	Wedding	Friedrichshain	Prenzlauer Berg	Mitte	Tiergarten	Charlottenburg	Neukölln	Schöneberg	Lichtenberg	Wilmerdorf
General Administration	4,564,900	4,060,400	3,620,300	3,363,970	3,839,200	3,759,400	8,260,200	5,514,200	4,920,030	3,378,010	3,591,500
Education and Culture	5,529,640	6,312,270	4,745,450	5,548,410	5,752,930	4,726,750	6,113,080	5,110,410	4,331,200	3,842,470	4,213,030
Child Welfare	702,500	1,194,000	721,000	676,400	748,300	435,780	608,200	541,100	290,700	396,470	487,200
General Welfare	6,797,520	7,174,670	6,578,010	5,320,240	5,418,380	3,816,680	4,213,770	3,687,360	2,534,810	2,474,220	1,766,660
Public Health	1,805,710	1,030,960	2,288,590	1,287,050	280,200	2,275,740	3,783,930	3,477,830	1,207,800	655,640	273,310
Lighting, Street Cleaning, Park and Cemetery Administration and Crematoria	2,187,980	1,854,570	1,411,310	1,137,730	2,688,480	1,842,100	2,360,350	1,201,570	1,255,960	1,268,660	1,458,210
Construction	857,600	986,030	667,650	609,850	1,948,720	823,410	1,647,170	823,080	887,080	672,100	800,800
Miscellaneous	88,980	184,750	66,230	592,470	168,970	84,790	520,480	385,440	520,380	416,030	158,850
Public Works	-	-	-	-	-	-	1,033,620	509,100	90,000	590,000	-
Total	22,534,830	22,797,650	20,098,540	18,536,120	20,845,180	17,764,650	28,540,800	21,250,090	16,037,980	13,693,600	12,749,560

Appropriation Item	Steglitz	Spandau	Pankow	Reinickendorf	Treptow	Tempelhof	Cöpenick	Weissensee	Zehlendorf	Total
General Administration	3,172,580	2,803,420	2,161,100	2,492,000	2,222,410	1,675,400	1,895,760	1,498,570	1,599,400	68,392,750
Education and Culture	3,995,700	2,059,320	2,148,580	2,378,150	2,018,180	1,914,910	2,169,620	1,135,260	914,940	74,960,300
Child Welfare	248,380	249,950	151,480	224,220	300,500	149,900	149,890	139,600	81,280	8,496,850
General Welfare	2,168,160	1,050,210	1,337,260	1,366,140	1,115,500	723,510	926,140	1,009,890	482,370	59,961,500
Public Health	226,050	934,640	345,040	411,690	117,430	32,750	451,660	608,150	28,480	21,522,650
Lighting, Street Cleaning, Park and Cemetery Administration and Crematoria	1,156,090	712,380	859,200	1,176,010	1,287,440	539,480	396,880	290,570	591,200	25,876,170
Construction	647,430	3,174,940	913,460	683,050	830,790	499,270	661,000	639,960	470,210	19,243,600
Miscellaneous	319,480	779,610	189,160	79,630	188,170	126,490	193,700	332,850	98,190	5,494,650
Public Works	431,400	-	133,010	266,710	108,110	77,600	174,220	185,000	48,640	3,647,410
Total	12,365,270	11,764,470	8,238,290	9,077,600	8,188,530	5,739,310	7,018,870	5,839,850	4,314,710	287,395,880

APPROPRIATION SCHEDULE - 1925

Central Administration

	Salaries	Pensions and Grants	Records and Printing	Supplies	Statistical Bureau	Supervision			Totals
General Administration	27,991,000	10,865,000	1,001,000	1,577,000	465,000	56,550			41,955,550
Education and Culture	7,986,190	City Libraries 104,800	-	-	-	-			8,090,990
Child Welfare	-	-	-	-	-	-			6,459,000
Commerce and Professions	Labor Bureau 272,000	Unemployment, Vocational Aid, etc. 5,300,000	Laborer-Employer Courts 124,800	-	-	-			5,696,800
General Welfare	Welfare Bureau 469,400	Tenements 1,572,420	Workhouse 1,224,560	Blind Aid 579,100	Deaf and Dumb Aid 51,300	Cripple Assistance 603,000	Convalescent Homes 16,300	Planning etc. 5,077,500	9,593,580
Public Health	Central Health Board 355,260	Infirmaries 4,937,580	Correctional institutions and agencies 4,710,620	Buch Hospital 1,302,110	Emergency agencies 581,700	Grants to provincial and county institutions 4,530,100			16,417,370
Capital and Debt Service	-	-	-	-	-	-	-	-	14,766,000
Taxation									202,660
Miscellaneous	Riot Payments 138,000	Material Inspection and Auditing Bureau 702,700	Fire Protection 2,188,000	Societies 1,354,740	Other Expenses 24,605,600	Supplementary Grants 11,646,800			40,635,840
Public Works	Works expenditures met by earnings 26,623,750	Water supply administration 16,450,000	Forests and open lands 1,890,000	Markets 3,700,000	Subways 664,000	Industrial Railroad 72,500			22,770,500
Grand Total -									166,594,290

RECAPITULATION

PERCENTAGES WHICH BUDGET ITEMS ARE
OF TOTAL EXPENDITURES OF THE
DISTRICTS AND CITY

DISTRICTS	ITEM	CITY
<u>per cent.</u>		<u>per cent.</u>
23.9	General Administration.	24.5
26.2	Education and Culture	4.9
3.0	Child Welfare	4.0
no app.	Commerce and Professions	3.5
20.1	General Welfare	5.8
7.7	Public Health	10.0
8.8	Lighting, Street Cleaning, Park and Cemetary Ad- ministration and Crematoria	Capital and Debt Service. 9.0
6.9	Construction	Taxation .3
2.0	Miscellaneous	24.3
1.4	Public Works	<u>13.7</u>
100.0	TOTAL	100.0
63.5	TOTAL BUDGET (Current Expenditure)	36.5
57.0	Considering capital expenditures as part of central administra- tion budget.	43.0

b. Auditing. It is important to note with reference to central-district fiscal relations that under the terms of the ordinance providing for the periodical auditing of public funds,³⁸ the central authorities do not accord to the auditing bureau established in the central administration authority to audit the books of the districts. Instead a separate auditing agency was established for each administrative district. For only four years, 1921-1924, were the accounts of the districts audited by the agency of the central administration. Hence the grossstädt authorities are largely without an effective instrument of budget enforcement beyond the appropriation itemization as contained in the appropriation ordinance which is passed by the central council. The authority of the magistrat to be heard in all sessions of the district assembly of the district board does not carry with it access to the records of the district administration, and in order to gain access to such records, the magistrat must invoke its authority as an agency of the state administration. Furthermore the circumstances under which it may investigate district records are prescribed by the statutes, and the administrative courts stand ready to protect the district authorities against an arbitrary exercise of that power as well as to delimit the jurisdiction of the central magistrat.

While few substantial arguments may be advanced against the auditing of district accounts by agencies of the central administration as a subversion of district self-administration, and while many arguments may be advanced in favor

of such a course in respect of economy and efficiency in securing a thorough audit, the condition does indicate that Berlin in both administrative fact and political psychology is far from the unitary government which some writers have considered it.

Hence although the central council has the power to determine the functional allocation and may alter the functional allocation at will, when the council has spoken and the magistrat has announced the general administrative principles to be followed in the administration of the particular function, the district is safely ensconced behind a protective structure which insures it as effectively against arbitrary interference by the authorities of the central city as the authorities of the central city themselves are protected against arbitrary action by administrative authorities of the Reich or of Prussia.

Distribution of Employees

The accompanying table indicates the distribution of employees, by compensation groups, among the administrative districts and the central administration. Certain noteworthy facts emerge from an analysis of its content:

1. The administrative districts employ approximately 65 per cent of the total employees of the municipal services in Berlin;

2. The employees of the district are not restricted to the lower or intermediate compensation groups, but are distributed throughout the entire compensation scale;

3. Since the compensation schedules are at present

determined in pursuance of Prussian law, and are therefore actually uniform for grosstädt and district employees, it follows that the districts are, on the whole, securing district officials and functionaries at least as adequately remunerated and presumably as competent as those of the grosstädt administration.

It should be noted that in the selection of district personnel the central government has no authority whatever. No district appointment requires for its approval the consent of the central authorities per se. The preparation by the central administration of the list of eligibles for educational appointments is an adaptation of the statutes governing educational administration to the unique situation which Berlin occupies as a separate district of educational administration, and does not establish an exception to the general rule regarding district independence in matters of personnel.³⁹

While the central magistrat is specifically authorized to remove members of the district administration, this too is an extension of powers statutorily extended to the provincial authorities, and is a logical consequence of the provincial status which, for some purposes, is attached to the City of Berlin.⁴⁰ Hence it cannot be regarded as an attempt definitely to subvert the district personnel to the magistrat in its capacity as an organ of municipal administration.

Magistrat Veto of District Action.

Sections 27 and 28 of the organic act, under which the

magistrat is accorded a limited veto of the acts of the administrative district authorities, have already been outlined. Three facts should be particularly noted in considering the significance of these provisions in city-district relations:

1. The veto power is limited to those instances in which (a) the "municipal interest urgently so requires," (b) the district authorities exceed their competence either in exercising the functions delegated to them by the magistrat or those accorded to them by the city council, or (c) the district authorities violate the laws;

2. The authority of the magistrat extends only to a temporary injunction, final decision regarding which is made by a specially composed arbitral council designed equally to represent the city and the administrative district;

3. If this arbitral council is unable to agree in the selection of a fifth, or umpire, the fifth member is appointed by an entirely disinterested agent, the Oberpräsident of the Province of Brandenburg.

The last decade of Berlin's history has not been without examples of bitter controversy revolving mainly about the two sections cited above. Probably the most notorious of these was the Neukölln Medizinalrat's (the then educational authority for Verwaltungsbezirk Neukölln) action with reference to a requirement of the grosstadt relating to the reading of the Bible in the elementary schools.

The administrative district of Neukölln was, at that time (1926), overwhelmingly Communistic, and the local authorities were totally unsympathetic with the position of the city authorities regarding religious instruction. During the arbitration of this dispute several serious riots occurred in the Neukölln district.⁴¹

This, however, probably must be regarded as an extreme instance. Authorities of both the grosstadt and district administrations emphasized the fact, in conversations with the writer, that this power of the magistrat was important chiefly in securing a clarification of counciliar acts or ordinances of the magistrat itself regarding functional demarcation, and that the disputes were primarily technical, involving only rarely any fundamental question in respect of the selbständig-keit of the administrative district. It was estimated by a member of the Berlin magistrat that about 70 per cent of the cases calling for a magistrat veto were of this sort, and usually did not necessitate the constitution of a special arbitral board. About 20 per cent were occasioned by a misconstruction of Reich or Prussian laws on the part of the district officials, while only 10 per cent were in the nature of fundamental controversies regarding the rights of the districts against the central administration. Normally, only cases in this latter category ever necessitate the erection of formal arbitral committees. Only 17 such committees have been erected, although it was pointed out that on several

occasions mooted points have been informally referred to then existent mixed committees constituted for some other purpose altogether, and hence the number of arbitrated disputes is probably somewhat higher.

SUMMARY

It is to be observed from the foregoing that the district administrations perform three distinct types of municipal functions:

1. Those guaranteed as district functions by the organic act: i.e., elementary education;⁴²
2. Those which the district performs in the capacity of a direct fiduciary of the central magistrat;⁴³
3. Those which the central city government has conferred upon the district to be exercised in general upon its own responsibility, and subject only to general supervision and control by the magistrat and superior state agencies.⁴⁴

Dr. Luckas has summarized the functions centrally and locally administered as follows:⁴⁵

"Der zentralen Verwaltung sind im wesentlichen lediglich das Verkehrswesen, die Forsten, das Feuerlöschwesen, die Sparkasse, die Statistik und einige Spezialgebiete vorbehalten worden... übrigen Verwaltungsgebiete sind im Laufe der Zeit überwiegend dezentralisiert worden, wobei der Zentralverwaltung im allgemeine nur die Aufstellung von Grundsätzen und Richtlinien vorbehalten worden ist. Hier sind zu nennern: Das Schulwesen, die allgemeine und Jugend-Wohlfahrt, die Gesundheitspflege, die Hoch- und Tiefbauverwaltung, die Veranlagung und Einziehung der Steuern und Gebühren und noch einige Aufgaben, bei denen die Notwendigkeit einer zentralen Verwaltung kein Zweifel besteht, wie z.B. die baulichen Unterhaltungsarbeiten. Ferner ist die Bezirken die Verwaltung der in ihrem Gebiet belegenen Krankenhäuser, der Verwaltungsgebäude und der Anstalten der allgemeinen und der Jugend-Wohlfahrt im weitesten Umfang überlassen.

Die Bezirksämter haben für die Durchführung der Verwaltung auf den ihnen übertragenen Gebieten innerhalb der aufgestellten Grundsätze freie Hand..."

The control of the district administration by the authorities of the central city is not made effective to any appreciable degree by the centrally adopted budget. This budget is of considerable significance from the standpoint of geographical equalization, but due to the broad terms of the district grants creates wide latitude for the discretion of the district authorities. Furthermore the failure of the city council to establish a central auditing agency further has delimited the magistrate control in district affairs.

The distribution of employees by compensation groups as between central and district administrations indicates that the districts are, in point of the total number of employees under their jurisdiction and compensation paid these employees, considerably stronger than the central administration.

The special arbitral procedure which is set up in the organic law for the settlement of disputes between central administration and the districts is obviously not calculated to establish substantive magistrat control.

1. Supra, p. 91. It is to be noticed that police administration is not considered herein. Under the Stein-Hardenberg reforms the police power definitely became a state function which, if its administration was at all participated in by the municipal authorities, was always exercised in commission. This status was further stabilized by a Reich statute of 1922. The participation of the oberbürgermeister in certain police functions has already been mentioned; in the performance of these functions however, he is responsible only to the state authorities. Furthermore, it is to be remembered that police functions, in which whoever performs them acts in the name and under the control of the state, are extremely broad in Germany. They comprehend "any act of the civil power designed to protect person, property, or public order, or to carry on the work of internal administration where this involves or may involve coercion or restraint upon personal freedom. Such acts are usually, but not necessarily, performed by special agents known as police authorities." Blachly and Oatman, op. cit., p. 408. Berlin has not in recent times had any freedom in police affairs, but neither do other large Prussian cities. The control exercised by the Crown was, however, perhaps unduly stringent. See in this connection Dawson, op. cit., p.45. For a criticism of Prussia's failure to unify and rationalize the whole mass of police ordinances, which greatly has hampered police administration, particularly in the Berlin area, see Staatssekreter Dr. Abegg, "Die

Vereinigung der Polizeiverordnungswezens in Preussen,"
Reichs- und Preussischesverwaltungsblatt, No. 4, 1931.

See also Maxwell, Contemporary Municipal Government of Germany, Ch. VI. Streets are likewise not mentioned. They are constructed by the districts according to special capital outlay appropriations included in the annual budget. Width specifications, setback, and construction are subject to approval by the police authorities. See de Grais, op. cit., p. 469 and statutes, ordinances, and authorities cited. See also Dr. P. Martell "Das Strassenbauwesen der Stadt Berlin" Die Städtereinigung No. 16 (1929).

2. Satzung für das Finanz- und Steuerwesen, Gemeindeblatt der Stadt Berlin 1925, p. 7; see also Haushaltsordnung, Dienstblatt der Stadt Berlin 1925, Vol. I, p. 393; Richtlinien für die Wirtschaftsführung und Rechnungslegung, Dienstblatt, etc., 1923, Vol. I, p. 470; Grundzüge der städtischen Selbstversicherung, Dienstblatt, etc., 1922, Vol. I, p. 107. The municipal bank is administered, of course, by the central authorities, and is run as a purely private banking enterprise; see Satzung der Berliner Stadtbank in Körner and Brell, op. cit., p. 168. For the structure of the Berlin tax system, see Brumby and Gattringer, Berliner Steuerkodex, passim; the annual Statistisches Jahrbuch der Stadt Berlin carries an outline of municipal taxes, etc., for the year preceding its issue.
3. Satzung für das Verkehrswesen, Dienstblatt, etc., 1925, Vol.

I, p. 428.

4. Satzung für das Schulwesen, Dienstblatt, etc., 1924, Vol. I, p. 584; Satzung für das Berufs- und Fachschulwesen, ibid.; Verwaltungsordnung der städtischen höheren Lehranstalten in Berlin, ibid., Vol. VIII, p. 117; Versetzungsrecht des Magistrats hinsichtlich der Lehrpersonen an städtischen Lehranstalten, ibid., p. 138; Umwandlung höherer Schulen, ibid., 1925, Vol. VIII, p. 10; Gewährung von städtischen Zuschüssen an Privatlyzeen und private Mädchenmittelschulen, Gemeindeblatt der Stadt Berlin 1922, p. 291; Festsetzung einer Anstellungsgrenze für Oberstudien- und Studienräte, Dienstblatt, etc., 1925, Vol. VIII, p. 29; Festsetzung und Staffelung des Schulgeldes, ibid., 1924, Vol. VIII, p. 65; Anmeldegebühren, ibid., p. 119; Richtlinien zur Aufstellung der Haushaltspläne der Bezirke in Volksschulangelegenheiten, ibid., 1922, Vol. VIII, p. 87; Bestimmungen über den Zentralstellennachweis für Schulamtsbewerber und -bewerberinnen, ibid., p. 83; Dienstanweisung für die Lehrerkonferenzen und die Schulleiter an den Volks- und Mittelschulen der Stadt Berlin, ibid., p. 108; Grundsätze für die Annahme, Beschäftigung und endgültige Anstellung von Lehrkräften im Berliner Gemeindeschuldienst, ibid., p. 115. For the mandate requiring decentralization of the lower schools see the Act of 1920, lex cit., Sec. 42.
5. Satzung für das Ernährungswesen, Dienstblatt, etc., 1924,

- Vol. VI, p. 16; Verordnung über die Zulassung zum Handel mit Milch vom 1 Juli 1925, Gemeindeblatt, etc., 1925, p. 249.
6. Satzung für das Gesundheitswesen, Dienstblatt, etc., 1924, Vol. VII, p. 48; Richtlinien für die Durchführung des Gesetzes zur Bekämpfung der Tuberkulose, ibid., 1924, Vol. VII, p. 82, and 1925, Vol. VII, p. 137; Richtlinien für die schulärztliche Tätigkeit, ibid., p. 48; Richtlinien für die Neuregelung des Hebammenwesens, ibid., 1924, Vol. VII, p. 152 and 1925, Vol. VII p. 48; Aufnahmesatzungen für die Krankenhäuser, ibid., p. 18; Neuorganisation des Krankenpflegeausbildungswesens, ibid., 1922, Vol. VII, p. 172 and 1923, Vol. VII, p. 230.
7. Satzung für das Siedlungs- und Wohnungswesen, ibid., 1925, Vol. V, p. 18; Bauordnung für die Stadt Berlin, a supplement to the Gemeindeblatt of 7 November 1925.
8. Satzung für das Kunst- und Bildungswesen, Dienstblatt, etc., 1925, a supplement to Vol. I; Verwaltungsbestimmungen und technische Richtlinien für die Unterhaltung von Kunstdenkmälern, ibid., Vol. I, p. 411.
9. Ordnung für das Versicherungsamt, ibid., 1924, Vol. I, p. 427.
10. Verfassung des Landesarbeitsamtes, ibid., 1923, Vol. I, p. 1068; Satzung für die Fachabteilungen beim Landesarbeitsamt, Gemeindeblatt, etc., 1925, sup. 29; Grundsätze für Arbeitsvermittlung, Dienstblatt, etc., 1922, Vol. II, p. 11; see also Arbeitsnachweisgesetzes vom 22 Juli 1922, Sec. 17, Art. 1, Reichsgesetzblatt 1922, Vol. I, p. 657,

and the Prussian Ausführungsbestimmungen in the Ministerialblatt der Preussisches Handels- und Gewerbeverwaltung 1922, p. 257.

11. Satzung für das Stadtreinigungs- und Fuhrwesen, Dienstblatt, etc., 1924, Vol. V, p. 18; Ortsgesetz über die Strassenreinigung in Berlin vom 31 Januar 1923 und Nachträgen I und II vom 3 Oktober 1923 und 14 Juni 1924, ibid., 1923, Vol. I, p. 396, ibid., 1924, Vol. I, p. 362, and the amendment of 1 May 1925 in Gemeindeblatt, etc., 1925, p. 155.
12. Satzung für das Feuerlöschwesen, Dienstblatt, etc., 1925, Vol. I, p. 296. The following table indicates the fire coverage of Berlin:

Fire Service as of 31, December 1926.

Professional

Volunteer

Altstadt Fire Area.

(Verwaltungsbezirke: Mitte, Tiergarten, Kreuzberg)

- | | |
|------------------|------------|
| 1. Hauptwache | 5. Urban |
| 2. Fischerbrücke | 6. Stettin |
| 3. Luisenstadt | 7. Moabit |
| 4. Hafenplatz | |

West Fire Area.

(Verwaltungsbezirke: Spandau, Wilmersdorf, Zehlendorf, Schöneberg, Steglitz)

- | | | | |
|-----------------|-----------------|----------------|-------------------|
| 1. Wilmersdorf | 7. Spandau | 1. Cladow | 7. Schmargendorf |
| 2. Schöneberg | 8. Siemensstadt | 2. Dahlem | 8. Schwanenwerder |
| 3. Friedenau | 9. Zehlendorf | 3. Gatow | 9. Spandau |
| 4. Steglitz | | 4. Grunewald | 10. Staaken |
| 5. Lichterfelde | | 5. Nikolassee | 11. Wannsee |
| 6. Grunewald | | 6. Pichelsdorf | 12. Tiefwerder |

South Fire Area.

(Verwaltungsbezirke: Tempelhof, Neukölln, Treptow, Cöpenick)

- | | | |
|-----------------|--------------------|---------------------------|
| 1. Reichenberg | 1. Adlershof | 10. Müggelheim |
| 2. Richard | 2. Alt Glienicke | 11. Bohnsdorf |
| 3. Neukölln | 3. Buckow | 12. Oberschöneeweide |
| 4. Tempelhof | 4. Cöpenick | 13. Rahnsdorf |
| 5. Mariendorf | 5. Friedrichshagen | 14. Rauchfangs-
werder |
| 6. Schöneeweide | 6. Grünau | |
| 7. Britz | 7. Johannisthal | 15. Rudow |
| | 8. Lichtenrade | 16. Schmöckwitz |
| | 9. Marienfelde | 17. Wilhelmshagen |

ProfessionalVolunteerEast Fire Area

(Verwaltungsbezirke: Lichtenberg, Prenzlauer Berg, Friedrichshain, Weissensee)

1. Memel	1. Biesdorf	7. Kaulsdorf
2. Keibel	2. Falkenberg	8. Mahlsdorf
3. Oderberg	3. Friedrichsfelde	9. Malchow
4. Friedrichshain	4. Hellersdorf	10. Marzahn
5. Lichtenberg	5. Hohenschönhausen	11. Wartenberg
6. Rummelsburg	6. Karlshorst	12. Weissensee

Northwest Fire Area

(Verwaltungsbezirke: Charlottenburg, Wedding, Pankow, Reinickendorf)

1. Wedding	1. Blankenfelde	12. Pankow
2. Schillernark	2. Blankenburg	13. Reinickendorf-Ost
3. Stockholm	3. Buchholz	14. Reinickendorf-West
4. Wittenau	4. Buch	15. Rosenthal
5. Pankow	5. Frohnau	16. Tegel
6. Reinickendorf-Ost	6. Hermsdorf	17. Borsigwerke
7. Lützow	7. Heinersdorf	18. Tegelort
8. Ranke	8. Heiligensee	19. Waidmannslust
9. Saurez	9. Karow	20. Wittenau
	10. Lübars	21. Wilhelmsruh
	11. Niederschönhausen	

13. Satzung für Handel und Gewerbe, Dienstblatt, etc., 1924, Vol. I, p. 581; Richtlinien für die Bearbeitung von Einbürgerungsanträgen, ibid., 1924, Vol. I, pp. 460 and 569; Gebühren für die Verleihung der Befugnis zur Anleitung von Lehrlingen, ibid., pp. 25 and 29.
14. Satzung für die Wohlfahrtspflege, ibid., 1925., Vol. I, p. 317; Richtlinien für die örtliche Zuständigkeit auf dem Gebiet der Wohlfahrtspflege, ibid., Vol. VII, p. 7; Richtlinien für die Berechnung der Unterstützungsrichtsätze, ibid., 1924, Vol. VII, p. 240; Richtlinien für die Wohlfahrts- und Jugendkommissionen und Wohlfahrtskreise, ibid., 1922, Vol. VII, p. 70; Volksspeisung, ibid., p. 10; Rechtsaufkunststellen, ibid., 1924, Vol. VII, p. 92; Richtlinien betr. die Erteilung der Erlaubnis zur Aufnahme von Pflegekindern in der Stadt

Berlin vom 11 August 1925, Gemeindeblatt, etc., 1925, p. 299.

15. Satzung für das Nachrichtenwesen, Dienstblatt, etc., 1923, Vol. I, p. 377; Richtlinien für den Nachrichtendienst, ibid.
16. Ordnung für das Wahlwesen, Dienstblatt, etc., 1924, Vol. I, p. 20; Richtlinien zur Erzielung einer einheitlichen Bearbeitung der Wahlkarteien vom 17 März 1923 nebst Ergänzung vom 4 Oktober 1923 in Körner and Brell, op. cit., p. 217; Wahlordnung für die Wahlen der Stadtverordneten und Bezirksverordneten in Berlin vom 26 August 1925, Ministerialblatt für die Preussische innere Verwaltung 1925, p. 911.
17. See in this connection Körner and Brell, op. cit., p. 148 et seq. and ordinances therein cited.
18. Berlin denotes Berliner Städtische Wasserwerke A.G.; Charl. indicates Charlottenburg Wasser- und Industrierwerke A.G.; OH indicates Kreiswasserwerke Osthavelland; Nb indicates Kreiswasserwerke Niederbarnim; Buch indicates Städtisches Werk Buch; ww indicates that the area is without a public water supply. The Berlin Municipal Water Works Corporation also serves the following municipalities in Kreis Niederbarnim: Mühlenbeck, Schildow, Schönerlinde, Schönfliess, Stolpe. See Statistisches Jahrbuch der Stadt Berlin 1929, p. 264. See also "Entwicklung und stand der Wasserversorgung von Berlin durch die Berliner Städtischen Wasserwerke" Deutsche Licht- und Wasserfach-Zeitung No. 20 (1929). Reg.-Rat a.D. Direktor Kühne "Die Wasserversorgung Berlins durch die Berliner Städtische Wasserwerke Aktiengesellschaft" Deutsche Presse No. 27 (1929).

19. statistisches Jahrbuch der Stadt Berlin 1929, pp.270-271.
20. Ibid. The Gas Supply Corporation, however, sells most of its output to manufacturers. The rates cited refer to modal charges for amounts normally consumed by domestic patrons.
21. BStG indicates the source as Berliner Städtische Gaswerke A.G.; GB indicates Gasbetriebsgesellschaft A. G.; ns indicates that the area is not served by any gas company. The Berliner Städtische Gaswerke A.G. supplies gas to the following communities outside the grossstadt: in Kreis Niederbarnim, all except Bernau; in Kreis Teltow to Eichwalde, Miersdorf, and Zeuthen; in Kreis Beeshow-Storkow to Burich, Gosen, New Zittau, Niederlehme, Steinfurth, Wernsdorf, and Ziegenhals; and in Kreis Osthavveland to Dallgow, Döberitz, and Falkensee. See Statistisches Jahrbuch der Stadt Berlin 1929, p.266. It should be mentioned that the former Landgemeinde Muggelheim, now an Ortsteil of Cöpenick, is a comparatively rural truck-gardening section of about 1000 acres area. See Statistisches Jahrbuch der Stadt Berlin 1929, p. XV. See also "Gasversorgung der Stadt Berlin" Wasser und Gas No. 20 (1929).
22. Dipl.-Ing. H. Rückwardt "Derzeitiger Stand der Elektrizitätsversorgung von Haushaltungen in Berlin" Elektrizitätswirtschaft No. 494 (1929). Stadtverordneten W.A. Franke, "Der Verkauf der Berliner Städtischen Elektrizitätswerke" Kommunale Umschau (1931) No. 11. "Die Umwandlung der Berliner Werke - ein symptomatischer Vorgang" Die Deutsche Oekonomik (1931) No. 20.

"Die Newag-Transaktion bedeutet also alles andere als etwa ein Beispiel für eine wirkliche Lösung der kommunalen

Finanznöte: sie ist nur die erste Schritt zu einer umfassenden Umorganisation des kommunal Verwaltungs- und Betriebsapparates in ganz Deutschland. Nach wie vor ist es eine der dringlichsten Aufgaben, für die Aufbringung der wachsenden Soziallasten in Zusammenarbeit mit Reich und Ländern eine erträgliche Lösung zu finden. Nach wie vor sollte dafür Sorge getragen werden, dass für die Vorbereitung der Umorganisation weiterer Kommunalbetriebe rechtzeitig eine finnegemässe Form gefunden wird. Sofern es nicht möglich ist, die kommunalen Werke unter Mitwirkung der kapitalmässig oder geographisch nahestehenden Unternehmungen der öffentlichen Hand und des Privatkapitals grossen energiewirtschaftlichen Einheiten einzuordnen oder in besonderen Sammelorganisationen sammelzuschliessen, besteht die Gefahr nicht nur einer Verschleuderung wertvoller, Unternehmungen fort, sondern auch einer unrationellen, der Tendenz zur Schaffung immer grösserer Energiesysteme widersprechenden Neugliederung."

Dipl.-Ing. W. Fleischer "Lastverteilung bei der Berliner Städtische Elektrizitätswerke A.-G." "Elektrizitätswirtschaft No. 493 (1929). See also accompanying table.

23. Dr Walter Norden writes of this unification in the December 1931 National Municipal Review, pp. 702-703, as follows:
- "...In order to cover its very large short term indebtedness, Berlin was compelled to transform its electric works into a mixed economic undertaking; in other words, to sell a part of the city's property. It is possible that a part of the stock of the gas works must also be sold. The trans-

formation of a purely municipal enterprise into a mixed company did not happen because it is believed the latter type is absolutely better than the former. On the contrary, a majority of the municipal leaders and most of the political parties hold that a publicly owned and operated company is to be preferred for utilities of a monopolistic character. Whatever may be one's attitude as to the details of this disputed question of municipal economics and politics, the transformation of "BEWAG" into the "Berliner Licht- und Kraft-Aktiengesellschaft" is solely to be explained by Berlin's acute financial situation. The financing of the new company was in the following proportions.

I. Class A stock (with double voting rights)	Marks
City of Berlin.....	30,000,000
<u>Elektrowerke</u> (owned by the Reich).....	25,000,000
<u>PREAG</u> (owned by Prussia).....	25,000,000
	<hr/>
	80,000,000
II. Class B stock	
(a) Non-European quota	
Chase National Bank.....	40,000,000
Harris, Forbes & Co. (in place of Otis).....	40,000,000
	<hr/>
	80,000,000
(b) European quota	
English banks under the leader- ship of Schröder & Co.....	10,000,000
<u>Baseler Handelsbank</u>	10,000,000
<u>Stockholm Enskilda Bank</u>	7,000,000
<u>Mendelssohn-Amsterdam and</u> <u>Neederlandsche Handels</u> <u>Mij</u>	7,000,000
<u>Banca Commerciale Italiana</u>	6,000,000
	<hr/>
	40,000,000
(c) German quota	
<u>Gesfürel</u>	10,000,000
<u>Reichskreditgesellschaft, Seehandlung,</u> <u>Deutsche Bank, Darmstädter Bank,</u> <u>Commerz Bank, Handelsgesellschaft,</u> <u>Mendelssohn, Warburg, and other</u> great private banking firms.....	30,000,000
	<hr/>
	40,000,000 "

See also Generaldirektor Dr. Bosberg "Kommunal-staatliche Wirtschaft im Gebiete der Preussischen Elektrizitäts-A.-G." Das kommunale Elektrizitätswerk No. 8 (1929); "Berliner Kraft- und Licht-A.G." Der Deutsche Volkswirt (1931) No.33.

"Die kurzfristigen Schulden Berlins, die formell 600 Mill., praktisch aber nur 500 Mill. betragen, weil 100 Mill. davon den eigenen Wohlfahrtsfonds der Stadt und ähnlichen Einrichtungen geschuldet werden, vermindern sich damit auf 300 Mill. Von diesen sind etwa 150 Mill. Forderungen der Girozentrale und anderer öffentlicher Kreditgeber, die auf Rückzahlung im Augenblick nicht bestehen. Für weitere etwa 100 Mill. wird die Gruppe Donat-Kuhn Loeb stillhalten. So bleibt nur ein verhältnismässig kleiner Betrag von rund 50 Mill., der alsbald gebeckt werden muss. Für ihn wird sich Vorsorge treffen lassen, da die Vorbereitungen für eine neue Transaktion mit den Gaswerken recht günstig stehen. Die Struktur des Gasgeschäfts dürfte ähnlich sein wie die der Bewag-Transaktion, nur nimmt man an, dass das zahlenmässige Ergebnis für die Stadt sich relativ viel günstiger stellen wird. Der Deutsche Kapitalmarkt steht jedenfalls nicht mehr unter dem Alpdruck des akuten Geldbedarfs der Reichshauptstadt."

"Die Finanzierung der Preag-Expansion", Der Deutsche Volkswirt, (1931) No. 34.

"Um den Geldbedarf für die gesamte Expansion einschliesslich der Uebernahme der Berliner Kraft- und Licht-Aktien nahezu völlig zu befriedigen, erhöht jetzt die Preag ihr Kapital von 125 auf 155 Mill. RM, wobei die alten Aktionäre der neuen Aktien zu 120% übernehmen. Vielleicht werden

einige kommunale Kleinaktionäre der Preag dieser Verpflichtung nicht prompt nachkommen können, aber die Hauptaktionär, die Veba, die Holdinggesellschaft des preussischen Staates, die nom. 100 Mill. Preag-Aktien besitzt, wird ihren Anteil von rund 30 Mill. RM dar einzahlen. Auch die Veba verfügt natürlich über dieses geld nicht, ihre enge Zusammenarbeit mit der Seehandlung macht ihr aber die Geldbeschaffung möglich, um so mehr, als die Verwaltung auch unter den heutigen Umständen die Begebung einer grossen auslands-anleihe als nicht unmöglich ansieht."

"Sozialisierungs-Tendenzen in der Elektrowirtschaft Grundsätzliches zur Transaktion Preag - Stadt Berlin", Berlin Vörsen-Zeitung (Nat.), March 6, 1931, (No.110); "Die Verschacherung der Berliner Elektrizitätswerke", Die Kommune (1931) No. 7; "Gründung einer Berlin Elektrizitäts-Union," Zeitschrift für Kommunalwirtschaft, Nos. 21-22 (1931). For a full description of the functions, financing, and objects of the new company see an unsigned article "Berliner Kraft- und Licht Aktiengesellschaft" in Der Städtetag, Vol. XXV, p. 272 et seq. (June 8, 1931). For a fascinating account of the transfer of the old holdings of the various operators to the new company see Franke, W.A. "Der Verkauf der Berliner Städtischen Elektrizitätswerke", in Kommunale Umschau, pp. 229-232, (June 5, 1931).

24. BEWAG indicates Berliner Elektrizitätswerke A.-G.; BKEW indicates Brandenburgisches Kreis-Elektrizitätswerk G.m.b.H.; MEW indicates Märkisches Elektrizitätswerk A.-G.; BVEW indi-

cates Berliner Vororts-Elektrizitätswerke; TELG indicates Tempelhofer Elektrizitätslieferungs-G.m.b.H.; Südwest indicates Elektrizitätswerk Südwest A.-G.; Buch indicates Städtisches Werk Buch.; Wannsee indicates Elektrizitätswerk Wannsee A.-G. Outside of Berlin the BEWAG supplies current directly to the following communities: Kreis Teltow: Blankenfelde, Boddinsfelde, Brusendorf, Dabendorf, Dahlewitz, Dergischow, Deutsch Wusterhausen, Diedersdorf, Diepensee, Eichwalde, Gallun, Glasow, Glienick bei Zossen, Gräbendorf, Gross Besten, Gross Kienitz, Gross Machnow, Gross Schulzendorf, Gross Ziethen, Jähnsdorf, Kallinchen, Karlshof (Domäne), Kiekebusch, Klausdorf, Klein Besten, Klein Kienitz, Klein Ziethen, Krummensee, Löwenbruch, Ludwigsfelde, Mahlow, Mellen, Miersdorf-Hankelsablage, Motzen, Nächst Neuendorf, Pätz, Ragow, Rangsdorf, Rehagen, Rotzis- Tolkkrug, Asslow, Schenkendorf, Schönefeld, Schöneiche, Schulzendorf, Selchow, Senzig, Sperenberg, Telz, Töpchin, Waltersdorf, Wassmannsdorf, Werben-Gut, Wietstock, Wildau, Zernsdorf, Zeuthen; Kreis Oberbarnim: Ladeburg, Rüdnitz; Kreis Niederbarnim: Ahrensfelde, Birkholz, Blumberg, Eiche, Hönow, Mehrow, Mühlenbeck mit Buchhorst, Schöneiche, Schönerlinde, Schönfliess, Schönow, Schönwalde, Schwanebeck, Seeberg; Kreis Beeskow-Storkow: Cablow. It also sells current to distributors in the following communities: Kreis Teltow: Egsdorf, Genshagen, Gussow, Kerzendorf, Königs-wusterhausen, Körbiskrug bei Zeesen, Kreis Miersdorfer Werder, Mittenwalde, Neue Mühle, Neuendorf, Schwerin, Teupitz, Wänsdorf, Zeesen, Zossen; Kreis Oberbarnim: Wer-

neuchen; Kreis Niederbarnim: Bernau, Birkenwerder, Bollensdorf, Borgsdorf, Dahwitz, Erkner, Feldheim-Sumt, Fichtenau, Glienicke-Nordbahn, Grätzwalde, Heidemühle, Hohenbinde, Hohenneuendorf, Hoppegarten, Katharinensee, Klein Schönebeck, Lindenberg, Mönchmühle, Münchehofe, Neuenhagen, Röntgental, Schildow, Schwanebeck-Alpenberge, Schwanebeck-Bergwalde, Schwanebeck-Gehrenberg, Schweizerberge, Seefeld, Woltersdorf, Zepernick; Kreis Beeskow-Storkow: Gosen, Neu Zittau, Niederlehme, Wernsdorf. See Statistisches Jahrbuch der Stadt Berlin 1929, p. 268.

25. See Dr. Paul Wittig, "Zur Vereinheitlichung des Berliner Verkehrs," in Brennert and Stein, op. cit., p. 388.
26. Ibid., p. 390. See also Statistisches Jahrbuch der Stadt Berlin 1929, p. 127 for statistics indicating the importance of these extensions to the general solution of the rapid transit problem in Berlin.
27. For a complete description of this consolidation see Dr. Reuter, "Die Vereinheitlichung des Berliner Verkehrs," op. cit.
28. Reuter "Die Berliner Verkehrseinheitlichung" Frankfurter Zeitung (No. 62) January 24, 1929 (morning edition).

"Das fast beängstigende Anwachsen des Verkehrs in allen Grossstädten stellt die Stadtverwaltungen vor ganz neue, in ihrer Grössenordnung früher nicht vermetete Aufgaben. Diese Entwicklung bedeutet stiegende Verkehrsgefahren, erhöhte Unfallziffern, Verlangsamung des Oberflächenverkehrs in den engbebauten Bezirken des Innern der Grossstädte. Schnelligkeit und Sicherheit sind aber die Hauptfordernisse, die

die neue Zeit an die Verkehrsmittel stellt, und wohl oder übel müssen die Grossstädte daran gehen, nach neuen Wegen zur Bewältigung dieser Aufgabe zu suchen...Der Durchführung solcher Ziele stand in Berlin - wie übrigens auch in anderen Städten - die Zersplitterung der Öffentlichen Nahverkehrsmittel entgegen. Miteinander konkurrierende Verkehrsunternehmungen sind eine ungeeignete wirtschaftliche Basis für eine grosszügige Erweiterung eines vorhandenen Verkehrsnetzes. Im Verkehr bedeutet gegenseitige Konkurrenz verschiedener Unternehmungen Planlosigkeit und Durcheinander. Jedes Unternehmen will sich auf die fetten Happen stürzen und will da fahren, wo infolge dichten Verkehrs ein leichtes Geschäft zu machen ist. Dadurch wird die Verstopfung Innenstadt verstärkt, die notwendige Hinausverlegung des Verkehrs in Aussenbezirke vernachlässigt, die notwendige Siedlungstätigkeit der Städte behindert. Insbesondere sind Untergrundbahnbauten die zu den teuersten und kostspieligsten Anlagen gehören, gegenüber bestehender Konkurrenz von Oberflächenverkehrsmitteln unmöglich. Berlin musste deswegen, wenn es seine eigene Entwicklung nicht drosseln wollte, zunächst daran geben, seinen Verkehr in eine Hand zu bekommen und einheitlich zu organisieren. Diese Arbeit ist in den letzten Monaten durch die Gründung der Berliner Verkehrs-A.G. zu Ende geführt und damit eine mehr jährige Entwicklung zunächst zum Abschluss gekommen..."

29. See Reuter "Die Entwicklung des Berliner Verkehrs und ihre Bedeutung" Sozialistische Monatshefte September 1929.

Dr. Adolf Roeder "Was die Verkehrs-A.G. leistet. - Kommunale Wirtschaft. - Berliner Verkehrs- und Kraft-Gesellschaften. - Finanzierungs- und Tariffragen" Berliner Volkszeitung July 17, 1929 (Dem.)

Dipl.-Ing. Lehner "Die Verteilung der Reiselängen im innerstädtischen Verkehr" Verkehrstechnik (No. 5) 1932.

"Der Zusammenbruch her Berliner Verkehrspolitik" Magazin der Wirtschaft No. 18 (1930).

"Der finanzielle Zusammenbruch der Berliner Verkehrspolitik ist nicht durch die Absperrung der Berliner Verkehrs A.G. vom Anleihemarkt, sondern durch die Unwirtschaftlichkeit der Untergrundbahnbauten verschuldet worden. Anstatt den Mut zur Einschränkung der Schnellbahnbauten aufzubringen, proklamiert die stellvertretende Stadtverwaltung Berlins die Aufgabe der Verkehrsvereinheitlichung. Diese Haltung ist kurzsichtig und revisionsbedürftig."

30. Reuter "Die Berliner Verkehrsreform. Geschichte, Organisation, Kapitalfragen" Die Gemeinde No. 2 (1929).

31. Op. cit., p. 703.

32. Letter from Dr. Herbert Luckas under date of September 2, 1930. Dr. Karding in his "Bezirkshaushalt und Stadthaushalt," contained in Brennert and Stein, op. cit., p. 19, writes of this point as follows: "Für den Gross-Berliner Haushalt würde das gleiche Verfahren zu unerträglicher Schreiarbeit zwischen den Bezirken, bei denen die Überschreitungen eintreten, und der Zentrale, deren Körperschaften sie genehmigen müssten, führen. Es ist deshalb zur Vereinfachung der Verwaltung, aber auch zur Gewinnung grösserer Beweglichkeit für die Bezirke,

in von Jahr zu Jahr steigenden Umfange eine Verschiebung innerhalb verschiedener Ausgabenposten in der Art zugelassen worden, das Esparnisse der einen Post zu Mehrausgaben verwandter Posten verwendet werden dürfen. Der Haushalt jedes Bezirk ist gegleidert in zehn Kapitel und etwa vierzig Abschnitte. Die Abschnitte zerfallen in Titel, diese in die einzelnen Haushaltsposten. Die Übertragbarkeit der Esparnisse wurde zunächst innerhalb deselben Titels, schliesslich innerhalb des Abschnittes zugestanden, und es ist nicht ausgeschlossen, dass bei weiterer Festigung der Haushaltswirtschaft sie zu einer Übertragbarkeit innerhalb des ganzen Haushaltskapitels ausgedehnt wird.

"Es liegt auf der Hand, dass durch diese Massnahme nicht nur Unbilligkeiten, die sich etwa aus der Festsetzung von Einheitssätzen ergeben, abgeschwächt werden, sondern darüber hinaus den Bezirkskörperschaften eine erhebliche Bewegungsfreiheit in der Durchführung ihres Haushalts gewährleistet ist. Sie wird wesentlich erhöht durch die Einstellung von 'Verstärkungsmitteln,' d.h. von Beträgen zur Verstärkung unzureichender Haushaltsposten und zur Deckung notwendiger Überschreitungen der laufenden Verwaltungen. Diese Verstärkungsmittel betragen 1926 2½ Millionen. Ihre Verwendung untersteht ausschliesslich den Bezirkskörperschaften." It should be mentioned that both Dr. Karding and Dr. Luckas are, on the whole, definitely predisposed toward administrative centralization.

33. Karding, op. cit., p. 16.

34. Memorandum from the Statistisches Amt der Stadt Berlin.

35. Verwaltungsbericht der Stadt Berlin 1920-1924, Vol. I, p. 69.
36. Memorandum cited in n. 34, supra.
37. Supra, p.
38. Ordnung für die Prüfung der Rechnungen und Kassen und der städtischen Wirtschaft, Dienstblatt, etc., 1925, Vol. I, p. 84; Ausführungsanweisung zur Ordnung für die Prüfung der Rechnungen und Kassen und der städtischen Wirtschaft vom 22 Juli 1925, ibid., No. 323; Geschäftsanweisung für die Hauptprüfungsstelle vom 8 Juli 1925, ibid., No. 300. These statutes repealed an earlier act creating the post of Stadtrechnungskammer in the central administration which contemplated unified auditing. See Körner and Brell, op. cit., p. 155. Dr. Franz, the chief of the central auditing agency, writes in his article, "Rechnungsprüfung," contained in Körner and Brell, op. cit., p. 113 et seq., as follows:
- "Die Voraussetzungen für eine zweckmässige Prüfungstätigkeit sind für die zentrale Verwaltung gegeben; in geringerem Masse ist dies bei den Bezirksverwaltungen der Fall. Wie bei vielen anderen Verwaltungsangelegenheiten der neuen Stadtgemeinde Berlin handelt es sich auch hier um die Frage, ob die Bearbeitung praktischer und besser in den Bezirken oder in der Zentrale erledigt wird.

"Es spricht vieles dafür, dass die Bezirke, die die Verantwortung für die Verwaltungsführung und die nötigen Kontrollorgane haben, auch die sachliche und wirtschaftliche Prüfung der Bezirksjahresrechnungen übernehmen. Wenn aber oben als Voraussetzungen für eine nutzbringende Prüfungstätigkeit die Unabhängigkeit der Prüfungsstelle und

die eingehende Kenntnis der einzelnen Verwaltung durch die Prüfungsbeamten angegeben sind, so dürften im allgemeinen diese Voraussetzungen in höherem Masse bei einer selbständigen zentralen Prüfungsstelle eines Bezirks nicht die Möglichkeit des Vergleichens mit den Verwaltungen anderer Bezirks hat. Der Standpunkt von Magistrat und Stadtverordnetenversammlung ist, wie bereits erwähnt, zu verschiedenen Zeiten verschiedenen gewesen. Während 1921 die sachliche und wirtschaftliche Prüfung der Bezirksjahresrechnungen der zentralen Stadtrechnungskammer übertragen wurde, ist sie 1925 auf die Bezirke übergegangen. Immerhin ist durch den Vorbehalt der abschliessenden und ergänzenden Prüfung durch die Hauptprüfungsstelle ein Rest der früheren Befugnisse geblieben. Ob dies ausreicht, um den Bedürfnissen des Magistrats und der Stadtverordnetenversammlung zu genügen und um die Gleichmassigkeit der Verwaltung, soweit sie im finanziellen Interesse notwendig ist, zu gewährleisten, wird die Zukunft lehren."

39. See in this connection Volksschullehrerdienststeuergesetz vom 17 Dezember 1920, as revised by a statute of February 18, 1925, Preussische Gesetz Sammlung 1925, p. 17.
40. See Kommunalbeamtengesetz vom 30 Juli 1899, Preussische Gesetz Sammlung 1899, p. 141; also de Grais, op. cit., 177-181 and authorities cited. This provision was eliminated in 1931. See ante, p.
41. The writer is indebted to Dr. Roger H. Wells for a vivid description of this conflict.
42. Sections 42-46. Cf. Gesetz betr. die Unterhaltung der öff. Volksschulen, Preussische Gesetz Sammlung 1906, p. 335,

under the operation of which the elementary schools would be administered directly by the grosstadt administration were not decentralization specifically provided for in the organic act. This category might be expanded to include functions imposed directly upon the administrative districts in pursuance of decrees of the Reich or state administration, within the scope of which the district's selbständigkeit is as definite and inalienable, as far as the grosstadt government is concerned, as powers guaranteed by the organic act. Cf. for example the Arbeitsnachweisgesetzes (Reichsgesetzblatt 1922, p. 657), the Prussian administrative order in pursuance thereof (Ministerialblatt der Preussischen Handels- und Gewerbeverwaltung 1922, p. 257; also Polizeiverordnung betr. Wohnungsordnung vom 22 April 1919 as amended (Amtsblatt der Reg. zu Potsdam und der Stadt Berlin vom 3 Mai 1919, No. 18).

43. For example, collection of taxes, administration of escheats and forfeitures, certain health functions, etc.
44. City cleaning, certain general welfare and child welfare functions, housing, etc.
45. Op. cit., p. 57.

CHAPTER IV: THE REORGANIZATION OF 1931

ANTECEDENTS

The evolution of the district and grosstadt administrative organization under the terms of the 1920 statute, as outlined in previous chapters, made patent numerous defects in the machinery which that act provided. Some of these weaknesses were immediately apparent. For example, the organization of the six bezirke which were carved out of old Berlin as it was constituted at the time of the consolidation was not completed until late in 1925 and the grosstadt government was severely criticized for its ponderous procedure and its procrastination;¹ indeed, even yet, these districts purchase practically all of the services ordinarily provided by the district administrations from the grosstadt administration.² At the time Professor Reed was conducting his field investigations, in 1926, he discovered general criticism and objection to the existing arrangements. Many things were under the fire of students of local government. It was felt by numerous critics that old Berlin should not have been divided, and that the outlying districts were too numerous.³ The legal basis of the functional allocation between central and district governments was severely criticized.⁴ It was argued that the organic legislative relation effected by the duplication of personnel in district and grosstadt councils should be as completely duplicated in administrative personnel.⁵ The details of this administrative

integration was in itself a potent source of disagreement.⁶ Finally, the manner in which the functional allocation between city and district governments had been continuously altered and amended, oftentimes from purely political motives, had convinced many critics that federalistic metropolitan arrangements were either fundamentally unsound or were impossible of proper administration under the existing situation in which the central council was free to alter the functional allocation at will;⁷ particularly significant from the viewpoint of the stability of the federal administrative plan was its power to alter the functional allocation in particular districts and in regard to the minutiae of administrative detail.⁸

In general, the proposals for administrative reorganization may be divided into two primary classes: Those tending toward complete centralization in both structure and administration, and those seeking definitely to establish Berlin's government and administration on a clearly outlined federalistic basis which would at the same time provide cohesion and establish responsibility. Oberbürgermeister Böss was the strenuous, if somewhat futile, protagonist of centralization; Ministerialdirektor Dr. von Leyden and Staatsminister Dr. Erzesinski have led the movement which resulted in the additionally decentralizing statute of 1931.

THE BÖSS PROPOSALS⁹

In August of 1926 a mixed committee, composed of representatives of the Magistrat and of the chairmen of the district boards, was formed to draft a series of conventions for

the modification of the Act of 1920. The representatives of the central Magistrat were unable to concur in the report which the committee brought in, and it was adjourned without the inscription of its findings. Oberbürgermeister Böss, upon his own motion, then prepared two alternative proposals as a basis of agreement between the district and central authorities, the essential points of which are outlined below:

Entwurf I:

1. The abolition of present administrative districts and the creation of eight or ten divisions within the present area of the grosstadt.
2. The placing of the district officials under the immediate control of the Magistrat, and the elimination of the collegial district board as an intermediary authority.
3. Complete power of direct intervention and administration by the central authorities, to be utilized, however, only when the general structural arrangements and procedure were endangered.
4. The appointment by the oberbürgermeister of a member of the Magistrat to function coordinately with the local board. This official was contemplated to be an integral part of the district administration, and to be subject to its discipline. He would act as district bürgermeister, and would be bound by the decisions of the Magistrat.
5. The creation of Bezirksausschusses, or select committees, composed of a majority of city councillors supplemented by accredited voters of the district, which would be

charged with supervising the execution of the general regulations laid down by the magistrat, the preparation of the districts' estimates for the general budget, and the selection of the minor officials of the district. The centrally-appointed district bürgermeister was proposed to be the chairman of this select committee.

Entwurf II

The second proposal suggests also the abolition of existing districts and the reconstitution of the area in eight or ten administrative subdivisions. In addition it proposes:

1. The radical retrenchment in the number of district employees and officials, and the elimination of the district councils entirely.
2. The organization of district administration on the lines of the Bavarian Stadtratssystem, and placing it under the direct and complete control of the Magistrat.
3. The selection of twenty to thirty unpaid district stadträte, according to the electoral provisions utilized for unpaid magistrat members.
4. The election by the unpaid stadträte of a paid chairman and one or more paid assistants from among their own number, which paid members thenceforth have voting rights only on points involving the administration of duties with which they are directly charged. These paid district officials are charged with responsibility for the administration of the general orders issued by the Magistrat.
5. That city councillors should be eligible to the position of Stadtrat.

3. That paid chairmen should be members of the Magistrat.
7. That Paragraphs 27 and 28 of the Act of 1920 are unnecessary.

THE LUCKAS PROPOSAL

As an example of the suggestions which some academicians have put forth, the proposals of Dr. Herbert Luckas, also an ardent proponent of centralization may be outlined. Dr. Luckas recommended: ¹⁰

1. The reduction in the size of the city council to about 100.
2. The reduction in the size of the Magistrat.
3. The organic unification of the Magistrat and district boards by the ex officio seating of district bürgermeisters as unpaid Magistrat members.
4. The elimination of administrative districts 1-6, and the creation in their place of one district, the "Innenstadt," as well as the reduction of the total number of districts to not more than ten.
5. The determination of the territorial extent of the administrative districts by ordinance of the grossstadt council.
6. Reorganization of the district administration along the lines of the South German Stadtratssystem, which is unicameral in form with committee administration.
7. Suppression of the arbitral procedure established in Section 28 of the Law of 1920.
8. Centralization of the administration of peoples', middle, and higher schools.
9. Vesting responsibility for state supervision in some authority other than the Oberpräsidenten of Brandenburg and Berlin.
10. Resurrection of the authority of Section 1 (section defining functional jurisdiction) of the Zweckverbandesgesetz of 1911 in the officials of the Berlin supervisory board.

THE CRISIS

To the constant criticism of governmental reformers were added three occurrences which not only precipitated action regarding the reorganization of Berlin's government but added a new facet to the problem of grossstadt administration itself. The first of these was the startling "Defizit-Vorlage," in which the authorities of the grossstadt administration made public the huge municipal operating deficit for 1927, a condition which has in considerable measure persisted to the present time. The second was the Böss-Schacht controversy, which occurred late in 1927. The third was the more notorious "Sklarek" affair of the latter part of 1929, and the administrative scandal connected therewith, which broke while Oberbürgermeister Böss was visiting in the United States.

The "Defizit-Vorlage"

In 1927 the Magistrat made public the fact that for previous fiscal years, and particularly the fiscal year ending in the early part of 1927, the municipal administration had not only received considerably less revenue than budget estimates had indicated as anticipated,¹¹ but had actually spent more than the estimates;¹² furthermore, in the face of declining revenues, the total amount of which decline was to some degree calculable after the first three months of the fiscal year, the administration, central and district, had apparently made no attempt to bring expenditures into conformity with revenues, or to preserve the credit of the municipality.¹³ Finally, the grossstadt administration sought to lay the entire responsibility at the

the door of the Prussian state bureaucrats, who, acting under Reich instructions and in behalf of the preservation of revenue sources for the payment of reparations, had severely circumscribed municipal rates and levies.¹⁴ It is equally true that, in the face of certain knowledge of their restricted revenues the Berlin administration proceeded in its program without any apparent attempt to retain the solvency of the municipality.¹⁵ There is ample indication that the Prussian administration knew of this action, and made no attempt to forestall it.¹⁶ It is the opinion of the writer, who devoted some time to investigating this problem on the ground in 1930, that while the Böss administration deliberately incurred the deficit, it did so as a protest against the action of Reich and Prussian governments, and sought to precipitate a referendum on the strict control policy of the superior authorities, and that the Prussian authorities were at least tacitly sympathetic. This latter condition is probably the only tenable explanation of the fact that the deficit was allowed to go uncorrected, and, during the next two years, to increase to alarming proportions (70,000,000 marks in 1929).¹⁷

The Schacht Controversy

The Schacht affair occurred when the Director of the Reichsbank suggested, in view of the existing fiscal difficulties of the Reich and the subordinate governmental units and the apparent willingness of the cities to borrow American dollars for "municipal luxuries," that tax sources be conserved by the appointment of kommissars for the local administrations;¹⁸ these officers would be the approximate equivalent of the

French prefect with practically dictatorial fiscal powers. While the recommendation was general in nature, it was felt in many quarters to be directly aimed at the Börs administration, probably because of the large municipal deficit, as well as several large American loans the city had incurred immediately prior to that time.¹⁹ A bitter controversy arose between Börs and Schacht on this point, which served to concentrate attention generally on the centralizationist tendencies of the Reich government and the Prussian administration.²⁰ Indeed, both the oberpräsident and the Prussian government were forced, prior to the reorganization, to show their colors in the matter of Berlin's "high finance." In the latter part of 1929 the Communist and Socialist members of the city council appropriated 6,000,000 marks for a Christmas dole. The city was, as has been mentioned, about 70,000,000 marks in the red, excluding all funded or otherwise provided for debt, at that time. The oberpräsident thereupon appointed a commission to veto all items of expenditure for which funds were not available or reasonably anticipated, and to formulate a scheme for the funding of the floating debt.²¹ This was done, and the Magistrat accordingly made up the budget carrying a relatively heavy debt service. The council refused in July, 1930, to approve the budget because it cut operating expenditures. The oberpräsident thereupon himself promulgated the budget by virtue of the authority conferred upon him in Article 19 of the Zuständigkeitsgesetz.²² It subsequently became evident that the revenue bill would not provide adequate funds, and new head and drink taxes were proposed. These the

council refused to adopt in November, 1930, whereupon the State appointed two commissioners who levied the tax.²³ While neither of these instances involved any action with authority for which the supervisory agencies have not been provided for many decades, they pointed the way to the possibility of more extensive state control of the municipality, possibly of a sort which would actively control other than fiscal administrative processes. The administration was, thus, between the upper millstone of the State, which demanded sound finance, and the nether millstone of the council, which wished to spend more money and not to increase taxes.

Schacht's position was subsequently adopted by Brüning and von Hindenburg, and its central idea is the basis of several of the emergency decrees issued during 1929 and 1930 which undoubtedly precipitated the reform act of 1931.²⁴ While the Schacht affair, like the Sklarek scandal, was too intimately entwined with local and national politics and personal animosities to be considered significant as a proposal for administrative reform, it did suggest that the financial policies and affairs of the Berlin government, if not in some phases and places definitely corrupt, at least were not as carefully and meticulously conducted as the general financial emergency demanded.

The Sklarek Scandal

It is impossible, in considering the Sklarek affair, to segregate more than a few main truths in the mélange of political libel, animosity, and partizanship which constituted virtually all discussion of the event. The facts, however, are

relatively simple.²⁵ The Sklarek company, a general supplies corporation, was one of the largest companies selling goods to the municipality. Its failure, and a thorough audit of its books, indicated considerable corruption and conspiracy upon the part of local officials in the matter of excessive prices for commodities purchased by the city and in gifts or payments made by the company to local officers.²⁶ In particular, the fact that Frau Böss, the wife of the Oberbürgermeister, had purchased a fur coat for less than a quarter of its market price, served to draw the oberbürgermeister into the investigation and to indict the entire administration.²⁷ This "big fur coat," in fact, takes its place with the "little black bag" of the Harding administration, and the "little tin boxes" of the Seabury investigation, as a symbol of governmental corruption.

The trial revealed that the Oberbürgermeister was innocent of any direct connection with the corruption and collusion of certain officials and the Sklarek company, and that his wife, being only a hausfrau, and unversed in such matters, had taken the coat as a bargain rather than a bribe.²⁸ However, several subordinate officials were indicted and imprisoned,²⁹ the oberbürgermeister compelled to resign,³⁰ and the entire administration subjected to a severe shake-up.³¹

A member of the Berlin council who, for the last three years of the Böss administration was his bitterest opponent, said to the writer in discussing the implications of the Sklarek scandal:³²

"The Sklarek affair proved nothing except that Böss was not master in his own municipal household. Its chief importance is that it portrays very clearly the necessity of a unified executive for the central city administration, and an effective method of continuing fiscal control. As for the removal of Böss, that would have been inevitable even if there had been no Sklarek affair. Dr. Böss was firmly and honestly convinced that Berlin should be a unified city, and he was supported by several members of the magistrat and council in this view. He adhered determinedly to this view, but refused to exercise existing powers to secure a modicum of coordination and responsibility, apparently feeling it better to die as a man of principle than to survive as a compromiser, and as a result the relations between grossstadt and district administrations grew steadily more untenable until the Sklarek affair. It should be remembered that Böss was removed because he was adamant in his centralizationist views to the point of virtual administrative inactivity; the Sklarek trial exonerated him completely from all criminal charges, and the granting of his pension by the municipality, even though considerable litigation was required, showed that his conduct was unquestionably honest and sincere."

In summary, a growing deficit, an alarming increase in foreign loans, a disrupting municipal scandal, the growing sternness of the Prussian ministry, and the very real threat on the part of the Reich government to compel the institution of staatskommissars, involving possibly the extensive control of internal municipal affairs by the superior authorities, in addition to the many theoretical and practical criticisms of Berlin's governmental arrangements made by reputable scholars and administrators, may be regarded as the most important factors governing the consideration of the proposals for the reform of the government of Berlin and the compromise thereon which is the Act of 1931.

THE VON LEYDEN PROPOSAL (1930)

The Preussisches Ministerium des Innern, and particularly the secretary for local government affairs, Dr. von Leyden, has held, as has been mentioned above, views distinctly antagonistic in certain respects to those of Dr. Böse since the beginning of agitation for the reform of Berlin's government. In opposition to the proposals of the then oberbürgermeister, the Ministry worked out over a period of several years a comprehensive proposal for the rationalization of city administration in Berlin.³³ This proposal, in fact, is the only one which reached a sufficiently perfected stage to be drafted in the form of a reorganization statute. It was carefully prepared by the outstanding experts in German metropolitan government, and attained wide publicity and acclaim.³⁴ The fact that this act was the basis for the deliberations of the Prussian legislature in the development of the compromise legislation of 1931, and that the statute as adopted is a modification of the principles set down in the proposal of the Ministerium des Innern necessitates its detailed consideration in any exposition of the 1931 legislation. Furthermore, it is generally agreed that the principles of the ministerial proposal are likely to constitute the point of departure for further reforms in Berlin government, and it is hence probable that its provisions may be

of more assistance in understanding the true nature of the federalistic arrangements of Berlin's government than was the compromise legislation actually passed.³⁵ For these reasons the terms of Dr. von Leyden's proposal are herein presented in their entirety.³⁶

The Oberbürgermeister and the Magistrat

The ministerial proposal provided for the abandonment of the Magistratsverfassung and the complete centralization of executive authority and responsibility in the Oberbürgermeister according to the principles of the bürgermeisterverfassung, a type of local administration general in the cities of over 100,000 population in the Rhine province, in three large cities of Westphalia, in Anhalt, in Hesse, and in the intermediate Saxon municipalities. The principles of the bürgermeisterverfassung are likewise observable, as herein before described, in the administrative structure of rural municipalities (Landgemeinden) throughout Germany, including those annexed to Berlin in 1920. The significant features of the proposal of 1930 relating to the consolidation of the powers of the Oberbürgermeister may be summarized as follows:

1. He is made chairman of the city council, the city committee, and the director of the administration.
2. He is specifically and personally responsible for the exercise of the administrative authority of the municipality, and for the conduct of municipal agencies, institutions, and works, the coördination and enforcement of budgets, the auditing of accounts, and the reporting to the council on audits, estimates, and development.

3. He appoints his subordinates, and their relation to him is one of direct personal responsibility. He assigns officials, workers, and laborers to their duties, and is the authority of first instance in complaints against them. His power of removal is, within the general laws, as complete as his appointive power. He is, therefore, given sufficient control of his subordinates validly to be held responsible for all administrative affairs.
4. He issues regulations, within the limits of the functional allocations approved by the state ministry, for the coordination of administration, applicable uniformly to gross-stadt and district agencies.
5. He has, in addition, the veto and supervisory powers noted in connection with his duties as an agent of the state.
6. The Magistrat, as a collegial administrative agency and as a branch of the municipal legislature, is eliminated, and its powers, duties, and responsibilities transferred to the person of the oberbürgermeister. The new Stadträte bear in general the same relation to the council and the Oberbürgermeister that department heads do to the city manager and the council in a properly organized American council-manager city. The honorary unpaid partisan membership, which was quite strong in the old magistrat (13 out of 24) is eliminated entirely.
7. He is protected against direct investigation and interference by the council; such actions must be undertaken by a special council investigator appointed for the pur-

pose.

It is readily to be observed that under this plan the complete centralization of authority and responsibility in the hands of the Oberbürgermeister would provide at least the legal basis requisite for the satisfactory pursuit of Dr. Norden's "great policy," and the successful operation of the "strong will" which he deems requisite to a giant municipality such as Gross-Berlin.³⁷ It is, in most particulars one of the closest structural approximations to the American council-manager plan, as far as the chief administrator is concerned, which has been proposed in any alien municipal system. This is not to say that the chief executive under the bürgermeisterverfassung is otherwise akin to the American manager; the bürgermeister is expected to lead and dominate the council, not to oscillate in a vacuum of efficiency and technology. Indeed, not least important of the features of the 1930 proposal are those which make the oberbürgermeister the chairman and director of the proceedings of the legislative branches of the government.

The City Council and Select Committee

"The central council," writes Dr. Wells of the Stadtverordnetenversammlung of 1938, operating under the charter of 1920,³⁸ "is too large and unwieldy, to say nothing of being one of the noisiest and most disorderly municipal legislatures that the writer has ever observed. It is perhaps hardly necessary to add that the Communists and National Socialists contribute more than their share of the noise. The council is too much like a parliament; party divisions, partizan

strife, obstructionist tactics and 'hot air' characterize almost every session." The present writer recalls that the 1930 sessions of the council were, if anything, more disorderly. He witnessed within the course of two hours three fist-fights, one hurled water glass (ineffective), and one hurled paper-weight which shattered a window-pane. The subject under discussion, be it recorded, was reparations, concerning which the jurisdiction of the Berlin city council is really relatively unimportant.

It is hardly extraordinary, in view of such circumstances, that drastic steps, hitherto un contemplated in German local legislative procedure, should be taken in order to insure calm and orderly municipal council meetings. The proposal of 1930 seeks this end in several ways:

1. It reduces the council in number from 225 to 150.
2. It defines the council's jurisdiction positively, in order that "it will not be able, as formerly, to discuss all possible and impossible things for hours at a time."
3. It makes the Oberbürgermeister chairman, so that no partisan element would be present in the rigid application of closure rules and in holding the council to the matter in hand. He likewise has a regular vote plus an additional vote in case of a tie.
4. It provides for the expulsion of members for repeated disorderliness and continued disrespect for the rules of the assembly.
5. It transfers the residuary legislative functions to the small, compact, and privately-proceeding city committee

(Stadtgemeindeausschuss).

The reduction in size of the Berlin council is a reform upon which critics have been almost universal in their agreement. The large size, ponderous procedure, violent and pointless debate, and general deliberative and legislative ineffectiveness have been repeatedly noted by observers.³⁹ At the same time the relation between the size of the council and the number of administrative districts has been noted, and it has been insisted that the reduction in size of the council was merely an aspect of the more general problem of the reduction of the number of administrative districts. Unfortunately, most of those who have favored a reduction in the number of administrative districts have proceeded upon the assumption that the present districts 1-6 would be reconstituted as a single district.⁴⁰ For reasons hereinbefore pointed out,⁴¹ none of the districts lying outside the preconsolidation city of Berlin would ever agree to this proposal. Hence, while all proposals have stressed the reduction of the number of administrative districts, practically all have gone on the rocks upon the geography of the proposed districts. Whether circumspection or administrative theory prompted Dr. von Leyden's proposed solution of the previously existing impasse is irrelevant to this study; he suggested the reduction of the number of city councillors to 150 and the reconstitution of the administrative districts of the city of Berlin by an administrative order of the Preussisches Ministerium des Innern. It is obvious that only by this method can the administrative districts be reconstituted according to admin-

istrative adaptability and efficiency rather than political effectiveness; it is equally obvious that the smoothness with which this proposal was done to death in the committee of the Landtag, even in a session almost frenzied with the zeal of governmental simplification and expenditure reduction, is a decisive commentary on the present elements of the vitality of the administrative districts.

Circumscription of the power of representative bodies is no new thing in German city government, although it has heretofore related chiefly to the guarantee of sufficient autonomy in matters of administrative detail to permit efficient administration by the technical employees of the municipality.⁴² Hence, the departure made in Dr. von Leyden's proposal, and adopted almost in toto, in the act of 1931, is of especial interest because it specifically divests the whole council of many important local legislative functions and transfers practically all of the routine legislative business - no less important because of its routine nature - which governmental and administrative efficiency demands be speedily and smoothly disposed of, to a committee of the council consisting of exactly one-fifth of its total membership.

Dr. von Leyden suggested that the action of the city council be invoked in decision upon the following matters only:

1. The assumption of new municipal functions which are voluntary in nature;
2. The general structural arrangements of municipal administration;
3. The participation of the municipality in mixed enterprises

in cases in which proposals are presented to the municipality, in which cooperation by the municipality or a municipal fiscal agency is requisite to the legality of the undertaking, or in which the proposed fiscal participation of the municipality aggregates less than one-half of the total capital of the enterprise;

4. The passing of the budgets and revenue bills and the determination of methods of financing all capital outlays;
5. The acceptance of the audit;
6. Specification of municipal tax rates and charges;
7. Arrangement of all debt service affairs and the disposition of municipal open accounts.
8. Policies relating to adjustment and equalization of municipal assessments;
9. Acquisition of real property;
10. Pledging of public credit;
11. Election of the oberbürgermeister, the bürgermeister, the Stadträte, and the honorary officials, and the retirement of the oberbürgermeister.
12. The creation or abolition of public agencies, and the enactment of the payroll ordinance.

Upon motion of the select committee, or of other municipal committees, the council is consulted upon:

1. Matters of basic administrative policy;
2. The passage of any local ordinances;
3. Election of members to the Staatsrat;
4. Regulation of such other concerns as are not in this law otherwise allotted.

The proposal to make the oberbürgermeister the ex officio chairman of the council is an integral part of the bürgermeisterverfassung, and has operated successfully throughout those sections of Germany employing the highly centralized executive type of municipal organization. The merits of this plan are:⁴³

1. It provides a constant liaison between the legislative and administrative branches;
2. It places the chief executive in a strategic position in the influencing of municipal policy and in the administration of that policy;
3. It secures non-partisan administration of precedural rules in council meetings;
4. In general, it is believed to exercise a salutary effect on the levels of counciliar debate and action.

This arrangement, while not theoretically or practically necessary for the exercise of the powers of the oberbürgermeister in his capacity as an agent of the state, undoubtedly facilitates intercourse of a sort which tends to reduce the occasions for the invocation of state authority. Similarly, an active liaison might be maintained without having the chief executive act as chairman of the council - such has been accomplished in American council-manager cities - but, as Dr. von Leyden explained it to the writer, "the proposal to change to the bürgermeisterverfassung in Berlin is so radical that the plan may as well be proposed in its entirety; the appropriateness of its application to Berlin, however, could be adequately defended upon the grounds of non-partisan direction of council procedure alone."

No less radical a departure in German city government

practice than the circumscription of the council's powers are the provisions dealing with the suspension of obstructionist and recalcitrant councillors. The von Leyden proposal on this point reads as follows:

Sec. 13

- (1) For gross impropriety or for repeated contraventions of the published standing procedural orders of the council for one or more sessions, and mandatory after seven sessions, the city council, through action by the chairman suspends offending members of the council for a period not exceeding six months. Exclusion from meetings of the council entails also exclusion from all committee meetings for the same period as the duration of the council suspension. Through suspension the members' claim to compensation and all reimbursements for the period suspended is abated.
- (2) Upon motion of suspension, received by the council at the next succeeding session after action by the chairmen, two weeks are allowed for protest. If at the end of that time the order is confirmed the expulsion stands without appeal.

The city committee, in the sense in which it was proposed to be established in Berlin, does not elsewhere have its counterpart in German local government. It was proposed to consist of 45 members elected from and by the city council according to the principles of proportional representation. The Oberbürgermeister is its chairman; he has full voting rights and has a casting vote in case of a tie. Its proceedings are not public, and except in those matters specifically provided to require action by the council it is entirely competent to act; it is endowed, for such residuary legislative functions, with all the powers of a representative body (Vertretungskörperschaft). In other words, for most of the day to day legislative concerns of the city, the city committee is the council. Even with reference to those matters specifically

requiring council action, if the council defaults its authority by waiting to take action longer than the second session of the month following the introduction of the motion relating to one of the reserved points, the city committee is empowered to decide concerning the matter. Likewise, if the council renders itself without a quorum because of the disqualification of its members due to their pecuniary interest in certain matters before it, the city committee acts. It should be mentioned further that the proposed Berlin bürgermeisterverfassung differed from the customary strong-executive plan in that the city committee nominates, and the Oberbürgermeister appoints, instead of the council electing, the Stadträte.

Elections

Not the least significant of the proposals of Dr. von Leyden were those relating to alterations in the electoral system. It should be mentioned at the outset that the system of city-wide lists in the Berlin elections has long been unsatisfactory, and it has been felt that the maintenance of these city-wide lists in which rarely less than 25% or 30% of the members of the council are elected has tended to preserve the acute partisanship which has dominated Berlin elections.⁴⁴ It was felt that in any attempt to establish a relation between the citizen and the representative rather than the citizen and the political party there must be involved a reduction in the importance of the general city party organization. Dr. von Leyden proposed to accomplish this end in two ways: first, he suggested the complete identification of electoral and administrative districts, which would be a

natural corollary of the consolidation of administrative districts in the outlying areas; second, he proposed the elimination of the city-wide lists with the following proviso for the utilization of votes in excess of the number required to elect: the initial electoral quotient is determined as under the old law, by the division of the number of valid ballots cast by the number of councillors to be elected. Groups of electoral lists which have in no single election district received valid ballots equal to the quotient thus established or which have received in all less than double the electoral quotient are eliminated in the allocation of council seats. The number of councillors awarded to each group of electoral lists representing the same party is determined by the proportion which the ballots cast for this party bears to the total valid ballots not hitherto eliminated. The number of council seats allowed to each administrative district is then determined by the proportion which the total remaining valid ballots cast in the district bears to the total valid ballots cast in the entire city. In the case of determining the seats due to particular parties as well as the seats due to particular administrative districts, additional seats up to the number which they are entitled to receive, if such are not granted on the basis of the quotients, are distributed according to the greatest surpluses remaining. In this way the transfer of votes from district lists to the city-wide list is eliminated and all members of the city council represent particular administrative districts.

An illustration may serve to clarify the operation of the

proposed alterations in election procedure. Let a council of 150 and a total valid vote of 2,250,000 be assumed. The initial electoral quotient is 15,000. Probably six or eight minor parties will be eliminated in the first step, as they will fail to secure 15,000 votes in any single electoral district, or 30,000 votes in all. For example, under such conditions the Independent Social Democrats, The German National Liberty Party, The German Social Party, the Evangelical Party, Stegemanns National Union of Landlords and Householders, The Workers Party, The German Workers Party, the Entschiedene Democrats, The National Economic Union, and the German Bourgeoise Party would have been eliminated at the outset in the 1925 elections. Assume that 250,000 votes are eliminated by such an initial step.

It is then discovered, by dividing the total remaining valid ballots cast by the valid ballots cast for each of the remaining parties, that the Communists are entitled to 30 seats, the Social Democrats to 30 seats, the National Socialists to 70 seats, and the Center to 20 seats.

It is further discovered, by dividing the total remaining valid ballots cast, that the 10 administrative districts are entitled to representation as follows:

District I....25 councillors	District VI.....8 councillors
District II...28 councillors	District VII....8 councillors
District III..24 councillors	District VIII...9 councillors
District IV.. 18 councillors	District IX....11 councillors
District V....13 councillors	District X.....7 councillors

The accompanying table assumes a vote distribution for the administrative districts, and shows the operation of the von Leyden

TABLE SHOWING OPERATION OF VON LEYDEN ELECTORAL PROVISIONS
 ASSUMING STATED PARTY AND DISTRICT VOTE DISTRIBUTIONS

Administrative District	Vote	No. Reps.	Communists				Social Democrats				National Socialists				Center			
			Vote	Elected	Surplus	Elected	Vote	Elected	Surplus	Elected	Vote	Elected	Surplus	Elected	Vote	Elected	Surplus	Elected
I	331,223	25	51,278	3	11,278	1	56,670	5	3	---	149,821	11	3,221	---	73,454	5	6,767	---
II	375,943	28	40,420	3	420	---	109,281	8	1,101	---	161,004	12	1,002	---	65,238	4	11,904	1
III	317,890	24	81,200	6	1,199	---	80,116	6	15	---	148,720	11	2,120	---	7,954	---	7,954	1
IV	242,110	18	29,670	2	3,003	---	13,122	---	13,122	1	81,900	6	1,899	---	117,418	8	10,754	1
V	152,885	12	9,861	---	9,861	1	27,571	2	902	---	115,291	8	8,623	1	162	---	162	---
VI	108,182	8	66,778	5	111	---	24,677	1	11,244	1	16,544	1	3,211	---	183	---	183	---
VII	108,002	8	14,412	1	779	---	5,021	---	5,021	---	88,404	6	8,403	1	165	---	165	---
VIII	120,180	9	81,056	6	1,055	---	11,056	---	11,056	1	27,740	2	1,073	---	328	---	328	---
IX	148,660	11	10,004	---	10,004	1	41,520	3	1,520	---	94,215	7	881	---	921	---	921	---
X	96,935	7	11,446	---	11,446	1	30,668	2	4,002	---	53,105	4	13,105	1	1,706	---	1,706	---
	2,000,000	150	396,125	26		4	399,602	27		3	936,744	67		3	270,529	17		3

proposal in securing a council therefrom.

The existing arrangements with reference to the election of district councillors are maintained. The von Leyden proposal also eliminated the seating of city councillors ex officio in district councils.

District Administration

The district council is to be elected under approximately the same conditions as at present, in the number of one for each 10,000 inhabitants, except that the number in each district shall not be less than 15 or more than 35. The district bürgermeister is made chairman of the district council with a deciding vote in case of a tie. The collegial district board provided for in the Act of 1920 is eliminated and all of its powers, duties and functions transferred to the person of the district bürgermeister. He is the complete head of the administration and is responsible for all administrative acts performed under authority of the district.⁴⁵ The relation here is in all respects identical with the relation of the technical assistants to the oberbürgermeister hereinbefore discussed. Likewise the honorary members of the district boards, the election of whom was provided for in the 1920 act, are eliminated in the von Leyden proposal, and none except qualified technical officials participate in administration in any capacity other than as members of the council.

City-District Relations

The von Leyden proposal aims definitely to correct the constant manipulation of the functional allocation which has been mentioned heretofore.⁴⁶ The provisions of this feature

are as follows:

Sec. 48

- (1) Concerning the competence in local administration of the administrative districts, in relation to the city administration, it is determined by the degree to which under this law functions are delegated to the district by local ordinances.
- (2) In the enactment of such local ordinances the assent of the State ministry is required. In case such laws are not enacted and approved within one year after this act comes into force, the State ministry shall itself promulgate such ordinances.

Sec. 49

- (1) The ordinances contain:
 1. The administrative jurisdiction of the central administration and of the district administration, within which each agency shall be selbständig.
 2. The administrative jurisdiction retained by the central administration the execution of which is in part devolved upon the districts.
- (2) These ordinances supersede corresponding provisions of the municipal revenue acts except insofar as these statutes concern revenues for the purpose of schools.

Officials

It should be mentioned that the legislative bodies are completely deprived of their appointing power under the von Leyden proposal except appointment of the oberbürgermeister, the assistant bürgermeister, and the stadträte in the grossstadt government, and the district bürgermeister in the district governments, and, of course, the election of honorary officials to the deputations.⁴⁷

Local Government Affairs

The ministerial proposal makes certain drastic departures in the direction of regulating affairs hitherto considered exclusively subject to local jurisdiction.⁴⁸ The first of these related to the establishment of a budget, the methods of budget enforcement, and the definition of public loans in a manner which

precludes the surreptitious incurrence of large deficits.

The provisions of this section of the law are as follows:

Sec. 62

- (1) The basis for all finance, accounting, and auditing activity is contained in the budget plan. It contains estimates for the entire fiscal year for all anticipated revenue in detail and necessary expenditures, classified according to services and administrative districts. In the budget plan deficits and surpluses are required to be indicated and methods for equalization shown. Unexpended balances are transferred to the general funds for reappropriation. In special cases the superior authorities may allow exceptions to the rule of the previous sentence.
- (2) The estimates for the budget are each year reconsidered.

Sec. 63

- (1) The budget is operated according to the budget plan established.
- (2) The unanticipated increase in expenditure is only permitted by a simultaneous increase of income. The provisions of Sec. 62, Par. 1, sentences 4 and 5 apply.
- (3) With the yearly estimates is included disposition of the earnings and provision for the deficits of municipally owned public utilities; insofar as fiscal control is not elsewhere provided to be in other than municipal auditing agencies, a valuation shall be made of the working capital and property of these utilities as the basis for the calculation of their retainable earnings.

Sec. 64

- (1) As loans for the purpose of this law are designated all long or short term commitments with the exception of already existing credit accounts; credit accounts are permitted to remain open only for the usual short terms, and upon the expiration of such short terms must be converted into loans for ordinary or extraordinary expenditures subject to the regulations and provisions established under the definitions of this act.

The second proposal concerns accounting and auditing control, the provisions of which are as follows:

Sec. 68

- (1) The city of Berlin is required to establish an effec-

tive and independent accounting and auditing control of municipal financial transactions. For this purpose it erects its own controlling office. This office operates under the direction and control of the Oberbürgermeister. The city council and the city committee are required to pass upon the results of the various audits and reports made by this agency.

- (2) The officials of the control establishment may be relieved of office only with their own consent or upon established disciplinary grounds and in accordance with formal disciplinary procedure.

State Supervision

As has been indicated before, the opinion is generally prevalent that the history of Berlin administration in the last decade points to the necessity for special provisions relating to state supervision.⁴⁹ In this respect the von Leyden proposal involves a departure from the unique position which Berlin has occupied among capital cities, namely, that it has been in the past no more subject to central control than the other municipalities in Prussia. The following provisions are contained in the sections of the von Leyden proposal relating to state supervision:

Sec. 72

- (1) The Board of Supervision is empowered to veto acts of the city council, the city committee and the district boards of the city of Berlin which exceed the competence of these bodies, so far as the veto is not specifically provided by law to be vested in other independent organs.
- (2) The Board may, in pursuance of its duties, disallow local proposals in whole or in part or may require the amendment of such section or sections as it deems necessary.
- (3) The vetoed agency has two weeks after the next regular session after the establishment of the veto to decide whether it will seek administrative remedies. The appeal has only suspensory effect.

Sec. 73

- (1) For misfeasance, malfeasance, or non-feasance in the performance of functions which are by law mandatorily

imposed upon Berlin in its capacity as a public corporation, the Board of Supervision, so far as the duty is not specifically vested in another agency, is charged with compelling the proper conduct of such mandatory functions.

- (2) Subsequent to action by the Board of Supervision the Oberbürgermeister has two weeks within which to seek an administrative remedy. The appeal lies only on the ground of whether or not the veto is within the competence of the Board of Supervision; the veto is itself not attacked directly.

Sec. 74

- (1) The Oberbürgermeister of the city of Berlin has the right to be informed and suggest, before the veto of the Board of Supervision, alterations in proposals of the council or city committee when they concern:
- a. The enactment of ordinances, so far as conclusive jurisdiction is not by this law otherwise provided for (Sec. 48, Par. 2).
 - b. The naming of streets, places, and bridges.
- (2) The Board of Supervision is required within four weeks, without effect upon its customary procedure (Par. 72), to render a decision upon the revised proposal.

Sec. 75

- (1) Actions concerning:
- a. The incurring of a loan,
 - b. The acceptance of a bond or pledge,
 - c. The enactment or alteration of compensation schedules,
 - d. The founding or organization of a municipal bank,
 - e. The lending of municipal property or resources to institutions and transit undertakings organized as private corporations.
 - f. The introduction of new, and the alteration of already used, municipal insignia and seals,
- require the assent of the Board of Supervision.
- (2) Assent under (d) may be waived by the Board.

Sec. 76

- (1) For the purposes of Sec. 74, Par. 1 and Sec. 75, Par. 1 in which original jurisdiction over actions is established, the Board of Supervision must, within the period during which its objection must be filed, or when the objection is re-referred, or when the veto is pronounced, explain the reasons for its action. Ordinances requiring for their validity public notice for the customary periods are presumed to have been so publicized for the purposes of sentence 1.

- (2) In vetoes of action indicated in Par. 1, sentence 1 which seek to bind contractually the City of Berlin, when simultaneously with the issuance of the decision of the City of Berlin the assent of the Board of Supervision is required, the provisions of Par. 1 are presumed to have been complied with.
- (3) For the purposes of Sec. 48 the provisions of Par. 1 and 2 particularly apply.

Sec. 77

The omission or refusal of the Hauptstadt Berlin to fulfill any function imposed upon it at law, or of any agency to support the vetoes made in pursuance of the powers granted in Sec. 72; Sec. 74, Par. 1; Sec. 75; and Sec. 76, Par. 1 is illegal, and the supervisory authority is empowered in such event to act in the place of the Hauptstadt Berlin in the administration of such mandatory functions or of such services as are sought to be conducted inconsistently with rulings of the supervisory authority, regarding the provision or abatement of such action or the incurrence or suppression of such extraordinary expenditure as by ordinance the authority may require.

Sec. 78

The Oberbürgermeister and the bürgermeisters require the approval of the State ministry. The Stadträte, the district bürgermeister, and the various members of the district boards require the confirmation of the state supervisory board.

Sec. 79

The city council may be dissolved upon the motion of the State Ministry. The same applies to the district councils.

Sec. 80

When and for so long as the orderly conduct of the administration of mandatory functions at public law cannot be maintained, the Board of Supervision with the permission of the Minister of the Interior, is authorized to attend to the obligations of the Oberbürgermeister, the city council, the city committee, the district bürgermeister or the district council or all of the organs.

Sec. 81

- (1) The supervisory authority for the Hauptstadt Berlin is the Oberpräsident of the Province of Brandenburg and of Berlin.

- (2) For the purpose of Sec. 74, Par. 3 the Minister of the Interior upon motion of the Oberbürgermeister, or in the sense of Sec. 78 on motion of the chairman of the city council (district councils) may review a veto given by the Supervisory Authority.
- (3) The administrative court for the purposes of Sec. 73, Par. 3 and of Sec. 75, Par. 2 is the Superior Administrative Court.

Summary

The von Leyden proposal, in summary, sought to establish the following reforms in Berlin governmental arrangements:

1. The institution of the highly centralized executive, or Bürgermeisterverfassung, involving:
 - a. The elimination of the collegial Magistrat;
 - b. The centralization of all administrative responsibility in the Oberbürgermeister;
 - c. The extension of the appointive powers of the Oberbürgermeister;
 - d. The vesting of the chairmanship of the city council in the Oberbürgermeister ex officio.
2. The curtailment of the ineffective and violently partisan council debate and procedure by:
 - a. The limitation of the subjects upon which council action was requisite;
 - b. The creation of a small, compact, and privately proceeding select committee, to handle the routine legislative matters of the municipality, such committee to be elected in the number of one-fifth of the council, by and from the council, according to the principles of proportional representation, and proceeding under the chairmanship of the Oberbürgermeister.

- c. Provision for automatic reference to the competence of the select committee of all matters requiring council action in the event of unreasonable delay by the council.
 - d. Reduction in the size of the council to 150 members.
3. The stabilization of the functional allocation between the grossstadt and the administrative districts by:
- a. Requiring the general uniform codification of ordinances dealing with the allocation of functions;
 - b. Prescribing the content of such ordinances to preclude alteration by informal administrative orders or other means not cognizable by the state authorities;
 - c. Requiring state confirmation of all actions relating to the functional allocation, thus placing the actual alteration of the functional allocation beyond the reach of the municipal authorities, and making the districts as secure, as against the grossstadt authorities, in their functional jurisdiction as though the allocation were, in fact, a part of the organic law.
4. The alteration of election procedure to secure city councillors representative of administrative districts rather than of parties, involving:
- a. The territorial identification of administrative and city council election districts;
 - b. The elimination of the city-wide lists.
5. The consolidation of district administration to an even greater degree than under the act of 1920 by:
- a. Eliminating the collegial district board and the transfer of its powers, functions, and duties to the district bürgermeister;

- b. Making the district bürgermeister the chairman and directing officer of the district council.
3. The regulation of local budgetary and fiscal control in a manner designed to insure against the recurrence of the "Defizit-Vorlage," and occurrences such as the Sklarek scandal, which involved:
- a. The mandatory creation of a bureau of financial control, operating under the direction of the oberbürgermeister but actually independent of both administrative and legislative influences;
 - b. The strict definition of loans and open accounts, and the provision of automatic conversion of open accounts continuing for more than certain periods to loans of a sort cognizable by the supervisory authority;
 - c. The strict regulation and publication of persons and officials authorized to enter into financial transactions in behalf of the municipality or its subdivisions.
7. The recasting of the system of state supervision to provide for:
- a. Continuous state supervision of stated fiscal operations;
 - b. Summary action in compelling or preventing mandatory or prohibited actions on the part of the local authorities by:
 - (1) Vetoes by the State Supervisory Board;
 - (2) Assumption of administrative powers and functions for any or all agencies of the city administration.

THE LEGISLATION OF MARCH 31, 1931

"From the outset," writes Dr. Norden,⁵⁰ "the parliamentary proceedings relating to the bill (the ministerial proposal) stood under an unlucky star. Under all circumstances, the Middle and Right parties desired to retain the Magistratsverfassung, although with certain modifications. To them the new plan in various details seemed pronouncedly cut to suit the wishes of the Social Democratic Party. Moreover, even the Social Democratic Party did not completely agree with the draft of its minister. Hence there resulted the remarkable spectacle of a bill that was supported by no party in the legislature. Out of the many individual wishes of the political groups and out of the continued pressure of the cabinet which laid great stress on the speedy enactment of the law, there finally emerged a moderate bill which altered the existing charter of Berlin in a few, but nevertheless important respects."

It is, at the same time, important to note that of the 27 sections of substantive law in the act as passed, the following sections are found to be absolutely identical with corresponding sections of the ministerial proposal:

Ministerial Proposal	Subject Matter	1931 Act
Sec. 13.	Expulsion of councillors. . . . .	.Sec. 2
Sec. 15.	<u>Oberbürgermeister ex offi-</u> <u>cio</u> chairman select com- mittee	.Sec. 4
Sec. 21.	Providing for conference. of District <u>Bürgermeistern</u>	.Sec. 10

Ministerial Proposal	Subject Matter	1931 Act
Sec. 26. . . . .	.District <u>bürgermeister ex officio</u> chairman district council	.Sec. 18
Sec. 48. . . . .	.Providing for state approval of functional allocation	.Sec. 21
Sec. 78. . . . .	.Confirmation of Officials	.Sec. 26

In addition, the following sections are in preponderant measure identical, the changes involving verbiage and modification and qualification, rather than actual departure from the proposition of the ministry:

Ministerial Proposal	Subject Matter	1931 Act
Sec. 14. . . . .	.Composition of the Select Committee	.Sec. 3
Sec. 16. . . . .	.Procedure of the Select Committee	.Sec. 5
Sec. 20. . . . .	.Selection and tenure of <u>Oberbürgermeister, Bürgermeister and Stadträte</u>	.Sec. 7
Sec. 38. . . . .	.Defining jurisdiction of City Council	.Sec. 11
Sec. 41. . . . .	.Jurisdiction of the Select Committee	.Sec. 13
Sec. 42. . . . .	.Authority of the <u>Oberbürgermeister</u>	.Sec. 15
Sec. 49. . . . .	.Regulating substance of the function allocating ordinance	.Sec. 22
Sec. 59. . . . .	.Regulating appointment of Officials	.Sec. 24

Mere numbers of coincidence mean nothing, of course, especially in view of the fact that the ministerial proposal contained 91 sections and the Act of 1931 only 30. However, many of the more important features of both drafts are contained in the above, as may be readily ascertained by reference to Appendices B and C.

The Oberbürgermeister and Magistrat

The Act of 1931 established an executive authority for the administration of grosstadt affairs which is, like the administrative districts themselves, without parallel or precedence in the entire history of German local government. It is neither the bürgermeisterverfassung, or strong executive, type advocated by the ministry, nor is it the magistratsverfassung, or board plan, which typified Berlin administration prior to the reforms of last year. The principle of the change in the relationship between the Oberbürgermeister and the magistrat made in the Act of 1931 seems to be that in general the magistrat continues to function as a second chamber of the municipal legislature and continues to exercise its legal regulatory powers as defined under the Städteordnung and cognate statutes but is no longer responsible in its collegial capacity for the administrative affairs of the municipality. The more important sections of the Act of 1931 relating to this relationship are as follows:

Sec. 14

- (1) The magistrat prepares the decrees of the council and the select committee. It passes upon all legislative proposals made by the council or select committee.
- (2) It holds hearings of the select committee for the purpose of securing coordination and unification of city and district administration methods and purposes.

Sec. 15

- (1) The oberbürgermeister directs the administration.
- (2) He directs the transactions of the council and select committee except as to the coordinating functions assigned to the collegial magistrat.
- (3) He directs and arranges the procedure and controls the active management of the municipality.
- (4) He is the legal adviser to the city administration and of the building police bureaux of the

- districts and the supervision over these bureaux.
- (5) He allocates, with the exception of those otherwise assigned under Sec. 24, Par. 1, the officials and employees of the city administration and removes them.

Sec. 16

- (1) The bürgermeistern are the permanent deputies of the oberbürgermeister. They succeed to the oberbürgermeister's duties in the manner and to the degree determined by the oberbürgermeister. In the event that the burden demands, the oberbürgermeister may elevate also a member of the Stadträte to the functions and privileges of a bürgermeister.
- (2) The Stadträte are the permanent deputies of the oberbürgermeister for designated transactions of the city administration.

Sec. 17

- (1) As leader of the administration the oberbürgermeister is responsible for the entire conduct of local administrative affairs. He is responsible for the orders and instructions given the bürgermeistern and Stadträte.
- (2) As permanent deputies of the oberbürgermeister the bürgermeistern and stadträte bear the responsibility for the concerns delegated to them, without prejudice, however, to the responsibility of the oberbürgermeister for the commands or restraining orders which he gives them.
- (3) The residuary powers of legal regulation of the oberbürgermeister, the bürgermeistern, and the Stadträte as members of the Magistratskollegium are retained unaltered.

It should be mentioned that the magistrat is reduced in number from 30 to 18, of which number 12 are technically qualified paid officials, and 6 are honorary officials. It is further provided that all departmental directors are to be paid magistrat members.

The City Council and the Select Committee

The number of the city council is not reduced by the Act of 1931, largely because the Landtag refused to deal with the question of the geographical reallocation of the city of Berlin. However the provisions of the ministerial proposal

relating to the establishment of the select committee were adopted with relatively unimportant deviations. The select committee consists still of one-fifth of the membership of the city council elected by and from the membership of the council according to the principles of proportional representation.

The delimitation of the powers of the city council is identical with the ministerial proposal except for the following provisions:

1. The city council is given jurisdiction over the participation of the municipality in all enterprises having the character of public or private law corporations without the limitations imposed in the ministerial proposal.
2. The section permitting the select committee or other municipal committee to refer matters dealing with the determination of basic principles of the municipal administration to the city council is not included in the Act of 1931.
3. The power of the select committee or other municipal committee to refer to the council questions relating to the regulation of such other concerns as are not in the statute specifically otherwise allotted is not contained in the Act of 1931.

In the aggregate the effect of the modifications made by the Landtag, while extending the jurisdiction of the council with reference to municipal undertakings organized as public or private law corporations, greatly extends the jurisdiction of the select committee acting independently of the council with reference to routine administrative matters. Critics

are on the whole inclined to view the Landtag's modification as a definite improvement in the statute.⁵¹

Unfortunately the provision of the ministerial proposal which permitted the automatic transfer to the competence of the select committee decisions which are provided in the law to require the action of the council upon the expiration of a definite period in the absence of council action was dropped in the Act of 1931. There is therefore no provision in the present act to force the expedition or decision on those matters which are allotted to the council. Due to the broadening of the jurisdiction of the select committee as mentioned above this lack is certainly not as important as if the provisions of the statute relating to the delimitation of the council's powers had been retained as in the ministerial proposal. The basic significance of this feature cannot be determined until its results are more fully apparent. Commentators, however, are inclined to view the provision as adopted as satisfactory.⁵²

City-District Relations

The proposals of the ministry which sought to establish the functional allocation between the city and district administrations is repeated in virtually complete form in the Act of 1931. The provisions of the Act of 1931 on this point are as follows:

Sec. 21

- (1) Concerning the competence in local administration of the administrative districts, in relation to the city administration, it is determined by the degree to which under this law functions are delegated to the district by local ordinances.

- (2) In the enactment of such local ordinances the assent of the State ministry is required. In case such laws are not enacted and approved within one year after this act comes into force, the State ministry shall itself promulgate such ordinances.

Sec. 22

- (1) The ordinances contain:
1. The administrative jurisdiction of the central administration and of the district administration, within which each agency shall be selbständig.
 2. The administrative jurisdiction retained by the central administration the execution of which is in part devolved upon the districts.
- (2) The jurisdictional specifications contain:
1. The specification of those problems whose unified administration for the entire city required their administration directly by the central organs.
 2. All other concerns as problems of the individual districts administered by the district administrative organs.
- (3) Ordinances deviating from the specifications of the communal tax-rate laws as well as those governing the work of the schools are not regulated by the above.

Another important feature of the Act of 1931 is the provision establishing the conference of district bürgermeisters. While the convocation of this group is vested with the oberbürgermeister the critics are generally agreed that the rôle which this conference will play will certainly be not less important than that of the Standing Joint Committee of Metropolitan Boroughs in London. The recent decisive action of the conference of district bürgermeisters on district councils and council procedure lends support to this estimate.⁵³

Elections

No alterations were made as to electoral procedure or as to reorganization of the electoral districts. The members of the city council continue to sit in the district councils of the districts from which they are elected or in the councils to which they are assigned by the oberbürgermeister.

SUMMARY

The legislation of 1931 adopted those portions of the von Leyden proposal providing for:

1. A partial centralization of the executive power, by:
 - a. The extension of the appointive power of the Oberbürgermeister;
 - b. The statement in the law of the administrative supremacy of the Oberbürgermeister, and of the relations between the Oberbürgermeister, the bürgermeistern, and the individual Magistratsmitgliedern;
 - c. Making the Oberbürgermeister ex officio chairman of the select committee.
2. The elimination of the violent partizanship, friction, and delay in council proceedings and, therefore, in administrative affairs, by:
 - a. Providing for the expulsion of obstructionist and disorderly councillors;
 - b. Limitation and prescription of the matters upon which action of the whole council is essential;
 - c. Transfer of residuary legislative functions to the small, privately-meeting select committee, composed of one-fifth of the whole council, elected by and from the council according to the principles of proportional representation.
3. Stabilization of city-district relations, by:
 - a. Providing for a general codification of ordinances relating to the functional allocation;
 - b. Making such codification, and all future modifications thereof, subject to the approval of the state ministry;

- c. Recognizing and providing for the conference of district bürgermeisters.
- d. Providing for the development of the original consolidated budget by the conference of district bürgermeisters sitting with the Magistrat.

THE FUNCTIONAL REALLOCATION OF 1932

The ordinance of April 6, 1932 marks the beginning of the final step in the "new deal" for the Berlin administrative districts and the executive authority of the grosstadt administration.⁵⁴ Both the ministerial proposal's and the 1931 statute's provisions relating to the functional allocation were self enforcing, in that they provided that if, upon the expiration of one year from the promulgation of the statute, the municipal authorities had not submitted an ordinance defining, according to standards contained in the statute and cited hereinbefore, the sphere of action of grosstadt and district agencies, such allocation automatically was to pass to the state ministry. It is interesting to note that the submission of this ordinance was delayed almost to the last moment.⁵⁵

Since Section 25, paragraph 2, of the Act of 1920, requiring the hearing of the collective district authorities prior to any changes in the functional reallocation, was not modified by the Act of 1931, it was clearly evident that the district authorities would play an important part in the development of the ordinance. The importance of the rôle of the districts was greatly accentuated, however, by the power vested in the Oberbürgermeister to call conferences of the district bürgermeistern (since, under Section 18 of the Act of 1931, their already very extensive executive powers were made complete, such officials therefore succeeding to

the powers and duties under Section 25, paragraph 2 of the Act of 1920) under Section 10, paragraph 1 of the Act of 1931. The ordinance was one, therefore, in the development of which the districts had participated, and indeed, perhaps dominated.

In conjunction with Section 21, paragraph 2 of the Act of 1931, the ordinance of April 6, 1932 establishes a municipal government of "enumerated and residual" powers. The generic statements of sections one and three confer upon the districts the responsibility for the administration of all functions and services not specifically vested in the central administration in other sections of the ordinance. The functional allocation as established by the ordinance cannot be altered directly or indirectly without the assent of the state ministry. It is, of course, impossible to forecast the attitude of the ministry; the present ministry, however, is unequivocally convinced, according to Dr. von Hardenberg, that the administrative exigencies of the Berlin agglomeration demand decentralization in at least the degree afforded by the present ordinance.⁵⁶ The new statute and functional allocation are regarded as distinct concessions to the federalistic principle insofar as they relate to the relations between city and district governments.⁵⁷

A direct translation of the ordinance of April 6, 1932 is appended hereto:

THE LOCAL LAW OF APRIL 6, 1932

The City Council and the Magistrat have, during the period March 3 to 9, 1932, proposed the following local law:

LOCAL LAW

In pursuance of the provisions of Section 21, Paragraph 1 of the Provisional Law Governing Miscellaneous Points of the Municipal Constitutional Regulations of the Capital City of Berlin of March 30, 1931 (Preussisches Gesetz Sammlung 1931, p. 39 et seq.) the following provisions concerning the jurisdiction of the public administration in the administrative districts in relation to the city administration are proposed:

I. GENERAL PROVISIONS

Insofar as not regulated by national or state statutes or not otherwise provided herein, the following regulations apply:

Sec. 1

The autonomous and delegated concerns are administered by the administrative districts.

Sec. 2

The city administration is charged with responsibility:

- a) for concerns which the city or its agencies undertake in the capacity of a municipal union (under section 1, paragraph 2 of the law of April 27, 1920);
- b) for the establishment, dis-establishment, and modification of institutions and agencies of the municipality or of the divisions thereof;
- c) for the coordination of all branches of administration.

Sec. 3

Institutions and agencies are, in general, administered by the administrative districts in which they are situate.

Sec. 4

The city administration is charged with the management of institutions and agencies which:

- a) are independent undertakings organized in the form of public law or private law associations;
- b) are situate outside the corporate limits of the municipality.

Sec. 5

With the permission of the Magistrat and the city committee an administrative district may be vested with the administration of institutions and agencies which:

- a) lie in or operate over several administrative districts;
- b) are lacking in the administrative district adjacent to that in which such institutions or agencies are situate, or
- c) are situate outside the corporate limits of the municipality.

Sec. 6

New undertakings assumed by the municipality, in the absence of contrary provision, are vested in the city administration.

II. SPECIAL PROVISIONS

Sec. 7

The city administration is vested with jurisdiction in the following autonomous concerns:

1. Personnel Administration:

Determination of the provisions by which the compensation of municipal officials, employees, and workers are regulated;

Equalization of maintenance claims;

Postponement of retirement ages for all officials of the municipality;

Arrangement of compensation contracts

Arrangement of instructional and examinational affairs for municipal retainers.

2. Budget Affairs:

Provision, correlation, and modification of the estimates proposed for the municipal budgets;

Regulation of the arrangements for accounting control, auditing, and fiscal scrutiny and review.

3. Administration of Trusts and Liabilities:

Arrangement of surety contracts and the insurance thereof;

Maintenance of the actuarially required reserves and general sinking funds, insofar as within its jurisdiction;

Decision concerning the borrowing policy and debt retirement affairs relative to the capital liabilities of the municipality;

Administration of capital accretions with the exception of

those which accrue from district undertakings; decision concerning the outlay of money and the sale or purchase of bonds in connection therewith.

Remission and suppression of municipal charges, so far as such relate to general concerns or are of systematic application.

Regulation of the administration of public trusteeships.

Custody and maintenance of the control inventories, regulation of the accounting of district inventories, and the establishment of central trust supervision (control inventory accounting);

Administration of savings banks, municipal bank, mortgage office and the Buch utilities;

Administration of estates and forests;

Payment of riot damages;

Regulation of insurance administration (insurance of self and others).

4. Taxation and Expenditures

Levy and collection of the municipal beer tax, the theatre trade licenses, and of administrative services fees, as well as the supervision of the subjects levied upon by the tax boards which are regulated under authority of municipal ordinances and which require uniform application;

Regulation of actions concerning the redress of tax grievances, of actions relating to the imposition of penalties, of the determination of reasonableness, and of the remission and suppression of tax charges.

5. Health

Unified regulation of all relations with the national and state health authorities as well as the underwriters of social insurance;

Regulation of the scope of activity of non-municipal institutions and agencies;

Transportation of public patients, insofar as such is not handled by the public placing agencies and the transport authorities;

Development of facilities for the care and treatment of the crippled in non-municipal institutions;

Provision of dispensaries, under the national law of February 18, 1927 (Reichsgesetzblatt 1927, Vol. I, p. 1), throughout the entire municipality;

Health instruction of adults;

Conflicts of local health unions;

Approval of sleeping places;

Administration of the rescue and ambulance services, of the Kirchow homes, of the Buch institutions, of all sanatoria and nursing homes (public), of the institutions for incurables, feeble-minded, and psychopathic cases, of the chemical and bacteriological research laboratories of the Central Health Office, of the training school for Disinfecting Officers of the Berlin Police District, and of the provincial midwifery office.

6. Welfare:

Problems of district and state welfare unions in the city of Berlin, except insofar as such are not, or were not, undertaken by the administrative districts;

Concerns of child welfare (child health and child welfare) acting in the capacity of the state children's bureau (Sec. 15 of the Reichs Jugendwohlfahrtsgesetz);

Adoption supervision for the entire municipality;

Welfare office and welfare home under the Police Presidency;

Regulation of functions of non-municipal child welfare institutions and agencies;

Child recreation camps, insofar as not provided by the placing services or the transport services;

Welfare instruction of adults;

Conflicts of local welfare unions;

Transient persons;

Central Welfare Office for the legally prescribed functions relating to war victims and war survivors;

Mediation boards for small claims;

Regulation of charity medical treatment;

Administration of homes, including the convalescent homes, for the entire municipality, of the institutions for the blind and deaf and dumb, of the workers colonies, of the

Rummelsburg laborers institutions, including the transient laborers institution, the laborers institutions for the correction of under-nourishment and hospitals therefor, of the Alten Jakobstrasse orphanage, of the Fröbelstrasse lodging houses, of the Haus Tennenhof children's home in Lichtenrade, of the Lichtenrade, Lindenhof, and Struweshof training homes and the Childrens' Shelter, of the War Orphans Allowance School and Workshop, and of the non-self-supporting establishments insofar as these latter are not undertaken by the administrative districts.

7. Schools

General supervision of volks, middle and high schools;

Direct administration of the volks, middle, and high schools in the administrative districts 1-6;

Conflicts of local school unions;

Private and parochial school regulation, insofar as granting and dispensation of subsidies are undertaken;

General arrangement for the cultural development of the young;

Supervision of the actions of the local school unions affecting athletics;

General arrangement for the provision of calisthenics;

Exchange of pupils and teachers with localities outside Berlin;

Regulation of improvement-in-service in the teaching profession;

Administration of the night schools, of trade license examination courses, of film and art censorship, of school museums, of vocational guidance seminars, of the Pankow school farms and the Treptow boat houses;

Administration and bestowal of student scholarships and stipends, so far as candidates are not cared for by the administrative districts;

8. Art and Culture:

Supervision and protection of statuary and memorials;

Acquisition of works in all the arts and the supervision of construction of such works on all public streets and places;

Conduct of the municipal university;

Administration of the city library, of the municipal archives, of the Mark museum, of the Ermeler house and the Park house;

9. Settlement and Housing:

Allotment and administration of public resources for the provision of new housing facilities;

10. Planning:

Determination of the general zoning and land utilization requirements;

11. Sub-surface engineering:

Decision concerning the repair and classification of streets and places;

Concurrence in the designation of thoroughfares and highways;

Approval of the repair and construction of asphaltic, tar, wood, and other new pavements;

The illumination of public streets and buildings;

Regulation of the yield of highway privileges insofar as such are derived from streets in more than one administrative district;

Land reclamation and protection;

Provision, construction and maintenance of bridges, so far as permitted under the central bridge regulations;

Provision and construction of rapid transit facilities, of industrial and other transportation needs, of canals and locks;

Provision and construction of all underwater projects, including all additions and alterations, (as loading canals, cuts-in, etc.) which exceed the requirements of any single administrative district;

Harbor and shipping concerns;

Supervision of the rights and obligations of inheritances of harbor structures and property, and of the transfer of property in and adjacent to the loading ways;

Granting of permission for the construction of private branch lines, track, and light railways;

Determination of the general water supply plans for the

entire municipal area and decision over all questions of water policy, etc.;

Provision, construction, maintenance and regulation of all municipal water supplies including the connecting laterals in administrative districts 1-6;

Provision, construction, maintenance and regulation of all facilities for pumping water, all aqueducts, and purification facilities, and irrigational facilities;

Decision over the abandonment or alteration of all non-shipbearing open waterways;

Naming of streets and places;

Technical surveying problems, as well as the representation of the city in the boundary demarcation and fixation of the administrative districts 1-6;

Tax administration in administrative districts 1-6;

Triangulation and levels-corrections for the entire municipality;

Provision and distribution of equipment (machinery, etc.) and materials according to need;

Technical research and review of technical innovations.

12. Surface Engineering:

General supervision of architects;

Provision of regulations concerning plans, contracts, deductions, etc., and general restrictions upon building operations and developments;

Approval of plans and supervision of construction of schools, hospitals, bathing establishments, government buildings, market halls, and other large structures; in other cases these problems may be undertaken by the administrative districts;

Review of technical innovations;

13. Heating and Mechanical Affairs:

Approval of plans and supervision of work of heating and machinery installations in all new construction;

Improvement of technical personnel qualifications of heating engineers and workers;

14. Traffic:

Traffic management and planning;

Concerns of industrial traffic and other transit facilities not organized in the form of public or private law corporate undertakings;

Reviewing body under sections 37 and 78 of the Gewerbeordnung and the Light Railways Act.

15. Street Cleaning and Wastes:

Garbage and Refuse collection;

Direction of all street cleaning and administration of disposal facilities;

Direct administration of street cleaning in administrative districts 1-6;

16. Foodstuffs:

Administration of market halls, as well as the Wholesale Market and the Slaughterhouse and Cattle Yard in the Landsburger Allee and Thaerstrasse, and the inspection of meat supplies;

Supervision of the sale of meats and condemnation and destruction of meats;

17. Trades, Industry, and Agriculture:

Exhibits and Fairs;

Regulation of Apprenticeships;

18. Supplies and Stores:

Review of requisition contracts and passage of regulations for the provision of the entire administration, including the reallocation of stock reserves of institutions and agencies having excess stores;

Delivery and recording of utilization of the above mentioned supplies throughout the entire administration of the municipality;

19. Fire Protection:

The entire fire protection service except the management and physical maintenance of land and buildings utilized by the service;

20. Statistics:

The entire statistical service;

21. Reporting and Press Relations:

Unified conduct of all public reporting and press relations;
 Publication of the Official and Service Registers, of administrative orders and reports, of municipal laws, of memorials and proclamations;

22. Elections:

Conduct of municipal elections and preparation of jury lists.

Sec. 8

The city administration is charged with responsibility for the administration of the following delegated concerns:

1. Taxation:

Collection of the itinerant vendors tax;

2. Settlement and Housing:

Conduct of Housing Supervision;

Arrangement of terms of land condemnation:

Determination concerning the granting of rental permits and distribution of house-seekers to the district housing boards;

Naming of representatives to the rent rates board and the small housing claims arbitral court.

3. Trade and Industry:

Supervisory body under the Gewerbeordnung over corporations and corporate officers;

Supervision of affairs of the Chamber of Guilds except the assessment of contributions;

Inferior administrative authority under sections 126a and 128 of the Gewerbeordnung;

4. Insurance:

Insurance affairs, insofar as vested in the Insurance Office of the City of Berlin, including the development of district branches;

Conduct of elections of representatives to the governing committee and boards of awards;

Determination of the degree of devolution to the administra-

tive district branches;

Supervision of all sick funds and sickness mutuels, and affairs related thereto;

Establishment, consolidation, dis-establishment, and liquidation of such funds and sickness mutuels;

Supervision of the affairs of the committee for the insurance of workers;

5. Statistics:

Statistics for State and Nation;

6. Elections:

Regulation of national and state elections, of popular referenda and recall elections, and the election of representatives to the workers' insurance committee and the members of the State Economic Council.

III

Sec. 9

- (1) This local law goes into effect on the day of its publication in the Official Register of the City of Berlin;
- (2) The existing regulations concerning the jurisdiction of public administration in the administrative districts in relation to the city administration, insofar as they are local laws and are affected by the provisions of this law, are repealed as of the date of taking effect of this law.
- (3) The provisions for the technical and continuation schools of May 15 and September 24, 1924, passed in accordance with section 42, par. 2 of the Laws Concerning the Creation of the New City of Berlin of April 27, 1920 remain in effect until the new regulation of such by municipal ordinance.

Approved
Ministry of the Interior IV a V 1037 II.

The proposal of the municipal corporation of March 3 and 9, 1932 under the provisions of sec. 21, par. 2, sen. 1 of the Law Concerning the Provisional Regulation of Miscellaneous Points of the Municipal Constitutional Law of the Chief City of Berlin of March 30, 1931 (Preussische Gesetz Sammlung 1931, p. 39) is herewith approved as a local law of the City of Berlin, with the exception that the concerns undertaken in the sense of sec. 2, subsec. a are corrected to be undertaken by the City of Berlin as a Provincial Union.
Berlin, March 31, 1932.

THE PRUSSIAN STATE MINISTRY

(Signed) Braun

(Signed) Severing
representing also the
Minister for Peoples'
Welfare and the Minister
for Science, Art, and
Peoples' Development

The foregoing, proposed by the municipal corporation,
and approved by the Prussian State Ministry as a local law,
is hereby promulgated.

Berlin, April 6, 1932.

THE OBERBÜRGERMEISTER

(Signed) Dr. Sahm

Summary

It is evident that the functional allocation as established above, in comparison with the division outlined in Chapter III, did not change things much. Since the Act of 1931 - which did not change in any way the provisions of sections 43 to 52, inclusive, of the Act of 1920 - did not permit any considerable alteration in the functional allocation regarding education, one of the major activities of the administrative districts remains unaltered. One alteration, important from both administrative and legalistic viewpoints, is made. The administration of the elementary, middle, and higher schools is transferred to the Grossstadt education administration in administrative districts 1-6. This, of course, is a practical outgrowth of the consistent disharmony between the school authorities in these districts, particularly in Wedding and Prenzlauer Berg, and the ineffectiveness of attempts to develop public interest in Mitte and the central portions of the altstadt. However, the legality of the proceeding is admittedly doubtful, and it is improbable that the ministry would have approved it in less unsettled times. 57

The tendency of the grosstadt administration to take over certain functions of the six innenbezirke is also apparent in other fields. All matters of tax administration, elsewhere administered by the districts, are performed for the six inner districts by the grosstadt administration. Whereas the central authorities regulate the water supply in the outlying bezirke only to the connecting laterals, in districts 1-6 all water supply concerns, including house connections, are within the jurisdiction of the grosstadt administration. Finally, street cleaning, elsewhere handled by the districts, is administered by the grosstadt authorities in the innenbezirke. According to a member of the Ministerium des Innern,⁵⁸ these are economy measures resulting primarily from the location of many Reich and state buildings in this area, and the services of water connections and street cleaning are centralized in order to secure, for example, more advantageous terms from the superior governments relating to cleansing and street openings in connection with thoroughfares for the maintenance of which the municipality is not responsible. Tax administration has been centralized for the convenience of the taxpayers, because of the daily ingress and egress of workers, which is much higher for these central districts than for the outlying regions.⁵⁹ Equally important is the complexity of relations with the state and national authorities resulting from the concentration of public structures, non-taxable persons, etc., within the central area.⁶⁰

In the field of finance, agitation for substantive decentralization in which has been extant since the establishment of the grosstadt in 1920, no concessions are made to the administrative districts.⁶¹ Indeed, as a result of the irresponsibility of the district councils, it has been necessary to establish much more stringent fiscal control than has previously existed.⁶² While the provisions of the von Leyden proposal relating to the mandatory establishment of proper and adequate agencies of fiscal control was eliminated in the draft of 1931, the functional allocation of 1932 gives to the grosstadt administration complete power in the "regulation of the arrangements for accounting control, auditing, and fiscal scrutiny and review." Under the leadership of Bruno Asch a very complete bureau of fiscal control has been established which will prevent expenditures in excess of budgeted and financed specifications without careful consideration, and without plans for meeting such expenditures.⁶³

In the fields of health and welfare, the ordinance of 1932 merely gives general sanction to a conviction which has developed out of the Berlin experience in the administration of such functions that institutional activities and coördinative supervisory regulation are about the limit of the proper scope of central activity.⁶⁴ Likewise, in public works administration, the ordinance gives to the grosstadt administration "nothing in which a clear case for more efficient as well as more economical administration is not obvious."⁶⁵ In other phases of administrative activity practically no change is

observable.

One tendency, perhaps of great importance, is noticeable. The 1932 allocation is distinctly less qualified, in the sense of reserving the "determination of general administrative principles" regarding the particular service. Under this latter act it is evident that the district authorities will assume responsibility not only for the administrative effectiveness of their methods, but also will be able to control those matters of "secondary policy," interference in the determination of which has caused much friction in the past. In other words, the ordinance of 1932 increases the devolved municipal jurisdiction of the administrative districts, and decreases their delegated Magistrat jurisdiction.⁶⁶

1. See in this connection Scheffler, op. cit., p. 101.
2. See table in Chapter III relating to district budget summaries; see also functional allocation tabulations in Chapter III and ante, p. 222.
3. Luckas, op. cit., p. 67. "Die heutebestehende Bezirkseinteilung ist m. E. aber nicht zu billigen. Zunächst ist es falsch gewesen, Alt-Berlin in sechs Bezirke zu zerschlagen. Der einzige Grund hierfür, einem Uebergewicht Alt-Berlins gegenüber den anderen Bezirken vorzubeugen, war durchaus nicht stichhaltig. Wenn dann in 42 ff St.-G. für die Schulangelegenheiten dieser Schritt wieder rückgängig gemacht worden ist, so geht man wohl in der Annahme nicht fehl, dass der Gesetzgeber selbst von der gegebenen Begründung nicht überzeugt gewesen ist. In der Praxis hat speziell der Zerstückelung der Innenstadt, wie auch der Schaffung mancher Aussenbezirke zu ungeheuren Belastungen der Stadtgemeinde und Vertreuerungen der Verwaltung geführt. In den Bezirken, in welchen sich keine Rathäuser befanden, mussten nämlich erst geeignete Verwaltungsgebäude hergerichtet werden. Unter der Voraussetzung, dass für die Bezirksverwaltung das Magistratssystem beibehalten wird, - über dessen Zweckmässigkeit noch zu sprechen ist - muss mit der Forderung nach Verkleinerung der Stadtverordnetenversammlung die Forderung nach Verringerung der Anzahl der Verwaltungsbezirke Hand in Hand gehen. Andernfalls könnten die noch übrigbleibenden 100 bis 125 Stadtverordneten, ebenfalls auf 20 Bezirksversammlungen verteilt, auf diese keinen entscheidenden Einfluss mehr ausüben. Nicht genug kann

aber auf die grossen Esparnisse hingewiesen werden, welche beispielsweise eine Kassierung von 10 Verwaltungsbezirken mit sich bringen würde, da die Gehälter für 10 besoldete Bezirksbürgermeisterstellen, ungefähr 65 besoldete Bezirksamtmitglieder und die Aufwandsentschädigungen für ungefähr 350 Bezirksverordnete und ca. 40 unbesoldete Bezirksamtmitglieder gespart werden würden. Ferner sei erwähnt, dass durch eine Zusammenlegung von kleineren Aussenbezirken wie Treptow, Weissensee, Zehlendorf, Steglits, Tempelhof mit grösseren Bezirken eine zweckmässigere Gestaltung des Arbeitsnachweises möglich sein würde. Auf diese Artwürden den Arbeitsnachweis grössere geschaffen werden, innerhalb deren es leichter wäre, einen Ausgleich zwischen Nachfrage und Angebot von Arbeitsgelegenheit verschiedener Handwerksarten zu schaffen." See also "Bericht des 17. Ausschusses über den Entwurf eines Gesetzes über die Bildung einer Stadt Gross-Berlin," Drucksache No. 2172 of the Verfassunggebenden Preussisches Landesversammlung 1919-1920, p. 47 et seq. for a full account of the reasons for dividing the altstadt. Böss made clear his reasons for opposing the division of the pre-consolidation city in his article in the Zeitschrift für Kommunalwirtschaft in 1928 (No. 21). See further his "Das neue Berlin," Amtsblatt der Stadt Berlin for January 1, 1928, in which he says: "Für die Verfassung der Weltstädte gibt es heute zwei hauptsächlich Formen: die Einheitsgemeinde mit untergeordneten Bezirken und den lockeren Zusammenschluss selbständiger Einzelgemeinden in Gestalt eines Verbandes für gemeinsame Aufgaben. Beispiele des ersten Musters sind New York, Paris, Wien und Berlin, ein Beispiel des zweiten Musters ist London. Die preussische

38

Gesetzgeber, der im Gesetz vom 27 April 1920 über die Bildung einer neuen Stadtgemeinde Berlin die erste Form wählte, ist den richtigeren Weg gegangen. Die Einheitsgemeinde arbeitet am rationellsten und billigsten, Die ist die Zukunftstyp der Weltstädte. Das zeigt sich auch in England. Die Rufe nach Schaffung eines einheitlichen Gross-London mit einer zusammenfassenden oberen Stadtbehörde und einheitlichen Steuern werden immer stärker. Nur die Denkweise des Engländers, geschichtlich Gewordenes solange zu erhalten, bis sich dessen Schicksal von selbst erfüllt, erklärt es, dass die britische Hauptstadt noch nicht Einheitsgemeinde ist. . . ." The same writer's "Die wirtschaftliche, soziale und kulturelle Bedeutung der Grossstadt," Deutsche Allgemeine Zeitung (No. 167) of April 8, 1928, further develops his centralizationist views. The editorial, "Berlins Neugliederung," Berliner Tageblatt (No. 39) of January 31, 1929, comments as follows: "Von der Arbeit der Bezirksverwaltungen ist auch sonst mancherlei Erfreuliches zu berichten. Einige Bezirksämter entfaltet ein beträchtliches Mass an Initiative auf verschiedenen Gebieten. Ein grosser Teil der verwaltungstechnisch-organisatorischen Arbeit, welche die Durchführung des "Gesetzes Gross-Berlin" bis in der letzte Zeit hinein zur Folge hatte, ist vornehmlich von dem Bezirksämtern geleistet worden. Das alles darf aber nicht darüber hinwegtäuschen, dass die jetzige Berliner Bezirkseinteilung bzw. Bezirksverfassung auch ihre erheblichen Schnattenseiten hat und durchaus revisionsbedürftig ist. Folgende Gesichtspunkte stehen bei der Kritik im

Vordergrunde: Erstens. Viele sagen, es gäbe zu viel Verwaltungsbezirke. Der Citybezirk müsste bedeutend grösser werden, als er jetzt ist, die Zwerbezirke müssten verschwinden, eine Reihe von anderen Bezirken wäre zusammenzulegen. Zweitens. Der "Instanzenzug" wäre zu schwerfällig, verschiedene entbehrlich Verwaltungsstellen in den Bezirken sollte man beseitigen. Zentralverwaltung und Bezirke müssten harmonischer zusammenarbeiten und deshalb, namentlich in persönlicher Hinsicht, in eine engere Verbindung gebracht werden. Die Zahl der Verwaltungsbezirke ist tatsächlich zu gross; in dieser Auffassung dürften alle objektiv urteilenden Kenner der kommunalen Verhältnisse übereinstimmen. Die Einwohnerzahlen der einzelnen Bezirke schwanken zwischen rund 50 000 und rund 100 000. Einige dicht bevölkerte und völlig bebaute Bezirke Alt-Berlins (insbesondere Mitte und Kreuzberg) dürften im Laufe der Jahre an Einwohnerzahl abnehmen, andere Bezirke eine erhebliche Erhöhung ihrer Bevölkerungsziffer erfahren. Im Hinblick auf die Bezirkseinteilung muss man auch gewisse Rücksichten auf die territoriale Grösse der Bezirke nehmen. Indes bilden alle diese Gesichtspunkte dafür keinen irgendwie ausreichenden Grund, etwa von der notwendigen Herabsetzung der Zahl der Bezirke abzusehen. . Die gegenwärtige Verfassung der Berliner Bezirksverwaltungen weist in ihrer Struktur schwere Schäden auf. Zu ihrer Beseitigung ist eine Reihe organisatorischer Massnahmen erforderlich. Die Bezirksbürgermeister sollten in das Magistratskollegium eintreten. Das ist durchführbar, sobald die Zahl der Bezirksämter auf neun bis zehn herabgesetzt ist. Mit dieser Massnahme allein ist es aber nicht getan. Die Hauptarbeit der Bezirksämter

liegt oder sollte doch liegen in der verwaltenden Tätigkeit. Die nach grossen politischen Linien einheitliche zu gestaltende Gross-Berliner Kommunalpolitik dagegen muss von dem Magistrat und der Stadtverordnetenversammlung getrieben werden und darf nicht von anderen Instanzen womöglich durchkreuzt werden. Gewiss ist notwendig, dass in den Bezirksverwaltungen politische Vertrauensleute der Bevölkerung in genügender Zahl vorhanden sind, aber doch nicht in so übergrosser Zahl, dass dadurch die ganze Verwaltungsarbeit der Bezirksämter in Frage gestellt wird."

It is not too much to say that the reconstitution of alt-Berlin is the touchstone of the appeals which were launched for governmental reform. Emotional appeals of great effectiveness, comparing the dismemberment of the preconsolidation city with the Polish corridor and the carving up of Austria, were utilized. The objections, previously cited, to the unification of the six inner districts, however, apparently for some time will prevent actual consolidation.

Moreover, it is generally conceded that the territory as a whole is overly divided. Every proposal for reform has contemplated a reduction in the districts. For their reintegration and reduction to a total of eight or ten, the following bases of consolidation have been urged:

1. The formation of a nucleus in the center of old Berlin, containing from 700,000 to 800,000 inhabitants, and constructed entirely from portions of the inner districts

of the present grosstadt. With this nucleus outer districts of perhaps less population density could be developed with other governing factors in consideration.

2. Radial arrangement of seven or nine districts so that their area partly falls within one of the existing inner districts.
3. Employment of natural or historic boundaries, or of those created by transit developments (water courses, stadt- and ringbahn, by-pass streets, old city walls, etc.).
4. Erection of new districts on the basis of topography, degree of building and density of development, and characteristics of social structure which give it individuality.
5. Rearrangement of the outer districts on the basis of territory still available for building and population.

All of these proposals look, in one way or another, toward the ultimate realization of an arrangement of districts which will produce units of approximately the same size primarily as regards population and secondarily, area. Officials with whom the writer conferred, while skeptical of the possibility of immediate territorial readjustment, indicated that all of these principles would have to be utilized in the formation of new districts. Historical factors, for example, play little part in some of the newly developed industrial sections of the northwest quarter. It is equally obvious that consideration must be given to attributes indicating taxpaying ability if the much agitated fiscal independence is ever to be given to the districts. For this reason, and in connection with urged fiscal reform

which would place greater reliance upon land and building taxes for municipal finance, the last two bases mentioned above have received much attention. It is generally agreed that the radial arrangement of districts is valid only insofar as the inner district represents the nucleus for surrounding territory. Indeed, this plan is supported chiefly by the opponents of the unification of alt Berlin. In no single instance could its assumptions be true for all the area proposed to be consolidated save possibly in Kreuzberg, and its consolidation with Neukölln, Tempelhof, and parts of Treptow would violate too radically considerations of social homogeneity to receive serious thought. It is equally well agreed that the problem of the six innenbezirke must govern in part the ultimate solution. Old Berlin is, under the 1920 Act, artificially dismembered; it is, furthermore, overly divided for economical administration, and at the same time the entire area is too large and too densely populated to be governed as a single administrative district under the federal plan. It is significant to note that all proposals of geographical realignment were eliminated in committee, so that the question cannot be said to have gone before the Landtag; but this fact is also important as an indication of the remoteness of territorial readjustment. See Verwaltungsbericht, etc., 1924-1927, Vol. I, p. 9. See also Stadtverordneten Dr. A. Salzgeber "Neueinteilung von Gross-Berlin" Germania (No.473) October 11, 1927 (morning edition), and "Aenderung des Gesetzes Gross-Berlin. 8 bzw. 10 Verwaltungsbe,irke statt 20"

Germania (No.465) October 6, 1927 (morning edition).

4. "Das Gesetz Berlin vom 27 April 1920, dem alle Mangel eines Kompromisses anhaften, befriedigt weder die Anhänger einer starken Zentralgewalt noch die einer weitgehenden Dezentralisation, denn die Abgrenzung der Zuständigkeit zwischen der Zentralverwaltung und den Bezirksverwaltungen ist vollkommen unzulänglich und unklar geregelt." So reads the official Verwaltungsbericht, etc., 1924-1927, Vol. I, p. 8.
5. Ante, p. 180-81.
6. See in this connection Wells, op. cit., p. 213, who summarizes the major points made in the small tempest which raged in Berlin newspapers and editorial columns from 1927 to 1931.
7. See the Act of 1920, lex. cit., Sec. 22 and supra, p. In an incomplete check for the years 1925 to 1930 it was discovered that the council had acted no less than 178 times in the alteration of the functional allocation. The local laws and ordinances were traced through the annual compilations. The Magistrat had, excluding orders which provided for only minor alterations of procedure, reports, etc., acted 321 times in alteration of the functional allocation as originally established. Cf. Dienstblatt der Stadt Berlin 1925; ibid., 1926; ibid., 1927; ibid., 1928; and ibid., 1929. Also Gemeindeblatt der Stadt Berlin for the same years.
8. Of the 178 acts of the council cited above, 67 applied to particular districts, and 88 appeared to regulate what, at least to the view of an outsider, were minor matters of administrative detail, many of which were obviously attempts to "hamstring" the local authorities in districts

hostile to the party in control of the grossstadt council.

Of the Magistrat acts, 103 applied to particular districts.

9. The terms and argument of the Böss proposals are contained in the Verwaltungsbericht der Stadt Berlin 1924-1927, Vol. I, p. 8 et seq.
10. Op. cit., p. 73 et seq.
11. Stadtverordneten Lange "Berlin in neuen Finanznöten" Germania (No. 475) October 12, 1927 (morning edition).
12. This was in part the result of the over expenditures of the districts, which Wells comments upon. See op. cit., p. 212.
13. This is labored ad extenso in Niederschriften des Untersuchungsausschusses zur Prüfung der Misswirtschaft in der Berliner Stadtverwaltung, Vol. II, p. 97 et seq.
14. See Dr. Naumann "Der Berliner Haushaltungsvoranschlag und der preussische Finanzausgleich" Tägliche Rundschau (No. 117) March 9, 1928 (morning edition).
15. Niederschriften des Untersuchungsausschusses, etc., Vol. II, p. 112.
16. Ibid., p. 157.
17. Cf. in this connection Stadtkämmerer Dr. Lange "Berliner Haushalt und Finanzausgleich" Lokal-Anzeiger (No. 26) January 21, 1928; Stadtverordneten Dr. Lange "Der Berliner Haushaltsplan für 1929" Kommunalpolitische Blätter No. 3 (1929). Dr. K. Marder "Berlin im Spiegel der vergleichenden Finanzstatistik" Amtsblatt der Stadt Berlin No. 20 (1929): "Berlins unerhörte Benachteiligung" Berliner Tageblatt No. 136 (March 21, 1929):

"Der Preussische Staatsrat stimmte der Verlängerung

des preussischen Ausführungsgesetzes zum Finanzausgleichsgesetz bis zum April 1930 zu. . . Oberbürgermeister Böss wies darauf hin, dass durch Gesetzentwurf die bisherigen Ungerechtigkeiten gegen Berlin ebenfalls verlängert werden würden, und dass auch die unerhörte Benachteiligung Berlins bei Verteilung der Kraftwagenverkehrssteuer bestehen bleibe, ja sogar noch verstärkt werde. Er wolle des Staatsrat vielleicht noch zur rechten Zeit darauf aufmerksam machen, dass die Unzufriedenheit in Berlin und die Verdrossenheit Berlins gegenüber Preussen allmählich ein Mass annehme, das gefährlich zu werden drohe. . . Die beständige Vernachlässigung der Not und das Elends in Berlin und die bisherige Politik, die es unmöglich mache, auch die einfachsten Bedürfnisse zu erfüllen, würden zweifelsohne ihren Wiederhall bei den nächsten Kommunalwahlen finden."

"Helft Berlin", Vossische Zeitung (No.22), January 14, 1930.

"Zwei Massnahmen sind ist vor allem, zu denen sich der Landtag endlich einmal entschliessen muss: die Revision des innerpreussischen Finanzausgleichs, durch den Berlin jetzt gezwungen wird, mit jährlich etwa 80 Millionen Mark (das sind 10 Millionen mehr als sein Defizit in diesem Jahr!) die Provinzgemeinden zu subventionieren, und die Reform des Gesetzes über Grossberlin. Die Rationalisierung der Berliner Verwaltung, vor allem also die Zusammenlegung der viel zu zahlrei-

chen Bezirke, die Abschaffung der Bezirksparlamente, die klare Scheibung der Kompetenzen, ist die einzige grosse Ersparnismöglichkeit, die Berlin noch besitzt. Es ist nicht zu entschuldigen, dass sich der Landtag an diese mit keimen Gelfaufwand verbundene, längst fällige Reform noch nicht herangemacht hat. Berlin ist in grosser, zum überwiegenden Teil unverschuldeter Not. Ganz aus eigener Kraft kann es sich nicht helsen, und jeder Politiker miss wissen, was auf dem Spiele steht, wenn man seine Not weiter wachsen lässt. Helft Berlin!"

"Die Finanzkreise der Grossstädte", Magazin der Wirtschaft (1931) No. 6.

"Nun hat der Berliner Stadtkämmerer mit gestellt, das im Juni 1930 der Stadt Berlin die Aufnahme einer Auslandsanleihe von 10 Mill. Dollar verwehrt worden sei, weil die zugrunde liegende Angebot eine eine um 0, 06% höhere Verzinsung erforderte habe, als den Wünschen der Reichsbank entsprach. Ebenso sei der Stadt in November 1930 die Aufnahme einer Auslandsanleihe von 12 Mill. Dollar verweigert worden. Beide Fälle sind nach der Darstellung des Stadtkämmerers so unglaublich, dass die Reichsbank eigentlich alle Veranlassung gehabt hätte, sich schleunigst dazu äussern; auch das Reichsfinanzministerium hätte diesen Vorwurf nicht auf sich sitzen lassen dürfen. Nichts ise geschehen. Wenn wirklich um einer Zinsdifferenz von 0, 06% willen die Fundierung von 40 Mill. RM schwebender Schuld verhindert worden ist,

so würde diese Massnahme wieder zeigen, dass die Behandlung von Kreditfragen an Hand starrer Richtlinien, Höchstzinsätze und dergleichen nur zu einer Einschränkung der Kreditdecke führen kann."

As an example of the "hunger budgets" occasioned by these deficits, the comments of Oberbürgermeister Dr. Sahn on the general financial condition of the City of Berlin in the Zeitschrift für Kommunalwirtschaft, No. 19, (October 10, 1931), are given:

"Bei der Beschlussfassung über den Stadthaushaltsplan für 1931 ist, wie bekannt, ein Ausgleich nicht möglich gewesen. Der Haushalt schloss vielmehr mit einem Fehlbetrage von 67,15 Mill. RM. ab, der aus einer schwebenden Schuld gedeckt werden sollte. Mit ungefähr der gleichen Ziffer, nämlich mit 65 Mill. RM. Fehlbetrag, schloss das Rechnungsjahr 1930 ab. Diese beiden Ziffern umfassen jedoch nicht den gesamten Kassenbedarf des Jahres 1931; hinzu trat die Bedarf der Ausserordenentlichen Verwaltung aus laufenden Verbindlichkeiten und unaufschiebbaren Arbeiten, der sich etwa auf 50. Mill RM. bezifferte. Darüber hinaus entsteht noch ein weiterer zeitlicher Kassenbedarf durch die Spanne zwischen der Leistung der Ausgaben und dem Laufen der Einnahmen, wie etwa der Bürgersteuer, die eine Jahressteuer ist, und der Ueberschüsse der grossen Betriebe, die erst nach Abschluss ihres Geschäftsjahres abliefern.

"Nach Abschluss der Haushaltsberatungen wurde ge-

plant, den Schwierigkeiten durch Ueberbrückungskredite zu begegnen, einmal durch ein Kredit bei Versicherungsgesellschaften in Verbindung mit Massnahmen, die nach Auflösung der Selbstversicherung nötig werden, weiterhin durch Massnahmen auf dem Gebiete der Gaswirtschaft und zuletzt durch Verlängerung der Kredit der Berliner Verkehrs-Aktiengesellschaft.

"Bedauerlicherweise aber haben sich der Verhältnisse ganz wider jede Erwartung entwickelt. Die städtische Haushaltswirtschaft hat sich zwar in den ersten Monaten innerhalb des Etatprogramms entwickelt.

"Ebenso wiesen die Steuereinnahmen nach den ersten drei Monaten nur unwesentliche Abweichungen gegen den Etat auf. Die Krise im Juli d. J. hatte jedoch diese Einnahmenentwicklung völlig gestört. Durch die bekannte Notverordnung des Reichspräsidenten vom 5. August 1931 wurde es aber Sparkassen und öffentlichen Banken untersagt, den Kommunen Kredite zu gewähren. Dies hat auch auf alle anderen Geldegeber zurückgewirkt. Gefördert wurde die Abschneidung der Stadt vom Geldmarkt dadurch, dass das gesamte deutsche Kreditsystem in Unordnung gekommen ist.

"Die Stadt war also darauf angewiesen, die Krise im Juli aus eigenen Kräften zu überwinden. Das gelang nur durch Leistung der Gehaltszahlung in zwei Teilen und durch die Verdoppelung der Zahlungstermine für Wohlfahrtsunterstützungen.

"Mit grosser Sorge musste jedoch dem Ablauf des

September entgegengesehen werden. Durch eine scharfe Drosselung aller Ausgaben, durch Zurückstellung von Zahlungen und durch die Aufnahme eines mit einem Bankenkonsortium vereinbarten Sechs-Monats-Kredits von 20 Mill. R.M. wird es aber gelingen, der akuten Schwierigkeiten Herr zu werden.

"Der Magistrat hat sich gezwungen gesehen, seinerseits aus der Lage sofort die Folgerungen zu ziehen. Er hat in seiner Sitzung vom 26. August 1931 ein Notprogramm beschlossen, das zu seinem grossten Bedauern einen Rückschritt der kommunalen Arbeit nach sich ziehen wird, wie man ihn selbst vor wenigen Monaten nicht für möglich gehalten hätte. Er sieht aber keine Möglichkeit, an diesem Programm vorbeizukommen.

"Das Notprogramm gliedert sich in drei Hauptpunkte: In die Verringerung der persönlichen und sächlichen Ausgaben, die Kürzungen der städtischen Leistungen auf allen Gebieten und in Massnahmen am städtischen Vermögen.

"Zu den Sparmassnahmen, die den Haushalt im allgemeinen betreffen, gehört die Festsetzung der persönlichen Bezüge nach der Beanstandung der Besoldungsordnung. Als Ersparnis sind 1-1½ Mill. RM. zu erwarten. Ausserdem sollen die Ruhe-, Witwen- und Waisengelder gekürzt werden. Die Ersparnisse hieraus betragen 540 000 RM.

"In der allgemeinen Verwaltung stellt die wichtigste

Massnahme die Angleichung der widerruflichen Unterstützungen, die in den Fällen gewährt werden, in denen ein Anspruch auf Versorgungsbezüge nicht besteht, an die Wohlfahrtsunterstützungen dar. Weitere Einschränkungen sind geplant für die Rehebungen und sonstigen Arbeiten des Statistischen Amtes. Die Entschädigungen für die Bezirksvorsteher sollen von monatlich 40 auf 25 RM. herabgesetzt werden.

"Die Mittel für Strassenbeleuchtung sind für die Wintermonate um 10 Prozent gekürzt worden.

"Auf dem Gebiete des Wohnungs- und Siedlungswesens sind weitgehende Veränderungen geplant. Die Aufgaben der Wohnungsämter sollen bedeutend verringert werden, Arbeiten, die sich nur auf Formalien beziehen, wegfallen. Die Bewirtschaftung soll nur für Wohnungen mit einer Friedensmiete bis zu 600 RM. aufrechterhalten werden. Die Mieteinigungsämter werden auf etwa zehn zusammengelegt.

"Für das Schulwesen, dessen Mittelanforderungen in den letzten Jahren beträchtlich gestiegen waren, ist ein besonders umfangreiches Abbauprogramm aufgestellt worden.

"Die Massnahmen für den Haushalt von Kunst und Wissenschaft betreffen die Wiedereingührung von Leihgebühren für die Büchereien. Dem Philharmonischen Orchester und dem Sinfonier-Orchester werden die Beihilfen zum 1. Oktober 1931 nur zur Hälfte gezahlt. Die Verhältnisse bei der Städtischen Oper werden eingehend mit dem Ziele

der Herabsetzung der städtischen Zuschüsse durchgeprüft werden. Weitere Prüfungen sind angeordnet für die Leistungen an die Volkshochschule und an den Zoologischen Garten.

"Der Grundgedanke für die Sparmassnahmen auf dem Gebiet der Wohlfahrt besteht in der Gestsetzung eines angemessenen Richtsatzes für die Unterstützungen, wogegen die Nebenleistungen weitgehend eingeschränkt werden sollen.

"In Anwendung des Grundsatzes, die Nebenleistungen auf dem Gebiete der Wohlfahrt zum Zwecke der Aufrechterhaltung eines möglichst hohen Richtsatzes einzuschränken, werden beim Gesundheitswesen die Richtlinien für Gewährung von Freimilch nachgeprüft werden.

"Die Betriebe, insbesondere die gewinnbringenden Betriebe in Gesellschaftsform, können bedauerlicherweise im Hinblick auf den Rückgang ihrer eigenen Einnahmen nicht zur Entlastung des Stadthaushalts beitragen. Lediglich der Ueberschuss der Gaswerke wird sich voraussichtlich durch Sparmassnahmen, insbesondere verringerte Abschreibungen, um 2,5 Mill. RM. erhöhen. Eine kassenmässige Entlastung wird bewirkt werden durch Absetzung von 1,1 Mill. RM. vom Notstandsprogramm der Stadtentwässerung und durch Sperrung der Mittel für noch nicht in Angriff genommene Bauten der Stadtentwässerung in Höhe von 3,4 Mill. RM.

"Eine ähnliche, nur kassenmässige Entlastung tritt durch Sperrung einer Reihe von Posten bei der Ausser-

ordentlichen Verwaltung ein. Hierzu gehören 570 000 Reichsmark für die Verbreiterung der Unterführung des Tegeler Weges am Bahnhof Junghernheide, 950 000 Reichsmark für die Unterführung Holzmarkstrasse-West und 150 000 RM. für Uferbauten im Zusammenhange mit der Jannowitzbrücke. Unter Hinzurechnung von Ersparnissen, die bei den Mitteln für Rückzahlung von Aufwertungshypothecken erzielt werden sollen, beträgt die gesamte kassenmässige Entlastung bei der Ausserordentlichen Verwaltung rund 4,5 Mill. RM.

"Für den Kapital- und Schuldenaushalt ist Prüfung angeordnet worden, inwieweit die Tilgungsbeträge durch Hinausschiebung der Tilgung oder ähnliche Massnahmen verringert werden können. Für Restkaufgelder und Hypothesen wird die Verlängerung betrieben werden. Insgesamt werden aus solchen Massnahmen Einsparungen bis zum Betrage von 5 Mill. RM. erwartet.

"Die gesamte Entlastung des Stadthaushaltsplans kann - wenn die Reichsregierung die erforderlichen gesetzlichen Massnahmen auf fürsorgeirschem Gebiete trifft - auf etwa 25-30 Mill. RM. beziffert werden, also auf etwa die Hälfte des etatsmässigen Haushaltsdefizits.

"Zur Entlastung der Kassenlage bleiben die einmaligen Ausgaben gesperrt. Freigegeben wird nur in den Fällen, in denen Ausgaben als lebensnotwendig bezeichnet werden müssen und nicht zu ungehen sind. Der Magistrat ist sich darüber im klaren, dass, über alle bereits geschilderten Massnahmen hinaus, die Arbeiten für eine

straffere Organisation der Verwaltung und Abbau jeder unnötigen Behördenarbeit beschleunigt weitergeführt werden müssen. Die Ortssatzung über das Verhältnis zwischen Zentrale und Bezirken - die wichtigste Grundlage der künftigen Tätigkeit der städtischen Verwaltung - wird noch vor Ende der Jahres vorgelegt werden."

18. See in this connection Mulert, "Der Deutsche Reich gegen die deutschen Städte, Der Städtetag (No. 11) 1927, p. 385.
19. "Eine Unterredung mit dem Berliner Oberbürgermeister Böss. Der Oberbürgermeister äussert sich zum Thema 'Sparkommissar'" Berliner Tageblatt No. 265, November 11, 1927.
 "Boss antwortet Dr. Schacht," Berliner Tageblatt (No. 559) November 26, 1927. "Einer der am meisten umstrittenen Punkte der Kommunalpolitik sind die kommunalen Betriebe, und es hatte den Anschein, als könnten sie nach dem Friege nicht gehalten werden. Aber Gott sei Dank sind nicht viele Kommunalbetriebe nach dem Kriege an die Privatwirtschaft gekommen. Dadurch, dass die Städte ihre Betriebe erneuerten und asubauten, haben sie ein ungeheures Vermögen ihren Bewohnern ernalten. Hierzu war vor allem Kapital nötig, und finden wir nicht genug im Inlande, dan müssen wir es uns aus dem Auslande holen.
 Nun hat Herr Dr. Schacht in siener Bochumer Rede due Auffassung vertreten, dass die grossen Kommunen sich hätten einrichten können. Ich bringe Herrn Dr. Schacht, den ich als einen freiheitliche gesinnten, immer wieder

für das Wohl des Volkes bedachten Mann kenne und schätze, sonst immer volles Verständnis entgegen. Er ist ein vorzüglicher Kenner der deutschen Wirtschaft, der die Verantwortung für einen grossen Teil des deutschen Wirtschaftslebens trägt. Aber er ist über die kommunalen Fragen nicht ausreichend unterrichtet, um sie beurteilen zu können.

"Ich kann ihm hierin nicht folgen, denn nach meiner Ansicht sind unsere kommunalen Betriebe die Stützen unsere Wirtschaft. Brauchen wir denn nicht als Lebensnotwendigkeiten Spielplätze, Parks, und alle sozialen Einrichtungen für diejenigen, welche sechs Tage lang arbeiten müssen, damit sie sich erholen an Körper und Geist? Brauchen wir keine Pflege der Kultur? Unsere Hoffnung auf den sozialen Frieden des deutschen Volkes ist darin begründet, dass die Städte die soziale Idee in die Tat umsetzen, und was hier erforderlich ist, das muss geleistet werden. Die Kommunen brauchen Auslandsanleihen ebenso dringend wie die deutsche Privatwirtschaft. 1918 hiess es in der Presse aller Parteien, man käme in der deutschen Republik ohne eine gut organisierte Selbstverwaltung nicht vorwärts. Wie merkwürdig ist aber die Entwicklung gegengen! Der Drang, die Befugnisse der Reichsregierung, des Reichstags und Reichsrats zu erweitern, hat dazu geführt, das die Selbstverwaltung weiter zurückgedrängt ist."

"Der eine Schacht in Berlin" Essener Allgemeine Zeitung
(No. 558) November 27, 1927,

"Dass die Oberbürgermeister, wie sie da sessen, nicht alle so Unschuldslämmer sind. Wie sie es glauben machen wollten, wissen wir hier besser als Dr. Schacht. Aber bei den Stellen, wo sie sterblich sind, und die sagen wir Herrn Dr. Schacht nicht, handelt es sich keineswegs um währungsgefährdende, oder sonst wie volkswirtschaftlich schädigende Dinge, das sind vielmehr Angelegenheiten, die entweder zwischen einzelnen Städten auszumachen sind, oder die sie selbst in ihrem eigenen Kämmerlein ausbänden müssen. . . Leider ist die kommunalpolitische Besprechung nicht ganz bis zu dem Kern des Problems gelangt, um das es sich heute handelt: Es ist unbestreitbar, dass die Wirtschaft von den Kommunen oder richtiger über die Kommunen hinweg zu sehr, man möchte fast sagen, untragbar belastet wird, und da wäre eine Erörterung der Gründe und eine energische Stellung gegen die bisherige Gepflogenheit von Reich und Staat, den Gemeinden immer wieder Aufgaben aufzubürden, aber für einen gerechten Ausgleich nicht zu sorgen, am Platze gewesen. Sie hätte in der Versammlung den denkbar lautesten Widerhall gefunden."

Stadtbaurat Dr. -Ing. Wagner in "Berlins Entwicklung ein Kapitalproblem" Berliner Börsen-Courier (No. 603) December 25, 1928, argues as follows:

"Der Aufsteig der Stadt Berlin zur Weltstadt vollzog sich nach dem Kreige ohne die Förderung, die ein Reichsvater oder ein Landesvater seiner Hauptstadt entgegenzubringen pflegt. Berlin stand nicht im Brenn-

punkt, sondern im Schatten der Liebe der Reichs- und Landesregierungen und des Reichs- und Landesparlements. . .

"Berlin ist dazu verurteilt, seine Arbeitserträge an andere Städte und Gemeinden abzugeben. Berlin muss um seinen Aufsteig und um sein Leben kämpfen. Berlin wird vom Reich wie vom preussischen Staat nicht als Berlin, nicht als Hauptstadt, nicht als Weltstadt empfunden. Berlin leidet unter einer falschen Beurteilung seines Aufsteiges und seiner Grösse. Menge und Masse wird einerseits als überflüssiger Reichtum anderseits als eine staatsfeindliche Entwicklung betrachtet, die mit allen Mitteln behindert werden müsste. Und da man kein anderes Mittel fand, die Entwicklung Berlins zur Weltstadt zu behindern, entzog man ihr das Kapital für den organischen Auf- und Ausbau ihres Stadtkörpers. Die Entwicklung Berlins zur Weltstadt ist darum heute zu einem reinen Kapitalproblem geworden. . .

"Die Stadt Berlin bewirtschaftet heute einen Jahresetat von über 1 Milliarde Mark und gerät bei der ihr vom Reich wie vom Staat auferlegten gesetzlichen Steuerbeschränkung in eine peinliche Verlegenheit, wenn sie ein Defizit von 1 oder 2 v.H. dieses Etats decken soll. Für den organischen Aufbau der Verkehrsanlagen werden jährlich mindestens 100 Millionen Mark gebraucht. Die Wohnungsnot hat in Berlin eine Höhe erreicht, die den Bau von 60 000 Wohnungen, d.h. ein Kapital von jährlich etwa 600 Millionen Mark verlangt, wenn in zehn

Jahren die Wohnungsnot beseitigt werden soll. Der Bau von Schulen, Krankenhäusern und Wohlfahrtsanstalten erfordert jährlich mindestens ein Kapital von 100 Millionen Mark, wenn man den dringendsten Anforderungen gerecht werden will. Für die Erneuerung und den Ausbau des Strassennetzes und der Kanalisationsanlagen ist ein Jahresbauprogramm von 100 Millionen Mark keine übertriebene Forderung. Der Ausbau der Elektrizitäts-, Gas- und Wasserwerke ist unaufschiebbar geworden und erfordert gleichfalls ein Anlagekapital von auf 75 Millionen Mark jährlich. Die von der Stadt Berlin im Jahre 1928 dringendst beschlossenen Strassenverbreiterungen und Strassendurchbrüche werden ein Kapital von mindestens 100 Millionen Mark in Anspruch nehmen. Wollte die Reichsbau die für eine Weltstadt völlig veralteten Fernbahnanlagen erneuern, d.h. die fünf Kopfbahnhöfe (Stettiner, Lehrter, Görlitzer, Anhalter und Potsdamer Bahnhof) beseitigen und zu einer Nord-Süd-Fernstadtbahn mit dem Lehrter Bahnhof als Kreuzungs- und Zentralbahnhof umbauen, dann müsste sie zu diesem Zweck auf zehn Jahre hinaus jährlich 100 Millionen Mark zur Verfügung haben. . .

"Die Lösung des Weltstadtproblems Berlin verlangt aber nicht nur eine finanzielle Neuorientierung zum Reich und zum Staat; sie verlangt ebenso eine organisatorische Neuorientierung von Reich und Staat zur Stadt Berlin. Das Nebeneinanderregieren von Reich und Staat hat die Stadt Berlin ebenso in Mitleiden-

schaft gezogen, wie das Nebeneinanderregieren von Staat und Stadt. Zwischen Reich, Staat und Stadt Berlin selbst es an dem organischen Kontakt. Es fehlt die Mitverantwortlichkeit von Reich und Staat an dem wirtschaftlichen Schicksal Berlins.

"Wir sehen in Berlin kein Regierungsforum entstehen, obgleich die Reichs- wie die Staatsregierung neue Bauten über das ganze Stadtbild verstreut zur Ausführung gebracht haben und auch weiterhin zur Ausführung bringen wollen. Der Reichstag plant einen Erweiterungsbau, die Reichsbank will sich ein neues Verwaltungsgebäude errichten, das Reichswehrministerium plant einen Neubau, die Reichsbahn baut, die Reichspostverwaltung baut, das Reichsfinanzministerium, die preussischen Ministerien bauen, fühlungslos, unorganisch, nur vom Ressortinteresse geleitet, nebeneinander, ohne der Weltstadt die städtebauliche Erneuerung zu bringen, die, planvoll konzentriert, zu einem geradezu gewaltigen Ausdruck der aufsteigenden Größe des neuen republikanischen Deutschlands werden könnte. . . Berlin ist die jüngste, aber auch die ärmste Weltstadt Europas. Aber nicht nur Reichtum, sondern auch Armut verpflichtet, verpflichtet doppelt zu einer Konzentration der Kräfte und der Mittel, um mit dem beschränkt gegebenen Kapital ein Höchstmaß von Zweckerfüllung, Form und Repräsentation zu erreichen. . . Ein Volk, das nicht baut, lebt nicht. Bauen heisst aber nicht nur leben, sondern auch Leben erwecken, Leben erhalten und das Leben einer Nation

als das sichtbare Zeichen auftretender Grösse über die Grenzen des Reiches hinaustragen. . ."

20. See, for example, Gustav Böse "Berlin gegen Schacht" Vossische Zeitung (No. 565) November 30, 1927. (Morning edition), and "Aussprache Böss - Schacht" Berliner Börsen-Courier (No. 565) December 3m 1927 (Morning edition).
21. See Wells, op. cit., p. 209.
22. Lex cit.
23. Stier-Somlo, "Der Staatskommissar zur Verwaltung der Stadt Berlin", Reichs- und Preussisches Verwaltungsblatt (1930) No. 49.
24. See Reichsgesetzblatt 1931, Vol. I, p. 453; also my "Prefects for German Cities," in National Municipal Review, (April, 1931) Vol. XX, pp. 236-8.
25. The details are given in Niederschriften des Untersuchungsausschusses, etc., Vol. I, pp. 69-94.
26. "Die Berliner Skandal" Der Deutsche Volkswirt No. 2 (1929).
27. Niederschriften des Untersuchungsausschusses, etc., Vol. I, p. 128.
28. See the Vossische Zeitung, October 2, 1930.
29. See Wells, op. cit., p. 210, n. 87.
30. See "Die Berliner Oberbürgermeister. Ein Rückblick auf das Werden der Reichshauptstadt," Deutsche Allgemeine Zeitung, (No. 91) Feb. 23, 1930.
31. "Was lehrt der Berliner Kommunal-Skandal?" Schlesische Volkszeitung October 10, 1929 (center). The critics,

however, assumed a somewhat Hegelian attitude.

Deutsche Allgemeine Zeitung No. 458 (October 3, 1929)

(right).

"Der Fall Sklarek hat wieder einmal gezeigt, was derauskommen kann, wenn sich die öffentliche Hand, vor allem die kommunale, zu weit in Dinge einlässt, die nach vernünftigem Ermessen der Privatwirtschaft vorbehalten bleiben müssen. . . Und der eine Satz ist doch tatsächlich noch nicht zum alten Eisen zu werfen: Dass ist für die öffentliche Hand eine wichtigere Aufgabe als eigene geschäftliche Betätigung ist, die Leistungsfähigkeit der Privatwirtschaft zu fördern. Bei Verträgen aber, wie sie im vorliegenden Falle abgeschlossen wurden, wird das genaue Gegenteil erreicht. Was man dem einen Unternehmen, das womöglich noch betrügerisch arbeitet, zu viel zahlt, muss man den anderen Unternehmungen auf dem Wege der Abwälzung der Lasten wieder wegnehmen. Ist schon des Zustandekommen derartiger Monopolverträge bei der gegenwärtigen Parteiwirtschaft unter Umständen das Produkt auf krummen Wegen wirkender Faktoren, so eröffnet die Monopolstellung des Lieferanten selbst und sein Interesse, diese Stellung beizubehalten, Tür und Tor für Korruptionsmotive. Dies ist natürlich nur in verschwindendem Grade der Fall, wenn man grundsätzlich nur mit ganz soliden und erstklassigen Unternehmungen abschliesse. In jeder Beziehung aber bleibt es eine grobe Verletzung der finanziellen und allgemeinen öffentlichen Aufgaben, wenn man die

natürliche Konkurrenz der Privatwirtschaft künstlich ausschaltet."

Erich Kramer "Die Lehren - Was der Fall Sklarek ergibt
Vossische Zeitung (No. 466) October 3, 1929 (Dem.)

"Die Lehren des Falles Sklarek sollten eine der wichtigsten Materiellen für die Reichstädte-Ordnung sein, die über kurz oder lang kommen muss. Uebersichtlichkeit und klare Scheidung der Kompetenzen, Entpolitisierung, soweit sie in unserer nun einmal politisch gewordenen Zeit möglich ist - das sind die Ziele, die sich der Gesetzgeber zu stellen hat. Wie aus dem Zusammenbruch der Frankfurter Allgemeinen eine Vertrauenskrise des kleinen Sparers entstanden ist, die sich vor kurzem in dem Run auf die Frankfurter Sparkasse offenbarte, so könnte aus dem Falle Sklarek eine Vertrauenskrise der Selbstverwaltung entstehen, wenn nicht bald und energisch seine Konsequenzen gezogen werden."

Walter Pahl "Die ökonomischen und politisch-moralischen Lehren der Sklarek-affäre" Sozialistische Monatshefte No. 10 (1929).

32. Stadtvorordneten Lange, in an interview in July, 1930.
33. See Stadtverordneten Frederich Lange "Berliner Gemeindegesetzentwurf und Staatsratvorschläge," Germania (No. 166) April 9, 1930 .
34. To mention only a few: Stadtinspektor Dieke (Berlin-Schöneberg) "Die Organisation der grossstädtischen Verwaltung" Rundschau für Kommunalbeamte No. 30 (1929).
"Reformziele für Gross-Berlin. Kommunales Einheitsbe-

wussein," Vossisches Zeitung (No. 440) September 18, 1929. "Verstädterung und Grossstadtdiktatur" Deutsche Tageszeitung (No. 534) November 10, 1929 (center agricultural). "Vorbilder für Berlin? Die Verwaltung der anderen Weltstädte," Berliner Börsen-Courier (No. 41) Jan. 30, 1930. Dr. Carl Herz "Selbstverwaltung oder Präfektursystem? Kritik der Neugestaltung Berlins," Vorwärts (No. 135) March 21, 1930. Prof. Dr. Walter Norden "Die Berliner Verfassungsreform. Im Spiegel anderer Weltstadt-Verfassungen," Berliner Tageblatt (No. 147) March 27, 1930. "Verwaltungsreform Berlin," Berliner Tageblatt (No. 383) August 15, 1930. "Das neue Berliner Selbstverwaltungsgesetz", Die Gemeinde, No. 7, (1930). "Reform der Berliner Verfassung," Magazin der Wirtschaft (No. 9) 1930. Prof. Georg Bernhard "Berliner Verwaltungsreform" Magazin der Wirtschaft No. 12 (1930). Dr. Kurt Jeserich "Die Reform der Berliner Verwaltung," Der deutsche Volkswirt No. 25 (1930). Dr. Th. Mosheim "Die Reform der Berliner Verfassung," Reichs- und Preussischesverwaltungsblatt No. 13 (1930). Stadtverordneten Dr. Caspari, "Die Neuordnung der Gross-Berliner Verwaltung", Deutsche Allgemeine Zeitung (No. 209) May 7, 1930.

"Wenn man aber wirklich glaubt, der Magistrat als Beschlussbehörde erfülle seinen Zweck nicht mehr, dann schütte man doch nicht gleich das Kind mit dem Bade aus, indem man ihn durch einen Mann ersetzt. Gewiss, die Bürgermeister-Verfassung hat sich am Rhein bewährt. Aber die Magistratsverfassung hat sich unwidersprochen

in Altpreußen und darüber hinaus auch bewährt, und doch will man sie abschaffen. Man vergisst immer, dass man am Rhein fast überall noch mit den unpolitisch gewählten Bürgermeistern und Beigeordneten aus den früheren Zeit gearbeitet hat. Jetzt fängt es erst an, besonders in den neu gebildeten Städten, dass die Beigeordneten unter die Fraktionen aufgeteilt werden. Der Fall Krefeld, wo die Verwaltungs-Dezernentenstelle als katholisches Zentrum -, eine Bauratstelle als evangelische - lies Wirtschaftspartei - ausgeschrieben ist, spricht Bände. Man warte doch einmal ab, wie sich der Verfassung unter den neuen Umständen bewähren wird, ehe man sie anderen Städten, in denen noch dazu die politischen Verhältnisse viel verworrener sind als am Rhein, aufzwingt. Oder glaubt man etwa, dass die nach parteipolitischen Rücksichten gewählten Beigeordneten weniger von ihren Fraktionen abhängig sein werden als die Stadträte der Magistratsverfassung?"

Bezirksverordneten Carl Perls "Zur Verwaltungsreform in Berlin," Selbstverwaltung und Demokratie No. 9 (1930).
 Dipl.-Komm. Tessmer "Die Umgestaltung der Berliner Stadtverfassung" Selbstverwaltung und Demokratie (Nos. 23-24) 1930. Hermann Friedemann "Berlin von heute. Seine Stadtverwaltung und seine Wirtschaft," Berliner Börsen-Courier (No.246) May 30, 1929. "Die Reform der Berliner Verwaltung" Der Kommunalbeamte No. 7 (1930). Dr. Ernst Landsberg "Berliner Verwaltungs-Reform. In Wechselwirkung mit

Finanz- und Wirtschaftskrise" Berliner Tageblatt (No. 427)
August 16, 1930 (Dem.). Albert Erzesinski, "Das neue
Selbstverwaltungsgesetz für die Hauptstadt Berlin" Das
Freie Wort, No. 21 (1930):

"Bei die Buerteilung der Fragen der Selbstverwaltung
und damit zusammenhängend der Staatsaufsicht wird heute
oft die wichtige Tatsache ausser acht gelassen, dass
nich so sehr mehr formale Bestimmungen als vielmehr
das allgemeine, gleiche, geheime und direkte Verhält-
niswahlrecht zu den kommunalen und Staatsparlamenten
die festesten Grundlagen einer wirklichen Selbstver-
waltung sind und zum mindesten eine ganz andere Wer-
tung heute erfahren müssen als vor dem Kriege und zu
Beginn der Frh. vom Steinschen Gesetzgebung bzw. unter
der altpreussischen Verwaltung. Uebergriffe der Staats-
aufsicht werden die und da immer wieder erfolgen, da-
gegen schützt auch das freieste Selbstverwaltungs-
recht nicht. Doch bei der heutigen Staatsverfassung
werden das Einzellerscheinungen bleiben, die von der
verantwortlichen Zentralstelle stets korrigiert werden
können. Selbstverwaltungsrecht und die Befugnisse
der Staatsaufsicht müssen trotzdem natürlich genau und
gesetzlich festgelegt sein. Diese Formulierungen
sind aber längst nicht mehr als alleinige Vorausset-
zung für eine freie Selbstverwaltungsbetätigung der
Staatsbürger. Viel wichtiger ist, was die staats- und
kommunalpolitisch geschulten Staatsbürger auf Grund
des freien Kommunal- und Parlamentswahlrechtes aus

der Selbstverwaltung zu machen verstehen."

The ministerial proposal was in large part responsible for the development of the study on Die Verwaltungsorganisation der Weltstädte Paris, London, New York, Wien, by the Kommunalwissenschaftlichen Instituts at the University of Berlin.

35. Cf. for example Dr. von Leyden's scholarly exposition of the principles of municipal federalism and of the ministerial proposal in Die Berliner Verfassung, pp. 3-23.
36. Since the act is translated in Appendix B the particular sections of the proposal are not referred to as they may easily be located in the Appendix by the table of contents.
37. Supra, p. 116, n. 49.
38. Op. cit., p. 211.
39. Norden, in supra, n. 37; von Leyden, op. cit., p. 9, Luckas, op. cit., p. 65.
40. Supra, pp. 180 to 182 and p. 240. Luckas clinches the point of the relation between the size of the council and the number of administrative districts nicely in n. 3, supra, p. 236.
41. Supra, p. 102.
42. Cf. for example, the Städteordnung, lex. cit., Sections 36 and 56.
43. See von Eynern, "Grossstadt und Selbstverwaltung," Kommunale Umschau (Oct. 20, 1925) pp. 225 et seq.
44. "Es bleibt das für die Bezirke so Charakteristische und so Wesentliche, dass die Stadtverordneten, die auf die einzelnen Bezirkswahlvorschläge sind, als solche in die

stadtverordnetenversammlung einziehen, d.h., dass sie Vertreter nicht nur einer Partei, sondern auch eines Bezirkes sind, und es bleibt weiter das für die Bezirke sehr wesentliche Recht, den Bezirksbürgermeistern und die Bezirksstadträte selbst durch das Bezirksorgan, den Bezirksrat zu wählen. Beides verbürgt eine sehr starke Bedeutung und Auswirkung des Willens der Bürgerschaft im einzelnen Bezirk." So writes Dr. von Leyden in Die Berliner Verfassung, p. 22.

45. Cf. for a criticism of the consolidation of the chief executive's position in both grosstadt and district administration Caspari, "Die Neuordnung der Gross-Berliner Verwaltung," Deutsche Allgemeine Zeitung, July 5, 1930.
46. Supra, pp. 104 and 243. Dr. von Leyden makes a strong point of the Universalität der Kompetenz in this connection. See op. cit., p. 5.
47. See Dipl.-Komm. Diecke, "Der Bürgermeister in den neuen Kommunalverfassungsentwürden," Kommunales Echo (1930) no. 15.
48. See Dr. Hipp "Die Staatsvereinfachung in Berlin" Kommunalpolitische Blätter No. 3 (1929), for a general discussion of the background of this movement.
49. However, as Dr. von Leyden points out in op. cit., p. 23, the proposal of the ministry relating to Berlin was in line with its general recommendations regarding state supervision. It did involve a departure from established practice in that the mandate of administration would, had the proposal been adopted, depended upon special, rather than

upon general, acts relating to state supervision.

50. "Berlin's New Government," National Municipal Review, (December, 1931) Vol. XX, p. 701.
51. Dr. Kurt Jeserich, "Die neue Berliner Verfassung", Die Deutsche Volkswirt (1931) No. 12. Bürgermeister Dr. Marezki, M.d.I., "Die künftige Stadtverfassung Berlins", Deutsche Selbstverwaltung (1931) No. 6.
52. Landtagsabgeordneten v. Eynern, "Die Neuordnung in Gross Berlin," Kommunale Umschau (1931) No. 7. Eyck, Erich, "Verfassungsänderung für Berlin", Selbstverwaltung und Demokratie, (1931) No. 1.
53. See the Vossische Zeitung, April 30, 1931.
54. This ordinance appeared in Amtsblatt der Stadt Berlin (Sonderausgabe) of April 6, 1932.
55. The proposal went to the Ministry on March 10th, only three weeks before the deadline.
56. In a letter under date of January 2, 1933.
57. See Peters, "Die neue Ortsstazung über die Zuständigkeit der örtlichen Verwaltung in den Verwaltungsbezirken im Verhältnis zur Stadtgemeindeverwaltung Berlin und ihre Grundlagen," Reichs- und Preussischesverwaltungsblatt, (June 11, 1932) Vol. 53, p. 461.
58. Letter from Dr. von Hardenberg cited in n. 56 supra: also Hellisch, "Das neue Ortsgesetz über die Strassenreinigung in Berlin," Reichs- und Preussischesverwaltungsblatt, (November 26, 1932) Vol. 53, p. 944.
59. Haas, "Die Berliner Verwaltungsreform," Reichs- und Preussischesverwaltungsblatt, (October 15, 1932) Vol. 53, p. 831.

60. See "Berlin und die steuergutscheine," Tagliche Rundschau (No. 284) December 2, 1932.
61. See Karding, op. cit., p. 19.
62. See Wells, op. cit., p. 212.
63. Bruno Asch, "Berlin kommt aus den Sorgen nicht heraus" Vorwärts (No. 483) October 15, 1931 (SPD).

"Wir haben alle Kräfte der Stadtverwaltung darauf konzentriert, in den nächsten schweren Monaten die Zahlungsfähigkeit der Stadtkasse aufrechtzuerhalten und den Hunderttausenden Hilfsbedürftiger und städtischer Arbeitnehmer die ihnen zustehenden Unterstützungen und Bezüge zu sichern. Aber diese Aufgabe ist nur lösbar, wenn das Reich und Preussen rascher und wirksamer belsen als bisher - in erster Linie durch die organisatorische und finanzielle Umgestaltung der Arbeitslosenhilfe."

64. This was the view expressed by a member of the central health administration in 1930.
65. See Peters, op. cit., p. 462.
66. See supra, p. 156.

CHAPTER V: CONCLUSIONS

The development of metropolitan conditions in Berlin exhibits surprising similarity to the governmental planlessness which Professor Reed has described in London,¹ which Raiga and Félix have recorded of Paris,² which Jeserich has noted in Vienna,³ which Studensky has labored for many American cities,⁴ and which the present writer has found reiterated in stacatto in the Chicago region.⁵ With the single exception of London, in which neither the City Corporation or Westminster, which together may be regarded as the nucleus of the metropolitan agglomeration, have ever, in their history as independent corporations, made appreciable territorial expansions, the historic nucleus has made sporadic attempts to identify its actual and governmental boundary. It has met opposition occasioned by three factors: the development of home rule and the concomitant principle of territorial integrity embedded in statutes or constitutional provisions which prevent the annexation of unwilling municipalities; the continued existence of the governments on the periphery has stabilized and consolidated their political position to a degree making voluntary consolidation virtually impossible; the inhabitants and governing bodies of the central cities have opposed the inclusion of undeveloped or semi-developed territory because of the believed or demonstrated initial financial loss to the central municipalities. Meanwhile, governmental units continue to multiply, many of which are unable independently financially to sustain the services which metro-

politan existence demand. Administration tends to break down to the degree, and in the services, in which state control is inadequate to secure coordination.

This breakdown of administration is attempted to be met by the creation of ad hoc authorities. Here, again, Berlin parallels London. The Metropolitan Board of Works and the Zweckverband were, in general, attempts to solve the same problems in much the same way; they each failed largely because of their remoteness from the people and because of jurisdictional inadequacy.⁶

The principle adhered to in the geographical development of units for the performance of these devolved functions was that of grouping the territory annexed to the city around the most densely populated municipalities in existence at the time of the consolidation. There were fourteen such cities in the outlying area of Berlin which according to population density appear to be nuclei for the surrounding territories. In addition, the preconsolidation city of Berlin was artificially divided into six administrative districts which, while akin in some degree to the ancient parts of the town, and two of which were virtually identical with previously annexed areas, are felt in many quarters to be lacking in the tendencies toward separatism and localized communities of interest which have marked the administrative districts formed in the area annexed in 1920.

In the setting up of agencies of administration which have been able in some satisfactory degree to meet the metropolitan problem, Berlin and London differ radically. London represents conditional unification, with the rights, privileges and functions of the consolidating units written into the organic law. Berlin was until 1932 an example of outright annexation and administrative devolution. This does not imply that Berlin was not until 1932 a "federated" city; indeed, the contrary is one of the theses of this essay. The federalistic aspects of Berlin government will be more fully discussed in treating the functional developments of the municipality.

The act of 1920 set up in the Berlin grosstadt administration the decentralized magistratsverfassung; a fairly well centralized form of government, differing only in details from the bürgermeisterverfassung, was established in the twenty administrative districts. The functional allocation was in part prescribed in the organic statute, in part by municipal ordinances, and in part by magistrat decree. The marked development of political activity concomitantly with the establishment of the Republic and the broadening of the franchise and its organization in Berlin along district lines, the latter resultant from the peculiar adaptation of the verhältniswahl to Berlin, injected an intensely partisan element into local government and administration, and a new "variable" factor the importance of which it is impossible accurately to weigh and compare with the purely administrative aspects of Berlin government. The discernable results of this growth of political activity are primarily in three fields:

1) A remarkable development in the strength of the administrative districts in their dealings with the grosstadt administration; 2) A marked instability in regard to functional arrangements; 3) A definite breakdown in the administrative and supervisory effectiveness of the grosstadt professional officers, both as regards the control of both grosstadt administration and the districts.

In view of these conditions which have actually very little to do with municipal federalism per se it is difficult to discuss the developments in Berlin apart from the rather extraordinary political period through which the entire German people and particularly the city of Berlin have passed in the last twelve years. The consensus of opinion seems to indicate however that the geographical alignment, particularly as regards the central city, was perhaps unwise; it is felt that substantial economies have been lost by the division of the former city. This is to some degree mitigated by the willingness of the authorities of the central districts to turn over the actual administration of many of their functions to the grosstadt authorities as a glance at the budget summary contained in Chapter 3 will indicate.

Another conclusion which possibly may be drawn from the Berlin experience is that of the necessity for some guaranteed permanency in the functional allocation. This point of course could be very logically argued a priori, but in addition, Berlin experience suggests that at least after such functional allocations are established alterations should be made subject to the approval of some authority higher than that of the

central city government, particularly when the central city legislature is, as it is likely to be in large cities, a dominantly partisan body.

It is difficult to say whether the consolidation of control of the central administration in the hands of the oberbürgermeister is a corollary of federalistic administrative arrangements or whether it is a necessity induced by the extreme partisanship in municipal politics. The experience of Berlin offers no authoritative answer to this question. Certainly the collegial magistrat demonstrated considerable ineffectiveness in keeping with the district administration, which in several instances at least lead to the non-feasance of its duties as an agency of the Prussian government. On the whole in comparing conditions in Berlin with London, in which at least in the opinion of Mr. Cox⁷ there is actually little centralization of the London County Council's administrative power, the suggestion would seem more likely that political factors are probably the dominating element in the indispensable centralization of grosstadt administrative authority in Berlin. The same comment probably applies also to the district governments, although conclusive evidence is lacking.

The experience of Berlin lends considerable weight to Professor Reed's statement⁸ that in the development of such federalistic arrangements it apparently makes little difference whether the consolidation is effected by conditional, limited union or by outright annexation and devolution. Certainly the administrative districts of Berlin both before and since the reorganization of 1931, and the functional realloca-

tion of 1932 have been definitely more important as regards their activities than the London boroughs. This is reflected in their larger percentage of total local government employees and their higher relative expenditures. In other words, Berlin, under charter arrangements which, with the single exception of elementary education, imposed absolutely no legal obstacles to whatever case centralization was able to make for itself along lines of economy and efficiency, has stabilized, functionally, on a basis which recognizes the districts as the more important units in supplying governmental service.

When Berlin, and the officers of the grosstadt administration, are considered in their relation to the German system of local government, it is evident that the administrative districts supply most of the services which the Stadtgemeinde provides its inhabitants in Germany. It is further evident that much of the control, other than that which mistakenly has been presumed to derive from the centrally adopted budget, is exercised by the central authorities in their capacity as provincial and Regierungsbezirk officials, and that the lack of selbständigkeit in the districts resulting therefrom is a comment not upon Berlin as a federal city but upon German local government as "home-rule." It seems true, also, that the centrally adopted budget is more an instrument of financial equalization than of substantive administrative control; indeed, the most confirmed federalist probably would object to the ineffectiveness of even the slight degree of control which the central budget establishes, and would be willing to see such control extended in the interests of the enforcement of equali-

zation and sound finance. As regards other than fiscal affairs, a distinct change is observable in the attitude of the central authorities: whereas, under the former functional allocation the districts actually did as much as now, the "control of fundamental principles," however, usually was reserved to the Magistrat; under the functional allocation of 1932 the tendency is discernible to transfer functions largely in toto to the districts, and to retain in the central authorities, when any powers relative thereto are reserved, responsibility for the resolution of conflicts and the development of coördination between the district administrations. Finally, the stabilization of the functions of the districts in an Ortssatzung requiring ministerial approval for its modification would seem definitely to establish the government of Berlin on a federal basis even for those who would contest the federalistic character of its arrangements on a theoretical or juristic, rather than pragmatic basis - assuming, of course, that a new terminology, not involving terms connoting qualities never appurtenant to local governments, is not demanded by the phenomenon of geographical dualism in city government.

1. London, an unpublished manuscript.
2. La Régime administratif et financier du Département de la Seine et de la Ville de Paris.
3. "Die Verwaltungsorganisationen der Bundeshauptstadt Wien," in Die Verwaltungsorganisation der Weltstädte Paris, London, New York, Wien, a symposium by Goetz, Jeserich, Kleine, Zollikofer, and Norden.
4. The Government of Metropolitan Areas, Chapters I-III.
5. Report to the Sub-Committee on Simplification of Local Government of the Illinois Joint Legislative Committee on Economy and Retrenchment, The Chicago Region.
6. See in this connection The London County Council From Within, p. 16. Sir Harry Haward was with the M.B.W. from 1882-88
7. In an interview in August 1930.
8. "The Region, A New Governmental Unit," National Municipal Review, Vol. XIV, p. 417 (1925).

A P P E N D I X A

THE ACT OF 1920*

The constitutionally convened Prussian Legislature has passed the following law, which is promulgated herewith.

Sec. 1

(1) The cities:

- | | |
|-----------------------|-----------------------|
| 1. Berlin | 5. Neukölln |
| 2. Charlottenburg | 6. Berlin-Schöneberg |
| 3. Cöpenick | 7. Spandau |
| 4. Berlin-Lichtenberg | 8. Berlin-Wilmersdorf |

the rural municipalities:

- | | |
|-----------------------------|------------------------------|
| 1. Adlershof | 31. Malchow |
| 2. Alt Gleinicke | 32. Berlin-Mariendorf |
| 3. Biesdorf | 33. Berlin-Marienfelde |
| 4. Blankenburg | 34. Marzahn |
| 5. Blankenfelde | 35. Mäggelheim |
| 6. Bohnsdorf | 36. Berlin-Niederschöneweide |
| 7. Berlin-Britz | 37. Berlin-Niederschönhausen |
| 8. Buch | 38. Nikolassee |
| 9. Berlin-Buchholz | 39. Berlin-Oberschöneweide |
| 10. Buckow | 40. Berlin-Pankow |
| 11. Cladow | 41. Pichelsdorf |
| 12. Falkenberg | 42. Rahnsdorf |
| 13. Berlin-Friedenau | 43. Berlin-Reinickendorf |
| 14. Berlin-Friedrichsfelde | 44. Berlin-Rosenthal |
| 15. Friedrichshagen | 45. Rudow |
| 16. Gatow | 46. Berlin-Schmargendorf |
| 17. Grünau | 47. Schmöckwitz |
| 18. Berlin-Grunewald | 48. Staaken |
| 19. Heiligensee | 49. Berlin-Steglitz |
| 20. Berlin-Heinersdorf | 50. Berlin-Stralau |
| 21. Hermsdorf bei Berlin | 51. Berlin-Tegel |
| 22. Berlin-Hohenschönhausen | 52. Berlin-Tempelhof |
| 23. Berlin-Johannisthal | 53. Tiefwerder |
| 24. Karow | 54. Berlin-Treptow |
| 25. Kaulsdorf | 55. Wannsee |
| 26. Berlin-Lankwitz | 56. Wartenberg |
| 27. Lichtenrade | 57. Berlin Weissensee |
| 28. Berlin-Lichterfelde | 58. Berlin-Wittenau |
| 29. Lößbars | 59. Zehlendorf |
| 30. Mahlsdorf | |

* Gesetz über die Bildung einer neuen Stadtgemeinde Berlin vom 27 April 1920 (Preussische Gesetz Sammlung 1920, p. 123).

and the manorial estates:

- | | |
|--------------------------------|--|
| 1. Berlin-Schloss | 16. Niederschönhausen mit Schönholz |
| 2. Biesdorf | 17. Pfaueninsel |
| 3. Blankenburg | 18. Pichelswerder |
| 4. Blankenfelde | 19. Plötzensee |
| 5. Buch | 20. Potsdamer Forst, north part to Griebnitzsee and Kohlhasenbrück |
| 6. Cöpenick-Forst | 21. Berlin-Rosenthal |
| 7. Berlin-Dahlem | 22. Spandau-Zitadelle |
| 8. Falkenberg | 23. Jungfernheide |
| 9. Frohnau | 24. Tegel-Forst-Nord |
| 10. Grünau-Dahmer Forst | 25. Tegel-Schloss |
| 11. Grunewald-Forst | 26. Wartenberg |
| 12. Heerstrasse | 27. Wuhlheide |
| 13. Hellersdorf mit Wuhlgarten | |
| 14. Klein Glienicke-Forst | |
| 15. Malchow | |

above mentioned, insofar as they are a part of the Circles of Teltow, Niederbarnim, and Osthavelland and of the Province of Brandenburg, are separated therefrom and constituted as the city of "Berlin".

(2) The new city of Berlin constitutes a municipal union and a supervisory administrative district separate from the Province of Brandenburg. It shall be considered as an enlargement of the hitherto existing city of Berlin. The statutory provisions hitherto applicable to the former city of Berlin in its capacity as municipal union and as supervisory administrative district, apply to the new city of Berlin, in so far as nothing to the contrary is contained in this act.

Sec. 2

This consolidation transfers all rights and duties of the municipalities and parishes named in Sec. 1 to the new city of Berlin.

Sec. 3

The Zweckverbandsgesetz for Greater Berlin of July 19, 1911, is repealed. The Union of Greater Berlin created by this act is dissolved. Its rights and duties devolve upon the new municipality of Berlin.

Sec. 4

Under the provisions of Sections 1 and 3 the transfer of communal property, interests and obligations of the new city of Berlin from the circles Teltow, Niederbarnim and Osthavelland and from the provincial union of the province of Brandenburg, except for agreements arrived at by negotiation, shall be accomplished by an arbitral court sitting in law and equity under the guidance of the following principles:

1. In the determination of allocations to the residual areas the tax conditions of the various municipalities and the amounts of their former contributions to the common services hitherto provided is secondary to the preserva-

tion of resources and facilities for the adequate performance of the functions of the residual municipalities as well as those of the new city of Berlin.

2. Circle and provincial agencies or institutions in which the municipalities or manorial estates dissolved in Section 1 have a major interest shall be administered under authority of the new city of Berlin, and the residual units shall participate in the administration and share the costs of such services in a manner prescribed in the adjudication.

3. Circle and provincial agencies or institutions in which the interests of the residual portions of the circle or province predominate shall be administered under authority of the circle or province, and the new city of Berlin shall participate in the administration and share in the costs of such services in a manner prescribed in the adjudication.

Sec. 5

(1) By agreement between the new city of Berlin and the Provincial Unions of the Province of Brandenburg, specified municipal functions may be transferred to a public law corporation created by the two municipal unions (to be known as the municipal union of Berlin-Brandenburg). The legal relations of this municipal union, especially the extent of the functions to be fulfilled by it, shall be determined by an ordinance, which shall be the basis of the agreement between the parties.

(2) The determination of the ordinance of the municipal union shall require confirmation by the Arbitral Court

(3) The supervision of the state over the administration of the affairs of the Union shall be exercised in the first instance by the Oberpräsident, and, upon appeal, by the Minister of the Interior together with the other Ministers concerned. The Oberpräsident is authorized to participate in the deliberations of the organs of the Union, either personally or through representatives. He or his representatives must always be heard.

(4) Appeal to the higher jurisdiction must be made within two weeks.

(5) For administrative supervision and the laws governing acts of supervision the provisions of Sections 115, 116, 118, 121, and 122 of the Provincialordnung für die östlichen Provinzen of April 29, 1875 and March 22, 1881 (Preussisches Gesetz Sammlung 1881, p. 233) apply.

(6) The officials of the Municipal Union shall have the rights and duties of provincial officials.

(7) In concerns not handled under the terms of this Section, existing statutes govern.

Sec. 6

The arbitral court (Sec. 4) is authorized to determine the amounts of indemnities payable by the new city of Berlin and, in pursuance of Section 4 sentence 1, to determine the amounts and due date of installments; it has

for this purpose a period of three months after the taking effect of this statute for the determination of the initial statements regarding amounts and schedules of such indemnities.

Sec. 7

(1) The arbitral court is composed of the Oberpräsidenten of the province of Brandenburg and Berlin as chairman, two members and deputies appointed by the president of the Superior Administrative Court, not more than eight representatives appointed by the Directorate of the supervisory district board, four representing the Magistrat of the new city of Berlin, one each representing the circle committee of Teltow, Niederbarnim and Osthavelland. Deputies are chosen in the same manner as their principals. The representatives of the senior judges and deputies from the supervisory district boards are as to the number of their membership and deputies, arranged by the Minister of the Interior.

(2) Decision concerning procedure before the arbitral court or with reference to its decision concerning membership may be assumed by the Staatsministerium. Until the Staatsministerium acts, the arbitral court regulates its own procedure. The costs of the procedure of the arbitral court are assessed against the negotiating parties.

Sec. 8

The city council consists of 225 members.

Sec. 9

(1) For the election of the city council election districts are created as outlined in the supplement. The general provisions relating to the election of city councillors apply to Berlin with the following exceptions:

1. (1) In addition to electoral lists for the several election districts (Kreiswahlvorschläge), electoral lists for the entire city may be offered. (Stadtwahlvorschläge).

(2) The district electoral list must be signed by not less than 20 qualified electors in the district for which it is submitted, the city-wide electoral list by not less than 20 qualified electors in the city.

(3) The district electoral list must indicate clearly the city-wide list to which votes are given in order to count surpluses toward such lists.

(4) Each vote cast for the district lists is considered as a vote for the city-wide list in the determination of transfers.

(5) Combination of electoral lists is permissible only in city-wide lists.

2. (1) The electoral quotient is determined by dividing the total number of valid ballots cast by 225 (councillors to be elected). Each district list is entitled to as many seats as the electoral quotient so obtained is contained within the total number of valid ballots cast for that list in the district. The remainder left after this operation is the surplus, which is the vote cast for the city-

wide list.

(2) All surpluses of all district lists are transferred to the designated city-wide lists and the remaining councillors elected according to the general provisions governing the use of proportional representation.

(The supplement to this section, providing for the geographical arrangements regarding election districts, appears in the text, supra page)

Sec. 10

(1) City councillors are elected for a term of four years.

(2) City councillors serve collectively until the qualification of their collective successors.

Sec. 11

(1) The Magistrat consists of not more than 30 members, of whom at least 12 must be unpaid. The determination of the exact number and the allocation of posts as between the paid and unpaid membership is within the competence of the city council acting through municipal ordinance.

(2) The first bürgermeister is designated the Oberbürgermeister, his deputy is designated the bürgermeister.

Sec. 12

(1) The paid members of the Magistrat are appointed for a term of 12 years, the unpaid members are elected, according to the principles of proportional representation, for a term of four years by the city council. The terms of the unpaid members are for the same period as that of the council which elects them, and terminate with the expiration or dissolution of the council. Unpaid members continue in office until the qualification of their successors chosen by the newly elected council.

(2) When an unpaid member of the Magistrat leaves or resigns without naming his successor, his successor is elected in the same manner as the disqualifying member. If a successor cannot be secured in this manner, he shall be chosen in the same manner as a paid member of the Magistrat. The unpaid membership of the Magistrat is elected anew in toto at the expiration of its term.

(3) The most recent provisions of the local governing the use of proportional representation, in accordance with an order from the Ministry of the Interior governs such elections.

Sec. 13

(1) The election of city councillors and honorary citizens to the administrative deputations and commissions (Sec. 59 of the Städteordnung) is according to the principles of proportional representation for terms of four years except that the terms of all persons so elected shall terminate with the expiration of the terms of the council which elected them. The aforementioned city councillors and honorary citizens are elected anew after each new council takes office.

(2) The most recent regulations governing the use of proportional representation rules such elections.

(3) By local law the administrative deputations and committees may be granted the power to represent the city externally.

Sec. 14

(1) The city shall be divided into administrative districts according to the Supplement to this section.

(2) The number and boundaries of the administrative districts may be altered by joint resolution, if the district councils concerned agree thereto. An election district must, however, include one or more undivided administrative districts.

(3) To safeguard local interests, to provide for self-government, and to relieve the municipal authorities of the city of Berlin, a district council and a collegiate district board shall be organized in each administrative district.

Supplement

Administrative District	Population (8-10-19)
1. Mitte: composed of the following precincts of the present city of Berlin; 1-20, 23, 24, 129-148, 152, 182, 196-198, 200-217, 223-224, 226-236, 255-258, 267-275, 279-282	292,761
2. Tiergarten: composed of the following precincts of the present city of Berlin; 31-49, 283-292C, 292A-304	273,502
3. Wedding: composed of the following precincts of the present city of Berlin; 251-254E, 259-266, 276-278, 292D, 305-326D	337,193
4. Prenzlauer Berg: composed of the following precincts of the present city of Berlin; 189C, 189F, 190A, 190D, 190G, 191-194C, 199, 218-222, 225, 237-250E	311,631
5. Friedrichschain: composed of the following precincts of the present city of Berlin; 149-151, 153-181K, 183-189C, 189E, 190B, 190C, 190E, 190F, 195 Berlin-Stralau	321,105 4,962
6. Kreuzberg: composed of the following precincts of the present city of Berlin; 21-22; 25-30; 50-128	326,067 366,317
	1,907,471

Administrative District	Population (8-10-19)	
7. Charlottenburg	322,714	
Heerstrasse manorial estate, southern part to Linienzuge, as follows; along Charlottenburg Chaussee to its interception of the Hamburg-Lehr- ter railway, along this railway line to the Pichelsberg-Spandau Suburban railway line, along this line to the southern bound- ary of Drive 157 and including these grounds	460	324,981
Plotzensee manorial estate	1,601	
Jungfernheide manorial estate, southern part to Spandauer Weg, along the south- ern way of Drive 39, 40, 41 and the eastern limit of Mackeritz- Wiesen	206	
8. Spandau	95,373	
Spandau-Citadel manorial estate	234	
Staaken	5,533	
Heerstrasse manorial estate, north- ern part to Linienzuge, as fol- lows; along Charlottenburg Chaussee to its interception of the lines of the Hamburg-Lehrter railway, along this line to the Pichelsberg-Spandau suburban line, along this line to the southern boundary of Drive 157 and including these grounds	313	104,223
Tiefwerder	805	
Pichelsdorf	400	
Pichelswerder manorial estate	27	
Gatow	610	
Cladow	928	
9. Berlin-Wilmersdorf	139,468	
Berlin-Schmargendorf	11,581	
Berlin-Grunewald rural municiplaity	6,449	158,005
Berlin-Grunewald Forest manorial estate	507	
10. Zehlendorf	20,562	
Berlin-Dahlem manorial estate	6,244	
Nikolassee	1,982	
Wannsee	3,980	33,043
Klein-Gleinicke manorial estate	79	
Pfaueninsel manorial estate	45	
Potsdam-Forest manorial estate, north- ern part to the Griebnitzsee and Kohlhafenbrück	151	

Administrative District	Population (8-10-19)	
11. Berlin-Schöneberg Berlin-Friedenau	178,207 43,864	222,071
12. Berlin-Steglitz Berlin-Lichterfelde Berlin-Mariendorf, southside precinct Berlin-Lankwitz	83,370 47,386 3,663 12,403	146,882
13. Berlin-Tempelhof Berlin-Mariendorf, except southside precinct Berlin-Marienefelde Lichtenrade Buckow, portion west of the Marien- dorf-Lichtenrader Chaussee	34,026 17,073 3,851 4,836 -	59,786
14. Neukölln Berlin-Britz Buckow, except for precinct west of the Mariendorf-Lichtenrader Chaussee Rudow	262,414 13,475 2,396 1,447	279,732
15. Berlin-Treptow, including the Abbey Berlin-Oberschöneweide Wuhlheide manorial estate Berlin-Niederschöneweide Berlin-Johannisthal Adlershof Alt-Gleinicke	30,717 25,612 54 9,609 5,452 12,656 5,028	89,128
16. Cöpenick Friedrichshagen Cöpenick-Forest manorial estate Rahnsdorf Müggelheim Grünau-Dahmer-Forest manorial estate Schmöckwitz Bohnsdorf Grünau	32,589 14,850 211 2,700 186 127 576 2,027 3,553	
17. Berlin-Lichtenberg Berlin-Friedrichsfelde Biesdorf rural municipality Biesdorf manorial estate Kaulsdorf Mahlsdorf Marzahn Hellersdorf with Wuhlgarten manorial estate	144,986 24,414 2,954 117 3,381 6,022 744 252	182,870

Administrative District	Population	
18. Berlin-Weissensee	45,949	
Malchow rural municipality	486	
Malchow manorial estate	363	
Wartenberg rural municipality	244	54,627
Wartenberg manorial estate	152	
Falkenberg rural municipality	351	
Falkenberg manorial estate	348-1	
Berlin-Hohenschönhausen	6,734	
19. Berlin-Pankow	57,962	
Berlin-Niederschönhausen rural municipality	18,913	
Niederschönhausen manorial estate with Schönholz colony	362	
Berlin-Rosenthal rural municipality, except precinct west of the Liebenwalder line and Rosenthal precinct I (Wilhelmsruh)	1,725	
Berlin Rosenthal manorial estate	129	
Blankenfelde rural municipality	549	
Blankenfelde manorial estate	360	94,656
Berlin-Buchholz	4,905	
Buch rural municipality	3,917	
Buch manorial estate	2,562	
Karow	949	
Blankenburg rural municipality	1,161	
Blankenburg manorial estate	156	
Berlin-Heinersdorf	1,006	
20. Berlin-Reinickendorf	41,289	
Berlin-Rosenthal rural municipality, precinct west of the Liebenwalder line and Rosenthal precinct I (Wilhelmsruh)	4,332	
Berlin-Wittenau	10,206	
Läbars	4,390	
Hermsdorf by Berlin	7,672	
Frohnau manorial estate	1,191	
Tegel-Forest-North manorial estate	77	92,299
Heiligensee	2,049	
Tegel-Schloss manorial estate	729	
Berlin-Tegel rural municipality	20,306	
Jungfernheide manorial estate, north part to Spandauer Weg and the area south to Drives 39, 40, 41 and the part west of Mäckerits-Wiesen	58	

Sec. 15

(1) The district councils shall consist of municipal deputies and citizens qualified to vote (district deputies) in accordance with the following provisions:

1. (1) When an administrative district coincides with the area of an election district, all the municipal deputies chosen in the election district are at the same time members of the district council.

(2) When an election district consists of several administrative districts, the municipal council shall divide the municipal deputies chosen in this election district among the district councils of the administrative districts concerned.

(3) The municipal deputies elected upon city-wide nominations shall be apportioned by the municipal council among the district councils of the individual administrative districts.

(4) In apportioning municipal deputies among district councils, the residence of the municipal deputy in the district or other personal relations thereto shall, whenever possible, be taken into consideration.

2. (1) The district deputies shall be elected, in accordance with the general regulations governing the election of municipal deputies, by the enfranchised inhabitants of the administrative district for the same term as the municipal deputies.

(2) There shall be elected in the administrative districts having less than 50,000 inhabitants, 15 district deputies; having 50,000 and less than 100,000 inhabitants, 30 district deputies; having 100,000 and less than 200,000 inhabitants, 40 district deputies; having 200,000 or more inhabitants, 45 district deputies.

(2) The provisions of Sec. 10, Par. 2 apply to members of the district councils.

(3) The elections of municipal deputies and of district deputies shall occur at the same time. More detailed provisions for carrying out the election of district deputies shall be issued by the Minister of the Interior.

Sec. 16

The district assembly shall annually elect from among itself a chairman and a secretary, as well as their deputies.

Sec. 17

(1) The district council shall hold regular sessions, and shall meet in addition as often as its business may require. Sessions shall be called by the chairman; the method of summons shall be fixed by the rules of order.

(2) The district-board concerned shall be invited to all sessions of the district council and may be represented

by authorized deputies. The deputies of the Magistrat and of the district-board must be heard, as often as they desire.

Sec. 18

(1) The district council can act only if more than half of the members are present. An exception occurs if the members have been summoned to consider the same matter for the second time, the first session having been incompetent to act. In the second summons attention must be called specifically to this condition.

(2) Resolutions shall be adopted by majority vote. In case of a tie, the proposition shall be considered defeated. The elections to be held by the district council shall be conducted according to the rules of election to be fixed by the order of business. Votes not cast and invalid votes count toward the establishment of the quorum, but not in calculating the majority.

(3) In deliberating and voting upon matters touching the private interests of an individual member of the district council or of his relatives, the member may not be present.

Sec. 19

(1) Sessions of the district council shall be public. With regard to specific matters the public may be excluded by special resolution, passed in secret session.

(2) The chairman shall preside over the sessions, open and close them, and conduct the procedure. He may have every spectator who, through public signs of approval or disapproval, causes disturbance or unrest of any kind, removed from the session chamber.

Sec. 20

The acts of the district council shall be entered in a special book. The entries shall be signed by the chairman. The district-board shall be informed of all resolutions.

Sec. 21

The district council shall determine its own rules of order.

Sec. 22

(1) Subject to the limitations of the principles established by the municipal authorities, the district council shall legislate upon all affairs of the district.

(2) The district council is responsible for the supervision of the administration of those municipal services and institutions of its administrative districts which are intended principally to serve the interests of the administrative districts. It shall, as a basis for the municipal budget, annually prepare a report upon the needs of these institutions and arrangements, and shall submit it as a proposal to the Magistrat, through the district-board. In preparing the budget of the city of Berlin, special appropriations shall be adopted for the needs of the districts, and shall be assigned to the districts to be put into effect. To put into effect these appropriations, the organs of the district shall

be given an appropriate field of action.

(3) The resolutions of the district council, except for its rules of order, shall be put into effect by the district-board.

(4) The district council has the right to investigate the carrying out of its resolutions and the use made of the means available for the local arrangements and institutions of the administrative district. It may to this end require from the district-board an examination of the records.

(5) The district council has the duty of electing all honorary officials of the district.

(6) The district council, through the district-board, shall transmit to the municipal authorities requests, suggestions and proposals concerning its administrative district.

(7) The competence of the district council may be enlarged by joint-resolution.

Sec. 23

(1) The district-boards shall consist of seven members, elected by the district council.

(2) The chairman and his deputy shall be elected by the district council.

(3) At the first choice of members of the district-board the chairman and the deputy shall be appointed by the Magistrat.

(4) The members of the district-board shall, as a rule, receive a salary; the salary will be fixed by local law. If a salary is paid, election shall be for twelve, otherwise for four, years. The term of office of the unpaid members of the district-board shall end before the expiration of the election period, as soon as the election period of the municipal council has expired or the council has been dissolved. The provisions of Sec. 10, Par. 2 apply to the unpaid members of the district-board.

(5) The chairman of the district-board shall have the title of bürgermeister, the members shall have the title of town councillor.

(6) The number of members of the district-board can be increased by local law, whereby, if necessary, the proportion of the number of paid and unpaid members is also to be fixed.

Sec. 24

(1) The district-boards can act only if at least half of their members are present.

(2) The summons for sessions are issued by the chairman, who presides over the sessions.

(3) Resolutions shall be passed by majority vote. In case of a tie, the proposal shall be considered defeated.

(4) At the discussion and balloting upon matters touching the special private interests of a single member or of his relations, the member may not be present.

(5) Representatives of the Magistrat must be heard in the sessions of the district-board, as often as they desire.

(6) The provisions applicable to members of the Magistrat apply to members of the district-board, except as otherwise provided in this act. The disciplinary power over the bürgermeister is vested in the Oberbürgermeister, over the other members of the district-board and the officials of the district, in the bürgermeister of the district-board.

Sec. 25

(1) The district-boards are the administrative boards of the district. They are executive organs of the Magistrat and must conduct, in accordance with the principles established by the Magistrat, the affairs which the Magistrat assign to them. They are subject to the control of the Magistrat.

(2) Before acting upon:

1. The budget,
2. The delimitation of administrative powers between the municipal authorities and the district administration,
3. The veto in accordance with Sec. 27 of this act, the Magistrat must hear the chairmen of the district-boards in joint session.

(3) The district-boards are responsible for the administration of the municipal services and institutions of their administrative district, except those administered directly by the Magistrat. The district-boards appoint all of their officials, though without prejudice to the right of the Magistrat to replace officials for the good of the service; the reasons for such replacements are to be communicated to the district-board concerned. The authority to represent the municipality externally may be granted to the district-board by local act.

(4) The district-boards have the duty of mediation between the district councils and the municipal authorities.

Sec. 26

(1) Through concurrent resolution of the district council and the district-board, special district deputations may be elected, either from the members of the two district authorities, or from the latter and from the citizens qualified to vote, for the permanent administration or supervision of particular branches of the service as well as for the discharge of temporary duties. To these deputations, which are subordinated to the district-board under all circumstances, the municipal deputies, district deputies, and enfranchised citizens shall be elected by the district council; the district bürgermeister shall appoint the members of the district-board, and shall also choose the chairman from them; by local act the right to represent the municipality externally may be extended to the district deputations.

(2) The district-board has the duty of mediating between the district deputations and the municipal authorities.

Sec. 27

The Magistrat, in all cases, retains the power to restrain action under resolutions of the district assem-

blies, the district-boards and the district deputations, if the municipal interest urgently so requires, or if the resolutions of the district authorities exceed their competence, or violate the laws. The resolution whereby the Magistrat restrains the carrying out of resolutions of the district council shall state the reasons for the veto.

Sec. 28

(1) If, under Sec. 27, no agreement is reached, any of the parties concerned may, within two weeks after the day on which the veto was announced, appeal to a board of arbitration, which shall decide definitively.

(2) The board of arbitration shall consist of two members elected by the municipal assembly and two elected by the district council, to whom an umpire, elected by them, shall be added as chairman. If no agreement regarding the umpire is reached, he shall be appointed by the Oberpräsident.

(3) In all other respects, the composition of the board of arbitration and its procedure shall be regulated by joint-resolution, subject to the principle that a district affected by the veto must be represented in the board of arbitration at the decision in the case.

Sec. 29

(1) An administrative district may be divided into precincts, by concurrent resolution of the district council and the district-board, with the approval of the Magistrat.

(2) A chairman and a deputy shall be placed in charge of each precinct, and shall be elected by the district council, for twelve years, if paid, otherwise for four years, subject to confirmation by the district-board. By concurrent resolution of the district council and the district-board the chairmen in the more important precincts, may be given the official title of Bürgermeister.

(3) The chairmen of the precincts are under the supervision of the district-board, and have the duty of obeying its directions, and of assisting it concerning the local affairs of the precinct.

(4) In addition to the chairmen of the precinct, councillors may be chosen from the enfranchised citizens of precinct, by concurrent resolution of the district council and the district-board, and the approval of the Magistrat; the resolution shall also make provision for the constitution and competence of the councillors. When councillors have been constituted, they have a right of nomination in the appointment of the chairmen of the precinct. The councillors shall be elected by the enfranchised citizens of the precinct according to the principles of proportional election.

(5) By concurrent motion of the district council and the district-board of an administrative district, additional powers, particularly the power to represent the municipality externally, may be extended to the chairmen

of the precincts by local act.

Sec. 30

(Inserted in a revision of April 24, 1922 - Preussisches Gesetz Sammlung, p. 96)

It may be provided by local law that active honorary officials be given free passage on all general public transportation facilities within the area of the city, which law shall insure equitable treatment of honorary officials and regulate the conditions for claims to such facilities conformably with the relative time given in the municipal service. It may alternatively be provided that a lumpsum grant be made for transportation expenses in accordance with the above principles.

Sec. 31

Active honorary officials, including members of the administrative deputations, may under local ordinance or in pursuance of the authority of Sections 26 and 29 under joint resolution of the district assemblies and district boards be removed from office before the expiration of their terms. This provision does not apply to officials who are city councillors or Magistrat and district board members.

Sec. 32

(1) The provisions of Sections 7, 8, 12-27 inclusive, Section 28 Par. 1, Sections 30, 31 and Section 75 Par. 2 of the Städteordnung do not apply to the new city of Berlin.

(2) The other provisions of the Städteordnung and the various statutes relating to municipalities apply to the new city of Berlin unless in this law specifically otherwise provided.

Sec. 33

(1) The new city of Berlin is constituted as a local police district. The local police authority is the police president of Berlin. With the promulgation of this statute the law of June 12, 1889 (Gesetz Sammlung, p. 129) comes into effect in the annexed areas of the new city of Berlin; the provisions of the law of June 12, 1889 are applied in the same manner as for the circles of Teltow and Niederbarnim or parts of those circles as well as for the circle of Osthavelland or parts of this circle.

(2) The laws of June 13, 1900 (Gesetz Sammlung, p. 247), March 27, 1907 (Gesetz Sammlung, p. 37), March 7, 1908 (Gesetz Sammlung, p. 21) and June 23, 1909 (Gesetz Sammlung, p. 533) are repealed.

Sec. 34

The area of the poor law union of the city of Berlin is extended to coincide with the area of the new city of Berlin. The area of the poor law union of the province of Brandenburg is constricted to the new limits of this province.

Sec. 35

Section 368, Par. 3 of the Water Laws of April 7, 1913 (Gesetz Sammlung, p. 53) are hereby altered in that half of the members are elected by the provincial Landtag and

Sec. 36

The operating area of the municipal fire association of the province of Brandenburg is decreased by this statute by the portion of its area annexed to the new city of Berlin, and the jurisdiction of the municipal fire association of Berlin is extended to the entire area of the new city. The compulsory insurance of the municipal fire association of Berlin is not extended to the newly annexed areas.

Sec. 37

The operating area of the Stadttschaft of the province of Brandenburg is not under this statute reduced, without prejudice to the right of the Mortgage Institute of Berlin to operate throughout the entire area of the new city of Berlin.

Sec. 38

Section 26 of the Zweckverbandsgesetzes of July 19, 1911 (Gesetz Sammlung, p. 115) is altered as follows: that the Oberpräsident acts in place of the Executive Board for Greater Berlin.

Sec. 39

Until the promulgation of new regulations, the following provisions apply to the supervisory district committee of the new city of Berlin:

(1) Sec. 43 of the Landesverwaltungsgesetzes of July 30, 1883 (Gesetz Sammlung, p. 195), with the following exceptions:

(2) The district committee is composed of two or more parts, of which Official Business and Technical Affairs are mandatory.

(3) The president and the appointive members sit with all parts, insofar as an insufficiency of members are appointed for any part.

(4) For each of the parts four members and deputies are elected according to the principles of proportional representation for terms of six years by the Magistrat and council meeting under the chairmanship of the Oberbürgermeister. The election of members and deputies are elected from separate electoral lists.

(5) The terms of the elected members and deputies end with the expiration of the month in which their successors are elected.

2 The provisions of Secs. 12 and 13 of the Landesverwaltungsgesetzes of July 30, 1883 (Gesetz Sammlung, p. 195) do not apply to the district committee for the new city of Berlin.

3 The most recent order concerning the number of parts and the division of official business between these, reckoned from the beginning of the official tenure of the newly elected members and deputies, as well as those relating to the use of proportional representation, as promulgated by the Minister of the Interior, apply.

Sec. 40

(1) Sec. 37 of the Landesverwaltungsgesetzes of July

30, 1883 (Gesetz Sammlung, p. 195) applies to the new city of Berlin with the following exceptions:

(2) By local law the city board of the new city of Berlin may delegate to the several geographical divisions of the city such duties and authority as it sees fit; by such action the concerns of the city board relating to the functions of the board are, to the degree provided, transferred to members of the administrative district boards (Bezirksamt). The foregoing provision applying to the city board applies also to each part of the city board. The election of members of the several parts of the city board, is considered under the supervision of the Magistrat.

Sec. 41

Until the promulgation of a statute reorganizing judicial affairs in the new city of Berlin existing courts continue to operate in the several districts.

Sec. 42

(1) The new city of Berlin is constituted as a separate school union in the sense of the Volksschulunterhaltungsgesetzes of July 28, 1906 (Gesetz Sammlung, p. 335).

(2) Over the concerns of volks-, middle, and higher schools, so far as not by law given to the municipal authorities, jurisdiction is given to the district authorities within the limits of the general regulations established by the city corporation.

(3) Over the concerns of technical and continuation schools jurisdiction is given the municipal corporation, which regulates the participation of district authorities in such concerns.

Sec. 43

(1) In each administrative district there is created for the advanced schools a district school committee (Sec. 26), for middle and volks- schools a district school deputation is created. Insofar, however, as at the time of the promulgation of this statute the authority of the curators of the advanced schools have been fixed by special law, they remain with their hitherto existing authority.

(2) The district school deputations operate in concerns of state jurisdiction as organs of the School Supervisory Board and are so held responsible, insofar as their authority permits. The general provisions of law relating to municipal school deputations apply to the district school deputations unless otherwise specifically provided herein.

Sec. 44

(1) The regulations governing general sessions of the municipal school deputations apply to those of the district school deputations except that for bürgermeister read chairman of the district board, for municipal directors read district board, and for city council read district council, and except that elections are for a term of four

years with the privilege of resigning at the end of two years.

(2) The provisions for the creation of school commissions in Sec. 45 of the Volksschulunterhaltungsgesetzes apply with the amendments of the above section.

Sec. 45

(1) The Provinzialschulkollegium in Berlin is the state supervisory authority for all public and private schools of the new city of Berlin.

(2) For technical and continuation schools the Provinzialschulkollegium creates a special section, which is under the direction of the Minister of Professions and Trade.

(3) The Provinzialschulkollegium must, before decision upon acts and proposals of the district school committees and deputations affecting the interests of the administrative districts collectively, allow the Magistrat an opportunity to be heard.

Sec. 46

(1) The selection of teachers, excepting Rectors and Directors, is conducted:

(a) For the technical and continuation school by the Magistrat, upon the advice of the respective Curators and Technical Boards.

(b) For the advanced schools by the district school committees.

(c) For the volks- and middle schools by the district school deputations.

(2) The appointment itself is reserved to the rights of the School Supervisory Board:

(a) For the technical and continuation schools acting through the Magistrat.

(b) For the advanced, volks- and middle schools acting through the respective district administrative board.

(3) The Magistrat is authorized, upon advice of the affected district administrative board, to relieve teachers, excepting principals, for the good of the service, in the several districts. The reasons for such action are communicated to the district administrative board. This act is not a removal in the sense of Sec. 31 of the Lehrerbesoldungsgesetzes of May 26, 1909 (Gesetz Sammlung, p. 85), and of Sec. 87, no. 1 of the Disziplinargesetzes of July 21, 1852 (Gesetz Sammlung, p. 455).

Sec. 47

(1) The school unions and general school unions lying wholly within the area of the new city of Berlin are taken over with all rights and obligations thereof by the new Berlin School Union.

(2) The general school unions having only part of their constituent school districts within the area of the new city of Berlin are dissolved. Thereof, the remaining portions lying within the new city of Berlin are constituted as separate school unions or united with other school unions, with regard, however, and under the supervision of the Regierung in Potsdam, for the

qualifications of Sec. 3 and 4 of the Volkschulunterhaltungsgesetzes relating to the legal rights and capacities of divided school unions and general school unions.

(3) Insofar as particular schools have been accorded the status of legal persons, they operate under existing statutes with unaffected powers.

Sec. 48

(1) For the conduct of public school affairs all existing school unions and general school unions are authorized to continue their respective activities, except insofar as the appropriate district school deputations, with the approval of the School Supervisory Board, takes action to the contrary. The provisions of Sections 25 and 26 of the Volkschuluntuhaltungsgesetzes have appropriate application.

(2) Rights and privileges of ecclesiastical parishes and former third parties (Dritter), Sections 27 to 32 of the Volkschuluntuhaltungsgesetzes remain as at present.

(3) Insofar as under Sec. 14 of the Volksunter payments for the cost of school buildings are collected, the new school union of Berlin with the concurrence of the appropriate district school deputation has complete authority in all building activities. However, in its action it considers feasibility for those from whom collections are made and appropriateness.

Sec. 49

(1) The school unions and general school unions separated by the creation of the new Berlin School Union operate, for the parts outside the new city of Berlin, in the future under the ordinances of the Potsdam Regierungsbezirke governing service compensation increases, pensions, and widows' and orphans' allowances, of school teachers.

(2) With regard to widows' and orphans' allowances of elementary school teachers, they are paid to Potsdam in accordance with present statutes. The Potsdam Regierung determines the places payable and amounts due from the cities and local bodies annexed to the new city of Berlin.

(Sections 50 and 51 were repealed by Section 56 of the Volkschullehrerdienstunkommengesetzes of December 17, 1920 and April 1, 1923)

Sec. 52

The confirmation of elections of teachers to the advanced institutions as well as to technical and continuation schools lies with the Provincialschulkollegium, the Directors of advanced institutions with the Prussian Staatsregierung, and the Directors of technical and continuation schools with Minister for Professions and Trade.

Sec. 53

Until the promulgation of a new Städterodnung the following special provisions apply to Berlin:

1. Citizenship of the new city of Berlin is granted

- to all persons who, for the duration of the ordinance of January 24, 1919 (Gesetz Sammlung, p. 13), were qualified voters.
2. Active voting rights apply only to persons who, at the time for the beginning of election list formations, have established citizenship and who have resided for six months previously, in the sense of the Bürgerlichen Gesetzbuchs, in a district of Berlin (Residence requirement was extended to 1 year by the Verordnung zur Ausführung der Wahlen zu der Stadtverordnetenversammlung und Bezirksversammlungen der Stadtgemeinde Berlin of August 28, 1925, Gesetz Sammlung p. 109).
 3. Elections to the city council take place in all election districts on the same day, which is upon Sunday or on an otherwise prescribed legal holiday. The Minister of the Interior issues regulations governing the distribution and explanation of election lists as well as their arrangement and the folding of the election.
 4. A city councillor lacking a presumption of eligibility at the time of election is discharged from the council. The city council decides upon protests against expulsions. The removed councillor is privileged to appeal the complaint in administrative procedure; the appeal does not lie, however, in the case of a proxy not before validly recognized.
 5. Decisions of the council require a majority, and a tie is considered a negative.
 6. After an election the new council meets within four weeks after the election day. The exact time is set by the Magistrat.

Sec. 54

The municipal ordinances, local statutes, customs and observances, especially the orders (observances, statutes regulations, est.) relating to the granting of dues, indemnities, indirect or direct taxes, or Naturaldiensten as for the several parts of the area of the new city of Berlin which under the Polizei-Verordnungen are susceptible to continued application are allowed insofar as not by this statute specifically provided to the contrary. The same principle applies to the Gutsbezirke.

Sec. 55

(1) The paid officials of the municipalities and manorial estates incorporated in the new city of Berlin, as well as those of the Verbandes Gross-Berlin are, until the determination of the necessary removal costs, considered as functionaries of the new city of Berlin. In the case of refusal of such settlements the city of Berlin is bound to the fulfillment of local obligations in behalf of these persons. These adjustments are made with reservation to adjudication in ordinary legal procedure, allowable

in the first instance only when officials do not accept the judgment of the Oberpräsidenten.

(2) The emoluments, pensions and dependants' allowances resulting from service rendered the former municipalities annexed to Berlin are not transmitted as obligations of the new city of Berlin. The new official salary schedule recognizes only payments made for services rendered as an employee of the new city or payments legally assumed by the new city in connection with removal costs.

(3) The Magistrat is, with the concurrence of the city council, charged with the application of the foregoing provisions, with regard to the burden imposed upon officials or their dependants in particular cases.

Sec. 56

The officials of the Brandenburg Landesversicherungsanstalt who, under the terms of this statute no longer occupy their former positions, are incorporated in the personnel of the Berlin Landesversicherungsanstalt. The Berlin Landesversicherungsanstalt absorbs these officials in equivalent positions to those formerly occupied. The salary scale, pension rights, and dependants' allowances are not transmitted as obligations of the Berlin Landesversicherungsanstalt.

Sec. 57

The Oberpräsident is the authority of first instance in disputes arising in the application of Sec. 55 and 56; before decision the complaining official, the complaining officials' organization, and the Magistrat are heard. After the decision of the Oberpräsident a period of six months is allowed during which the issue may be appealed for correction through customary judicial action. The decision of the Oberpräsident is conclusive until the cause receives judicial recognition.

Sec. 58

This law goes into effect on October 1, 1920 with the following exceptions:

1. (1) The arbitral court (Sec. 4), whose action is necessary to give effect to this statute may defer the promulgation of appropriate portions until its purposes are accomplished; meanwhile it deals with the following problems:
 - (a) The determination of the various circle and provincial agencies and institutions which are taken over by the new city of Berlin, and the determination of the date of their transfer.
 - (b) The determination of the various agencies and institutions which under the provisions of Section 4, Par. 2 and 3 are of general interest and service, and the regulation of the division of these agencies and institutions between the new city of Berlin and the remaining area.

- (c) The issuing of orders concerning the general use of those agencies and institutions which under (b) are cooperatively conducted by the remaining area and the new city of Berlin.
- (2) In place of the four members and deputies elected to the arbitral court from the Magistrat of the new city of Berlin (Sec. 7) four other members and deputies are elected as follows: one member each from the Magistrate of Berlin, Charlottenburg, Neukölln and Berlin-Schöneberg. The four members and deputies of the arbitral court elected from the former municipalities are superseded by representatives of the new communal unions when, under Sec. 7, they have a valid election.
- (3) The arbitral court has for the foregoing matters entire competence and final decision.
2. The election of city councillors, district councillors, the new Magistrat and the honorary officials for the administrative deputations and commissions (Sec. 13) are conducted under an order of the Minister of Interior to be issued before October 1, 1920. The organizational session of the city council, the installation of members in their privileges and obligations is under the direction of the Oberpräsident of Berlin.
3. (1) The several city councils and municipal assemblies in the former municipalities incorporated in new Berlin are abolished by order of the Oberpräsident as soon as the city council and Magistrat of the new city of Berlin have completed their organization.
- (2) These corporations are amalgamated with Berlin as of October 1, 1920, and their councils and assemblies remain in authority until the end of October 1, 1920.
(Under a law of October 7, 1920, Gesetz Sammlung, p. 435, the following amendments were made).
- 3.a (1) Until the organization of the Magistrat of the new city of Berlin, the functions of this body are exercised by the Magistrat of the old city of Berlin.
- (2) Likewise are the duties of the Oberbürgermeister of the new city of Berlin performed by the Oberbürgermeister of the old city of Berlin.
4. (1) The several Magistrate (Deputations, municipal directors, municipal boards, parish directors) are restricted in jurisdiction according to the terms of this statute until the organization of the Magistrat of the new city of Berlin and for so long thereafter as the Magistrat con-

times to utilize their services. They operate under instructions from the Magistrat of the new city of Berlin, their agenda is approved by the Magistrat and the Magistrat is informed of all important actions. Appropriations for necessary expenditures are inserted by the Magistrat if such allocations are not voluntarily made in requisite amounts by the appropriate local bodies.

(The words "until the organization of the Magistrat of the new city of Berlin" were inserted by the act of October 7, 1920 - Gesetz Sammlung, p. 135).

- (2) Present members of deputations, commissions or boards, which are in their own right elected members of the councils of these local bodies continue to serve after the suppression of the local councils. If the membership of a communal council is less than half of its former quorum, the local body elects the requisite number of qualified citizens in accordance with the most recent order of the Magistrat of the new city of Berlin. In cases in which members are chosen hereby, the local board is elected by their action, for which purpose the Magistrat of the new city of Berlin issues the necessary supplementary regulations. The deputations chosen under various legal provisions are regulated by the above.
5. With the consent of the local bodies the new city of Berlin may provide that the government of the area of a former rural municipality or parish shall be, before and until the organization of the new local administrative organs (Sec. 14 et seq.), conducted by the Magistrat or other local board or committee in the administrative district with which it is to be united. In such cases, the terms of municipal and parish boards and committees so absorbed is terminated as of the date at which the union is effected.
6. If the term of a Magistrat member or a member of a municipal board or committee expires before the organization of the new local administrative organs of the administrative districts, or if such a member resigns or vacates his post, the Magistrat of the new city of Berlin with the concurrence of the city council provides for the continuation of his duties at his own discretion; particularly it may fill the post by temporary appointment; it may also delegate his duties to such Magistrat member, municipal board or committee member of another administrative district or local authority in the same administrative district as provided in no. 4 of this paragraph.
7. The district director (Sec. 10 of the Städteord-

mung) continues in office until the expiration of his term. In case of the retirement of the district director or his deputy the appropriate Magistrat fills the post for the period before the organization of the new administrative structure for the administrative district. The time for the installation of precinct (Ortsbezirke) directors is decided by the governing body of the appropriate administrative district. The appointment of the precinct directors is made after the governing body of the districts have made provision for the number and election procedure of precinct counsellors (Beiräten).

8. (1) By concurrent resolution of the governing body of the new city of Berlin and the local corporations the time for this statute to go into effect may be advanced. The city council and the Magistrat of the new city of Berlin convene, for the accomplishment of such purpose, under the authority of the Oberpräsident in the same manner as for the election of the Magistrat. Ordinances, resolutions and actions of the administrative authorities (and administrative court authorities) made in pursuance of such action likewise take effect before the law goes into effect.
- (2) The budget of the new city of Berlin for the fiscal year 1920 - for the time from April 1, 1920 to March 31, 1921 - is set by the Magistrat and city council of the new city of Berlin before this law goes into effect. The several Magistrats, municipal boards, municipal and parish directors (without prejudice to the provisions of no. 5) submit to the Magistrat of the new city of Berlin estimates for the budget requirements for the fiscal year 1920, or in case such body is not organized at that time, such estimates are submitted to the Magistrat of the present city of Berlin which are transmitted to the newly elected Magistrat of the new city of Berlin at the time of its legal installation.
- (3) Those municipalities and parishes wholly contained within the new city of Berlin proceed with their expenditures, until the adoption of the budget for the fiscal year of 1920, and in the absence of alterations, upon the basis of the budgets adopted for the fiscal year of 1919; to the approved sums contained therein there is prorated monthly an amount equal to 1/12 of the aggregate surplus derived from additional appropriations of departmental earnings until the completion of the annual budget, in which such surpluses are formally allocated; expenditures are made only for the purposes and in the amounts for

which sums have been budgeted as ordinary administrative disbursements or for which specific legal authorization has been made.

- (4) The locally determined tax rates are, until the setting of new rates in conformity with budget requirements in the new city of Berlin for the fiscal year 1920, retained at the same level as for the fiscal year 1919. Tax payments already made are considered as payments on account of the rates levied in pursuance of the budget of the new city of Berlin for the fiscal year in which it is adopted.
9. The city council and Magistrat of the new city of Berlin regulate, for the purposes of nos. 4 to 6 of this section, the exact time at which this law goes into effect.
10. The residuary municipalities in which, as a result of the operation of this law, a part of the membership of whose organs is removed hold elections for the filling of these vacancies under the direction of the Oberpräsident of the Province of Brandenburg.
11. (1) Prior to October 1, 1920 the decisions and actions anticipated herein to be settled by local bodies and administrative courts, are delegated to the district board for the new city of Berlin only insofar as these matters are specifically so provided thus to be resolved. The district board of Potsdam acts only as an appellate or reviewing body for those decisions and actions provided to be handled in the first instance by local bodies and administrative courts, before October 1, 1920.
- (2) The Superior Administrative Court decides the contentability of actions under no. 11.
12. (1) The established city board operates as a part of the city board of the new city of Berlin until the administrative board in each of the administrative districts is fully organized. The Magistrat of the new city of Berlin conducts the election for the replacement of those members of the city board retired as a result of this statute going into effect. For the period until its retirement, the board is, by local law, given jurisdiction in those parts of the new city of Berlin in which a city board does not exist.
13. (1) For the district of the present city of Berlin including the parish of Berlin-Schloss and the municipality of Sralaw "außer der Abtei" there is, until altered by general regulations of the municipal authorities, a unified district school deputation and a unified district school

committee organized. The jurisdiction of these special bodies is determined by the provisions of the existing school laws relating to local boards, with this exception: the present members of the district school deputation and district school committee who are not members of the Magistrat or city council must reside in that part of the present city of Berlin including the parish of Berlin-Schloss and the municipality of Stralaw "ausser der Abtei".

- (2) The district council participates in the organization of the school deputation and school committee. For this purpose district council members of the city council may be elected thereto.
14. (1) The school deputations and committees operate until the district school deputations are actively organized.
- (2) The provisions of No. 4, Sec. 3 apply.
- (3) The curators, school directors and technical boards for the technical and continuation schools existing at the time of the promulgation of this statute continue in their present jurisdiction until the issuance of a regulatory order by the Magistrat.
15. In the first election to the city and district councils disabled veterans and then discharged military and civil employees who except for their recent occupations would be entitled to vote, are enfranchised if they live in Berlin and if their qualifications are not otherwise disallowed.

Sec. 59

For giving effect to the provisions of this law appropriate orders are issued by the Ministers of the Interior, Science, Education and Development, Finance and Trade and Professions.

A P P E N D I X B

1930 PROPOSAL FOR A
LOCAL GOVERNMENT LAW FOR BERLIN*

The Landtag promulgates the following law:

PART ONE

THE HAUPTSTADT BERLIN AND ITS ORGANIZATION

Sec. 1

(1) The Hauptstadt Berlin is a municipality divided into local districts, which, in concerns of general administration is administered by organs of the municipality, and in concerns of district importance is administered by district organs.

(2) The number and extent of the administrative districts is determined by an ordinance formulated by the State ministry with the advice of the municipal authorities.

Sec. 2

The municipality of Berlin is constituted a separate Province. It is a separate administrative district.

PART TWO

ORGANS OF THE CITY BERLIN

A. CITY ADMINISTRATION

Sec. 3

The constitutionally decreed organs are:

1. The city council,
2. The city committee,
3. The oberbürgermeister,
4. The administrative committees.

I. CITY COUNCIL

Sec. 4

(1) The city council is composed of municipal representatives.

(2) The municipal representatives are elected by the citizens of the city.

(3) The term of office of city councillors is four years.

(4) City councillors hold office until the election of their successors.

*Entwurf eines Selbstverwaltungsgesetzes für die Hauptstadt Berlin in von Leyden's Die Berliner Verfassung, pp. 37-43.

Sec. 5

The number of city councillors is 150.

Sec. 6

(1) The oberbürgermeister is chairman of the city council, and exercises complete powers of control. In case of a tie he casts the deciding vote.

(2) The council is convened by the chairman. The agenda of the session is promulgated at the same time the summons is made. The council is convened also upon motion of one-third of its membership, for the consideration of any of the concerns enumerated in Sec. 38 and concerning which decision is urgent.

(3) The council regulates its own procedure.

Sec. 7

On decision of the oberbürgermeister or upon motion of one third of the city councillors a concern of the council is referred, before decision by the council, to the advice of an administrative committee.

Sec. 8

The sessions of the council are public. For particular subjects the public may, upon vote of the council, be excluded. The introduction and debate of motions as well as their decision may be taken in secret session.

Sec. 9

For action, except as to elections, by the council, more than half of the qualified members of the council constitute a quorum, until its insufficiency is specifically contested by one of its own number.

Sec. 10

(1) Provisions herein contained are without prejudice to the undertaking of plurality elections operating the terms of the Gemeindewahlgesetz of 9 April, 1923 in the draft of 12 February, 1924 (Gesetz Sammlung, p. 99).

(2) Decision relative thereto may be altered in regular local procedure.

(3) No plurality election shall be valid except when conducted by orderly ballot and after all illegal votes are eliminated.

Sec. 11

(1) A member of the council, concerning the discussion and voting upon concerns in which he, his spouse or kin or relations by marriage to the third degree with personal or business interests has an exclusive interest, cannot participate. An exclusive interest does not exist for the purposes of sentence 1 when the interest accrues from the fact that the designated person belongs to an occupation, a profession or social rank. Concerning elections these provisions have no application.

(2) The chairman of the council is considered a member for the application of Par. 1.

(3) Over the question whether the supposition of the facts required in Par. 1 exists, the council decides finally. If the council in consequence of this decision renders itself without a quorum, the select committee acts for it.

Sec. 12

The chairman leads the deliberations, opens and closes the sessions, handles the order in the council and applies the house rules.

Sec. 13

(1) For gross impropriety or for repeated contraventions of the published standing procedural orders of the council for one or more sessions, and mandatory after seven sessions, the city council, through action by the ~~chairmen~~ {chairman and deputies} suspends offending members of the council for a period not exceeding six months. Exclusion from meetings of the council entails also exclusion from all committee meetings for the same period as the duration of the council suspension. Through suspension the members' claim to compensation and all reimbursements for the period suspended is abated.

(2) Upon motion of suspension, received by the council at the next succeeding session after action by the chairmen, two weeks are allowed for protest. If at the end of that time the order is confirmed the expulsion stands without appeal.

II CITY COMMITTEE

Sec. 14

(1) The members of the select committee are elected by the city council from among its own number according to the principles of proportional representation.

(2) The number of members so elected is 45.

(3) Deputies are elected in equal number to the membership of the select committee. Deputies are nominated by the members of the select committee. In the event of the inability of a member of the select committee to serve out his term, his place is taken by a substitute, who is chosen by a plurality of the underwriters of electoral motions (Unterzeichner des Wahlvorschlags). Deputies of the members themselves nominate their succeeding candidates.

Sec. 15

The oberbürgermeister is chairman of the select committee with separate directorial authority. In case of a tie he casts the deciding vote.

Sec. 16

(1) The sessions of the select committee are not public.

(2) To the members of the select committee, the provisions of Sec. 11 apply, with the following exceptions: Upon the facts of the suppositions of Sec. 11, Par. 1 the select committee decides. If the committee by this decision renders itself incompetent, the deputies of the

disqualified act in their places. If the city select committee with the entry of the deputies is incompetent, the supervisory district committee acts in its place.

(3) As for the rest the provisions of Sec. 6 Par. 2 sentences 1 and 2 and Par. 3, as well as Secs. 9, 10, 12 and 13 apply.

Sec. 17

The select committee serves until the election of a new committee by the newly elected council.

III OBERBÜRGERMEISTER

Sec. 18

(1) The oberbürgermeister is leader of the administration.

(2) He is chosen by the city council.

Sec. 19

(1) As representatives of the oberbürgermeister, for the expedition of administration, second and third bürgermeister are chosen.

(2) For the assistance of the oberbürgermeister he is given a requisite number of Stadträte.

(3) The oberbürgermeister may confer the representative functions of the bürgermeister upon Stadträte in the same manner that the bürgermeister act for him.

Sec. 20

(1) The oberbürgermeister, the second and third bürgermeister and the Stadträte are designated as paid officials.

(2) The oberbürgermeister, the bürgermeister and the Stadträte are chosen for twelve years.

(3) Qualifications for selection as oberbürgermeister, bürgermeister, or stadträte are the same as those for other elevations to the municipal dignities except that residence within the municipality is not requisite for their appointment.

(4) The oberbürgermeister is inducted into office by the supervisory board, the bürgermeister and the stadträte are sworn in by the oberbürgermeister.

Sec. 21

(1) For the promotion of administrative coordination, the oberbürgermeister has power to call regular joint sessions of the Magistrat and the district bürgermeister.

(2) The initial consideration of the district estimates prepared for the budget of the city of Berlin and their coordination with available revenues is a task of the joint sessions.

IV ADMINISTRATIVE BOARDS

Sec. 22

(1) For the administration of designated departments administrative boards may be created. They execute their own concerns upon their own responsibility. The oberbürgermeister may refuse to give effect to their decisions.

(2) The council decides as to the creation of the administrative boards and their composition; their powers and procedure are regulated by the select committee.

(3) The members of the administrative boards are elected from the city council.

(4) To membership on the administrative boards may others than councillors be elected, if eligible to the council, with advisory voices only or with voice in the decisions of the board.

(5) Chairman of all boards is the oberbürgermeister. He may delegate the chairmanship to a bürgermeister, or district bürgermeister, or a stadträte.

(6) With the concurrence of the city select committee, the oberbürgermeister may confer upon the administrative boards the right to represent the city externally.

(7) The provisions of Secs. 9, 10, 13 and Sec. 16 Par. 2 apply.

(8) The administrative boards serve until the qualification of the boards chosen by the newly elected council.

B. DISTRICT ADMINISTRATION

Sec. 23

The constitutionally provided organs are:

- (1) The district council,
- (2) The district bürgermeister,
- (3) The administrative boards,

I. BEZIRKSRAT

Sec. 24

- (1) The district council is composed of district representatives.
- (2) The district representatives are elected by the citizens of the district.
- (3) The term of district representatives is four years.

Sec. 25

The number of district councillors is regulated by the decision of the city select committee. There shall be one district councillor for each 10,000 inhabitants except that the number for each district shall be not less than 15 nor more than 35.

Sec. 26

The district bürgermeister is chairman of the district council, and exercises complete directorial powers. In case of a tie he decides the issue.

Sec. 27

- (1) Sec. 8 applies to the sessions of the Bezirksrats.
- (2) For the rest the provisions of Sec. 4, Par. 4, of Sec. 6 Par. 2 sentence 1 and Par. 3, as well as Secs. 9, 10, 11 to 13 apply.

II DISTRICT BÜRGERMEISTER

Sec. 28

(1) Leader of the district administration is the district bürgermeister.

(2) For his assistance in affairs of district administration he is given a requisite number of technically qualified deputies.

(3) The order of succession for the representation of the district bürgermeister by his deputies is determined by the district council. It is published information.

Sec. 29

(1) The district bürgermeister and the district deputies are chosen by the district council for twelve years.

(2) They are paid officials.

(3) Election as district bürgermeister or district deputy requires the qualifications for elevation to the municipal dignities except that residence in Berlin is not essential.

(4) The district bürgermeister is inducted into office by the oberbürgermeister, the district deputies by the district bürgermeister.

Sec. 30

The district deputies conduct their own concerns, responsible to the leadership of the district bürgermeister.

Sec. 31

For the promotion of the unity of administration within the district the district bürgermeister has regular private conferences with the deputies.

III ADMINISTRATIVE COMMITTEE

Sec. 32

The provisions of Sec. 22 apply with the following amendments, that for the city council and the city select committee read district council, for the oberbürgermeister read district bürgermeister, for Stadtrat read district deputy.

C GENERAL PROVISIONS

Sec. 33

City councillors and district councillors cannot be at the same time oberbürgermeister, bürgermeister, Stadträte, district bürgermeister, or district deputies.

PART THREE

ELECTION OF CITY AND DISTRICT COUNCILLORS

Sec. 34

The city councillors and the district councillors are elected at the same time and in a unified election but upon the basis of separate election lists.

Sec. 35

(1) For the election of city councillors the provisions of the municipal election laws of April 9th, 1923 in the revision of February 13th, 1924 (Gesetz Sammlung, p. 99) apply with the following amendments:

1. For the election of city councillors election districts are constituted. The election districts are the same as the administrative districts.

2. For each election district election lists are offered. Each election list must carry a Kennwort. Lists of different parties or unions may not carry the same Kennwort. In each electoral district a Kennwort carried by one election list may not be used by any other. Only election lists with the same Kennwort in the various electoral districts are considered as unions.

3. Before the allocation of seats in the city council the total number of valid ballots cast for city councillors are divided by the number of councillors to be elected. Groups of electoral lists, which in no single election district have received valid ballots at least equal in number to the quota or altogether have received less than double the quota, are eliminated in the allocation of council seats.

Upon this being determined, it is decided how many representative seats are attached to the several groups of electoral lists having the same Kennwort. For this purpose are the total number of valid ballots cast by these groups divided by the number of councillors allotted, and in this manner the number of valid ballots required for election to a seat in the city council determined. On the basis of valid ballots polled by each group are seats in the city council allotted. Seats remaining after this process are allotted in succession to the highest of the remaining. These are decided by lot.

Thereupon to the several groups are allotted city council seats due them on the basis of votes polled for district lists in this manner, that each electoral list shall seat the proportion of councillors which the total valid ballots cast for it bears to the total valid ballots cast. So far as any district shall not, by this process, receive the number of seats due it according to the first allotment, the remaining seats due it shall be allotted to the district lists having the greatest surplus of votes not previously used to elect. These are decided by lot.

(2) Regarding the disqualification of city councillors as well as the qualification of deputies, the provisions of Secs. 7 and 8 of the Gemeindewahlgesetz apply.

Sec. 36

(1) For the election of district councillors the

provisions of the Gemeindewahlgesetz of 9 April, 1923 as amended of 12 February, 1924 (Preussisches Gesetz Sammlung 1924, p. 49) apply with the following exceptions:

1. For the voting franchise and eligibility to office residence in the district is required, except that the time of residence (Sec. 2, Par. 1; Sec. 1, sub-sec. 2 of the Gemeindewahlgesetzes) in another district shall be counted toward the satisfaction of the residence requirement.

2. The duties of the district chairman are performed by the district bürgermeister, those of the district council by the district board.

(2) The provisions of Sec. 35, Par. 2 apply to the election of district councillors.

Sec. 37

The most recent regulation concerning the conduct of city and district council elections promulgated by the Minister of the Interior govern the holding of such elections.

PART FOUR

JURISDICTION OF ORGANS

A. CITY ADMINISTRATION

I. CITY COUNCIL

Sec. 38

The city council has jurisdiction

1. Over the decision

- a. Of the voluntary assumption of new municipal functions,
- b. Of the general arrangements for city administration,
- c. Of the participation of the municipalities in enterprises having the character of either public or private corporations, when:
 - aa. The undertakers bring terms to the city.
 - bb. The adhesion of the city or a municipal credit institution is necessary for the binding force of the undertaking.
 - cc. The participation of the city is less than half of the total capital.
- d. Of the acceptability of the budget, and the manner of meeting the costs of all extraordinary expenditures,
- e. Of the audit and the establishment of the year's outlay, and their acceptance,
- f. Of the specification of city tax rates and charges,
- g. Of the retirement of all long or short term

- loans, and the payment of previously unliquidated loans, and the payment of previously unliquidated credit accounts.
- h. Of the action upon municipal assessments,
 - i. Of the acquisition of real property,
 - j. Of the pledging of public credit,
 - k. Of the election of the oberbürgermeister, the bürgermeister, and the stadträte, the retirement of the oberbürgermeister, as well as the election of honorary officials,
 - l. Of the creation or abolition of public agencies, likewise the enactment of the payroll ordinance for public officials,
 - m. Of municipal action in the alteration of local boundaries.

The council is consulted, upon motion of the select committee or of other committees,

- 2. Upon the determination of basic principles for the municipal administration,
- 3. Upon the passing of local ordinances,
- 4. Upon the election of members to the Staatsrat.
- 5. Upon the regulation of such other concerns as are not in this law otherwise allotted.

Sec. 39

Upon the introduction in the city council of motions relative to any point outlined in Sec. 38 upon which action by the council is requisite to the legality of the proceedings, the council must take action by the time of the second session of the month following the introduction of the motion. If the council refuses to act the decision thus comes within the competence of the city committee.

Sec. 40

The city council decides concerning:

- 1. The presentation of complaints of the city against the Oberbürgermeister.
- 2. The administration of the Oberbürgermeister not itself directly; it chooses a special representative for the investigation of these matters.

II CITY COMMITTEE

Sec. 41

(1) So far as they are not, under Sec. 38 delegated to the council, or when it acts in pursuance of Sec. 39, the select committee is endowed with all the powers of a representative body (Vertretungs Körperschaft).

III OBERBÜRGERMEISTER

Sec. 42

- (1) The oberbürgermeister directs the administration.
- (2) He directs the transactions of the council and select committee.
- (3) He manages the municipality and supervises its affairs. In particular he is charged with the administration of institutions, agencies and works as well as the exercise of the general authority of the city, the coordination of budgets and

the enforcement of budgets under the terms of the city budget plan, the auditing of accounts and the reporting to the council upon audits, estimates, and development.

(4) He assigns and places municipal employees and workers. He is the authority of first instance for legal claims of or against officials, employees and workers.

(5) He has the duty of coordinating administration. For this purpose he may issue general regulatory orders applying alike to districts and central governments.

Sec. 43

(1) Decisions of the city council or city committee may be vetoed by the Oberbürgermeister if they exceed the competence of the acting organ. A written veto with explanations is submitted to the next meeting of the council (or city committee). The veto is suspensory. The city council or city committee may within two weeks contest the veto by legally prescribed methods.

(2) Acts of the city council or the city committee which imperil the state's interests or endanger those of the municipality may be vetoed by the Oberbürgermeister. The veto is submitted to the next meeting of the council or city committee in writing with reasons therefore. Upon demand of the council the Oberbürgermeister submits the action upon the veto to the provincial Oberpräsidenten who decides the divergence of opinion, when the concern does not fall within the final determination of the Oberbürgermeister.

Sec. 44

(1) The Stadträte are responsible, within their assigned fields, to the Oberbürgermeister for the concerns of his discretion delegated to them.

(2) The Oberbürgermeister may, in addition to his representation in the persons of the second and third bürgermeister, invest district bürgermeister and other permanent officials with responsibility for the functions of city administration entrusted to him.

B. DISTRICT ADMINISTRATION

I. BEZIRKSRAT

Sec. 45

(1) The district board decides all matters of public concern which are purely intra-district in effect.

(2) The district board elects all honorary officials of the district.

Sec. 46

The provisions of Sec. 40 apply to the districts.

Sec. 47

The district bürgermeister conducts the public business of the district. He exercises within the district the corresponding powers of the Oberbürgermeister as provided in Sec. 42, Pars. 2-4, and Secs. 43 and 44, with the

additional mandatory duty, upon direction of the Oberbürgermeister, of vetoing acts of the district board.

**G. RELATION OF THE CITY GOVERNMENT AND ITS ORGANS
TO THE DISTRICT GOVERNMENTS
AND THEIR ORGANS**

Sec. 48

(1) Concerning the competence in local administration of the administrative districts, in relation to the city administration, it is determined by the degree to which under this law functions are delegated to the district by local ordinances.

(2) In the enactment of such local ordinances the assent of the State ministry is required. In case such laws are not enacted and approved within one year after this act comes into force, the State ministry shall itself promulgate such ordinances.

Sec. 49

(1) The ordinances contain:

1. The administrative jurisdiction of the central administration and of the district administration, within which each agency shall be selbständig.
2. The administrative jurisdiction retained by the central administration the execution of which is in part devolved upon the districts.

(2) These ordinances supersede corresponding provisions of the municipal revenue acts except insofar as these statutes concern revenues for the purpose of schools.

Sec. 50

The organs of the district conduct the affairs of the district upon their own responsibility. They are subject to the supervision of the Oberbürgermeister concerning matters provided, in pursuance to Secs. 38, Par. 2, to be subject to the general regulatory decrees of the Oberbürgermeister. So far as such regulations are not established, the district board supervises completely the administration of the district.

Sec. 51

(1) The Oberbürgermeister is empowered to veto acts of the district board when the municipal interest so requires. The written veto of the Oberbürgermeister with reasons therefor is submitted to the district board at its next meeting. The veto is suspensory. Upon motion of the district board or the Oberbürgermeister, the question is submitted to the city committee whether the action of the district board is subversive of the interests of the city; an affirmative decision suppresses the action of the district board.

(2) The district bürgermeister may, in the same manner as the Oberbürgermeister, veto an act of the district committee which he considers inimical to the best interests of the city and to govern the district board members

accordingly. The veto is suspensory.

Sec. 52

(1) Upon the district bürgermeister and district board, likewise as upon the bürgermeister and Stadträte, the provisions of the City Government Law for the six eastern Provinces apply except insofar as otherwise specifically provided in this law. The disciplinary power over the district bürgermeister lies with the Oberbürgermeister, over all other district officials with the district bürgermeister.

PART FIVE

EXTERNAL RELATIONS

A. HAUPTSTADT BERLIN

Sec. 53

The Oberbürgermeister represents the city externally.

Sec. 54

Upon concurrence of the city committee the oberbürgermeister may empower the director of an administrative agency, division, department, or institution to represent the city externally on the particular concerns of the service which he directs.

Sec. 55

(1) The legally binding agreements of the city, so far as not provided for by legally prescribed forms, are required to be fully written declarations.

(2) For the emission of such agreements under Sec. 1 are responsible:

1. The oberbürgermeister.
2. The bürgermeister upon advice of the appropriate Stadtrat member (on Sec. 44, Par. 1).
3. For the purposes of Sec. 23 the chairman and one member of the administrative committee.
4. For the purposes of Sec. 54 the leaders of the administrative services upon advice of the appropriate Stadtrat member.

(3) The names of persons empowered to enter into agreements in the name of the city are indicated in the register of officials of the city of Berlin. This revokes all other authority in this connection.

B. DISTRICTS

Sec. 56

The district bürgermeister represents the city of Berlin externally in established concerns of district administration.

Sec. 57

Upon concurrence of the district committee the district bürgermeister may empower the directors of a district agency, division, department or institution to represent the city externally on the particular concerns (see Sec.

56) of the service which he directs.

Sec. 58

(1) The legally binding agreements of the city relating to established district concerns, so far as not provided for by legally prescribed forms, are required to be fully written declarations.

(2) For the emission of such agreements under Sec. 1 are responsible:

1. The district bürgermeister or his deputy upon advice of the appropriate district board member.
2. For the purpose of Sec. 32 the chairman and one member of the district administration committees.
3. For the purposes of Sec. 57 the director of the administrative service and the appropriate district board member.

(3) The names of persons empowered to enter into agreements in the name of the city as indicated in Par. 1 are indicated in the register of officials of the city of Berlin. This revokes all other authority in this connection,

PART SIX

OFFICIALS

A. HAUPTSTADT BERLIN

Sec. 59

(1) The municipal officials, except honorary officials or those under Sec. 38, Par. 1, sentence 1, specifically provided for, are chosen by the oberbürgermeister upon recommendation by the city committee.

(2) The oberbürgermeister administers the oath of office to the officials.

(3) He has authority and jurisdiction over assigning officials to their posts in the administration.

B. DISTRICTS

Sec. 60

(1) District officials, except honorary officials and the district bürgermeister and members of the district board, are appointed by the district bürgermeister upon nomination of the Bezirksrat.

(2) The district bürgermeister administers the oath of office to the officials.

(3) He has jurisdiction over assigning officials to posts in the administration.

C. GENERAL PROVISIONS

Sec. 61

(1) The terms of the honorary officials end simultaneously with that of the city council (or Bezirksrat)

which elected them, unless by the term of their commission a different tenure is prescribed. The new election occurs after the election of city councillors (or Bezirksräte) takes place. The election automatically displaces the previous incumbent.

(3) Honorary officials, particularly members of administrative committees, may upon motion of the city council (or Bezirksrat) be relieved of office before the termination of their period. This provision does not apply to members of the city council, the city committee, or the district council.

PART SEVEN

LOCAL GOVERNMENT CONCERNS

Sec. 62

(1) The basis for all finance, accounting, and auditing activity is contained in the budget plan. It contains estimates for the entire fiscal year for all anticipated revenue in detail and necessary expenditures, classified according to services and administrative districts. In the budget plan deficits and surpluses are required to be indicated and methods for equalization shown. Unexpended balances are transferred to the general funds for reappropriation. In special cases the superior authorities may allow exceptions to the rule of the previous sentence.

(2) The estimates for the budget are each year reconsidered.

Sec. 63

(1) The budget is operated according to the budget plan established.

(2) The unanticipated increase in expenditure is only permitted by a simultaneous increase of income. The provisions of Sec. 62, Par. 1, sentences 4 and 5 apply.

(3) With the yearly estimates is included disposition of the earnings and provision for the deficits of municipally owned public utilities; insofar as fiscal control is not elsewhere provided to be in other than municipal auditing agencies, a valuation shall be made of the working capital and property of these utilities as the basis for the calculation of their retainable earnings.

Sec. 64

(1) As loans for the purpose of this law are designated all long or short term commitments with the exception of already existing credit accounts; credit accounts are permitted to remain open only for the usual short terms, and upon the expiration of such short terms must be converted into loans for ordinary or extraordinary expenditures subject to the regulations and provisions established under the definitions of this act.

Sec. 65

By decision of the city council the administration

of designated services under any of the various provisions of the municipal constitution may be regulated in the following manner, insofar as falling within the council's jurisdiction:

1. The budgeting in the city financial plan of all profits or loans of such undertaking.
2. The replacement of the constitutionally assigned agency by a special administrative committee. All decisions of such administrative committees require the assent of the Oberbürgermeister for their validity.

Sec. 66

(1) By ordinance it may be provided that the honorary unpaid officials may be compensated for traveling and other necessary expenses incurred in their duties undertaken in behalf of and authorized by the municipality.

(2) The provisions of Par. 1 apply specifically to members of the city council, city committee, and district board.

(3) Claims under Pars. 1 and 2 above are not transferable.

Sec. 67

The naming of streets, places and bridges is a locally autonomous function in Berlin.

Sec. 68

Accounting and Auditing Control

(1) The city of Berlin is required to establish an effective and independent accounting and auditing control of municipal financial transactions. For this purpose it erects its own controlling office. This office operates under the direction and control of the Oberbürgermeister. The city council and the city committee are required to pass upon the results of the various audits and reports made by this agency.

(2) The officials of the control establishment may be relieved of office only with their own consent or upon established disciplinary grounds and in accordance with formal disciplinary procedure.

Sec. 69

(1) The new city of Berlin is constituted as a separate school union in the sense of Volksschulunterhaltungsgesetzes of July 28, 1906 (Gesetzsammlung, p. 335).

(2) Over the concerns of volks-, middle, and higher schools, so far as not by law given to the municipal authorities, jurisdiction is given to the district authorities within the limits of the general regulations established by the city corporation.

(3) Over the concerns of technical and continuation schools jurisdiction is given the municipal corporation, which regulates the participation of district authorities

in such concerns.

Sec. 70

(1) In each administrative district there is created for the advanced schools a district school committee (Sec. 26), for middle and volks- schools a district school deputation is created. Insofar, however, as at the time of the promulgation of this statute the authority of the curators of the advanced schools have been fixed by special law, they remain with their hitherto existing authority.

(2) The district school deputations operate in concerns of state jurisdiction as organs of the School Supervisory Board and are so held responsible, insofar as their authority permits. The general provisions of law relating to municipal school deputations apply to the district school deputations unless otherwise specifically herein provided.

Sec. 71

(1) The regulations governing general sessions of the municipal school deputations apply to those of the district school deputations except that for bürgermeister read chairman of the district board, for municipal directors read district board, and for city council read district council, and except that elections are for a term of four years with the privilege of resigning at the end of two years.

(2) The provisions for the creation of school commissions in Sec. 45 of the Volksschulunterhaltungsgesetzes apply with the exceptions in Par. 1 read in conjunction with Sec. 87, Par. 2 of this statute.

PART EIGHT

STATE SUPERVISION

Sec. 72

(1) The Board of Supervision is empowered to veto acts of the city council, the city committee and the district boards of the city of Berlin which exceed the competence of these bodies, so far as the veto is not specifically provided by law to be vested in other independent organs.

(2) The Board may, in pursuance of its duties, disallow local proposals in whole or in part or may require the amendment of such section or sections as it deems necessary.

(3) The vetoed agency has two weeks after the next regular session after the establishment of the veto to decide whether it will seek administrative remedies. The appeal has only suspensory effect.

Sec. 73

(1) For misfeasance, malfeasance, or non-feasance in the performance of functions which are by law mandatorily

imposed upon Berlin in its capacity as a public corporation, the Board of Supervision, so far as the duty is not specifically vested in another agency, is charged with compelling the proper conduct of such mandatory functions.

(2) Subsequent to action by the Board of Supervision the Oberbürgermeister has two weeks within which to seek an administrative remedy. The appeal lies only on the ground of whether or not the veto is within the competence of the Board of Supervision; the veto is itself not attacked directly.

Sec. 74

(1) The Oberbürgermeister of the city of Berlin has the right to be informed and suggest, before the veto of the Board of Supervision, alterations in proposals of the council or city committee when they concern:

a. The enactment of ordinances, so far as conclusive jurisdiction is not by this law otherwise provided for (Sec. 48, Par. 2).

b. The naming of streets, places, and bridges.

(2) The Board of Supervision is required within four weeks, without effect upon its customary procedure (Par. 72), to render a decision upon the revised proposal.

Sec. 75

(1) Actions concerning:

a. The incurring of a loan,

b. The acceptance of a bond or pledge,

c. The enactment or alteration of compensation schedules,

d. The founding or organization of a municipal bank,

e. The lending of municipal property or resources to institutions and transit undertakings organized as private corporations.

f. The introduction of new, and the alteration of already used, municipal insignia and seals,

require the assent of the Board of Supervision.

(2) Assent under (d) may be waived by the Board.

Sec. 76

(1) For the purposes of Sec. 74, Par. 1 and Sec. 75, Par. 1 in which original jurisdiction over actions is established, the Board of Supervision must, within the period during which its objection must be filed, or when the objection is re-referred, or when the veto is pronounced, explain the reasons for its action. Ordinances requiring for their validity public notice for the customary periods are presumed to have been so publicized for the purposes of sentence 1.

(2) In vetoes of action indicated in Par. 1, sentence 1 which seek to bind contractually the City of Berlin, when simultaneously with the issuance of the decision of the City of Berlin the assent of the Board of Supervision is required, the provisions of Par. 1 are presumed to have been complied with.

(3) For the purposes of Sec. 48 the provisions of Par. 1 and 2 particularly apply.

Sec. 77

The omission or refusal of the Hauptstadt Berlin to fulfill any function imposed upon it at law, or of any agency to support the vetoes made in pursuance of the powers granted in Sec. 72; Sec. 74, Par. 1; Sec. 75; and Sec. 76, Par. 1 is illegal, and the supervisory authority is empowered in such event to act in the place of the Hauptstadt Berlin in the administration of such mandatory functions or of such services as are sought to be conducted inconsistently with rulings of the supervisory authority, regarding the provision or abatement of such action or the incurrence or suppression of such extraordinary expenditure as by ordinance the authority may require.

Sec. 78

The Oberbürgermeister and the bürgermeisters require the approval of the State ministry, The Stadträte, the district bürgermeister, and the various members of the district boards require the confirmation of the state supervisory board.

Sec. 79

The city council may be dissolved upon the motion of the State Ministry. The same applies to the district councils.

Sec. 80

When and for so long as the orderly conduct of the administration of mandatory functions at public law cannot be maintained, the Board of Supervision with the permission of the Minister of the Interior, is authorized to attend to the obligations of the Oberbürgermeister, the city council, the city committee, the district bürgermeister or the district council or all of the organs.

Sec. 81

(1) The supervisory authority for the Hauptstadt Berlin is the Oberpräsident of the Province of Brandenburg and of Berlin.

(2) For the purpose of Sec. 74, Par. 2 the Minister of the Interior upon motion of the Oberbürgermeister, or in the sense of Sec. 78 on motion of the chairman of the city council (district councils) may review a veto given by the Supervisory Authority.

(3) The administrative court for the purposes of Sec. 72, Par. 3 and of Sec. 75, Par. 2 is the Superior Administrative Court.

PART NINE

MANDATORY CONCERNS AND PROHIBITIONS

Sec. 82

(1) The Hauptstadt Berlin and the districts are bound by all general statutes imposing mandatory obligations or prohibiting actions by municipalities unless specifically or necessarily exempt.

(2) In case of disagreement or uncertainty as to whether any function is a self-government function or a mandatory or prohibited concern, any action concerning such service or function shall be suspended for two weeks. Immediately upon taking of such action, appeal shall be made to the appropriate authority for the determination of the status of the concern. Upon affirmative action by the authority, or by default after the expiration of two weeks, the action of the municipality shall have the force of law.

Sec. 83

The capital city of Berlin and the districts are legally responsible for the acts of their employees relative to mandatory or prohibited concerns, and shall make the necessary arrangements for the protection of the local governments. The manner and method of these arrangements is a self-government concern.

Sec. 84

The administration of mandatory concerns is vested, insofar as not by law otherwise provided, in the Oberbürgermeister or, insofar as by local law (Ortssatzung) made a district concern, in the district bürgermeister.

PART TEN

GENERAL AND MISCELLANEOUS PROVISIONS

Sec. 85

(1) Insofar as not in this statute otherwise provided

a. The general provisions relating to local government contained in the Städteordnung für die sechs östlichen Provinzen,

b. The various statutory provisions relating specifically to Berlin

continue in force.

(2) The following portions of the Law of 1920 are repealed: Sec. 1, Par. 2; Secs. 8-32 inclusive; Secs. 42-44 inclusive; Secs. 50, 51, 53; Sec. 58, Par. 15, sentence 2; Sec. 59. Secs. 39, 40, 45, 46 of the Law of 1920 are repealed insofar as they conflict with Sec. 87 of this statute. The following provisions of the Law of 1920 remain unaffected by this statute: Sec. 1, Par. 1; Secs. 2-7 inclusive; Secs. 38, 41, 47-49 inclusive, and Sec. 54; Sec. 55, Pars. 1 and 2; Sec. 56; Sec. 58, Par. 1. The following portions of the Law of 1920 remain in effect except insofar as modified by Sec. 87 of this statute: Sec. 55, Par. 3; Sec. 57.

Sec. 86

Approval of the supervisory authority is required for any action contemplating or providing for the alteration or alienation of any cultural, historical, or artistic property of the municipality.

Sec. 87

(1) Insofar as not in this statute otherwise allotted, the following agencies shall succeed to the competence of

the following previously existing authorities:

1. The Oberbürgermeister to that of the Magistrat, except as regards the handling of elections, in which the Magistrat is succeeded by the city committee.

2. The district council by the district board (Bezirksrat).

3. The district administrative board by the district bürgermeister.

(2) Concerns requiring for their decision the concurrence of the council and the Magistrat are under Secs. 38 and 41 respectively concerns of the Stadtvertretung and city committee. Concerns requiring for their decision the concurrence of the district councils and the Bezirksamtes are concerns of the Bezirksrat, insofar as not otherwise therein provided. The provisions of sentences 1 and 2 apply to elections.

Sec. 88

Until the promulgation of local laws (as provided in Secs. 48 and 49) the jurisdiction of the districts is considered as under present regulations.

Sec. 89

(1) With the promulgation of this statute the terms of the Oberbürgermeister, the bürgermeister and the other members of the Magistrat, as well as those of the district bürgermeister and the other paid and unpaid members of the district boards are terminated.

(2) The paid magistrat members serve until the appointment of their successors. The district bürgermeisters may stand for reappointment without competition, provided however, that in the event of an unfavorable decision, the candidate is ineligible for competition in the next succeeding appointment. Thereafter the Bezirksrat, unless an exception is taken by the Oberpräsident, proceeds to the selection in the ordinary legally prescribed manner.

(3) The terms of city councillors and district councillors terminate with the promulgation of this statute.

Sec. 90

Where business of the local board is by ordinance delegated to the district administration provisions governing the local board or bürgermeister apply to the district bürgermeister.

Sec. 91

The appropriate Minister promulgates an administrative order to give effect to this law.

A P P E N D I X O

THE ACT OF 1931*

The Landtag promulgates the following law:

Article I

In modification of the Städteordnung für die sechs östlichen Provinzen of May 30, 1853 and the Gesetzes über die Bildung einer neuen Stadtgemeinde Berlin of April 27, 1930 the following provisions are adopted:

I Organs of City Administration

Sec. 1

The constitutionally decreed organs of the City of Berlin are:

1. The city council;
2. The city select committee;
3. The magistrat and the oberbürgermeister.

The City Council

Sec. 2

(1) For gross impropriety or for repeated contraventions of the published standing procedural orders of the council for one or more sessions, and mandatory after seven sessions, the city council may, through action by the chairmen (chairman and deputies) suspend offending members of the council for a period not exceeding six months. Exclusion from meetings of the council entails also exclusion from all committee meetings for the same period as the duration of the council suspension. Through suspension the members claim to compensation and all reimbursements for the period suspended is abated.

(2) Upon motion of suspension, received by the council at the next succeeding session after action by the chairmen, two weeks are allowed for protest. If at the end of that time the order is confirmed the expulsion stands without appeal.

The Select Committee

Sec. 3

(1) The members of the select committee are elected by the city council from among its own number according to the principles of proportional representation.

(2) The number of members so elected is 45.

(3) Deputies are elected in equal number to the membership of the select committee. Deputies are nominated by the numbers of the select committee. In the event of

* Gesetz über die vorläufige Regelung verschiedener Punkte des Gemeindeverfassungsrechts für die Hauptstadt Berlin vom 30. 3. 1931 (Preussische Gesetz Sammlung 1931, pp. 39, 54).

the inability of a member of the select committee to serve out his term, his place is taken by a substitute, who is chosen by a plurality of the underwriters of electoral motions (Unterzeichner des Wahlvorschlags).

Sec. 4

The oberbürgermeister is chairman of the select committee with separate directorial authority. In case of a tie he casts the deciding vote.

Sec. 5

(1) The sessions of the select committee are not public.

(2) City councillors who are not members of the select committee may be present with permission of the committee.

(3) The provisions of this statute relating to city councillors apply to members of the select committee participating in council meetings unless specifically otherwise provided herein.

(4) The select committee is able for parts of its deliberations or for selected communications to invoke the protection of privileged statements. This is binding also upon the visiting councillors.

(5) For gross impropriety or for repeated contraventions of the published standing procedural orders of the select committee, for one or more sessions, and mandatory after seven sessions, the select committee may, through action by the chairman, suspend members. This penalty applies also for the violation of the rules governing privileged statements. It applies also to visiting councillors admitted by the select committee under authority of Par. (2) above. The requirements of Sec. 2, Par. 2, apply to the procedure of suspension by the select committee.

Magistrat and Oberbürgermeister

Sec. 6

(1) The magistrat consists in addition to the oberbürgermeister of two bürgermeister, nine paid and six unpaid members (stadträten).

(2) The oberbürgermeister, the bürgermeister, and the stadträten are elected by the city council.

Sec. 7

The executive organ of the municipality is the magistrat for the purposes of Secs. 15, 16, 17 and 23; for Sec. 24, Pars. 2-4, and Sec. 25 it is the oberbürgermeister.

Sec. 8

The magistrat proceeds always under the direction of the oberbürgermeister. In case of a tie he casts the deciding vote.

Sec. 9

(1) The departmental directors are to be paid magistrat members. They are selected for a period of twelve years. The honorary members receive an honorarium of

250 RM monthly. Sessional allowances and sundry remunerations are not granted in addition to this amount.

(2) All persons who are eligible to the "municipal dignities" (stadttischen Ehrenämtern) are eligible to the magistrat. However residence within the city for paid members of the magistrat is not requisite for eligibility.

(3) The oberbürgermeister is inducted into the office by the select committee, and all other members of the magistrat are sworn in by the oberbürgermeister.

Sec. 10

(1) For the promotion of administrative coordination, the oberbürgermeister has power to call regular joint sessions of the magistrat and the district bürgermeisters.

(2) The initial consideration of the district estimates prepared for the budget of the city of Berlin and their coordination with available revenues is a task of the joint sessions.

II Competence of the Organs of Administration

The City Council

Sec. 11

The city council has jurisdiction

1. Over the decision

- a. Of the voluntary assumption of new municipal functions,
- b. Of the general arrangements for city administration,
- c. Of the participation of the municipalities in enterprises having the character of either public or private corporations,
- d. Of the acceptability of the budget, and the manner of meeting the costs of all extraordinary expenditures,
- e. Of the audit and the establishment of the year's outlay, and their acceptance,
- f. Of the specification of city tax rates and charges,
- g. Of the retirement of all long or short term loans, and the payment of previously unliquidated credit accounts,
- h. Of the action upon municipal assessments,
- i. Of the acquisition of real property,
- j. Of the pledging of public credit,
- k. Of the election of the oberbürgermeister, the bürgermeister, and the stadträte, the retirement of the oberbürgermeister, as well as the election of honorary officials,
- l. Of the creation or abolition of public agencies, likewise the enactment of the payroll ordinance for public officials.
- m. Of municipal action in the alteration of local boundaries,

2. Over the passing of local ordinances, concurrently with the select committee,

3. Over the election of members to the Staatsrat. Sec. 12

The decisions of the city council and of the select committee - except elections - require the concurrence of the magistrat. The veto by the magistrat of a decision of the city council, or by the council of that of the magistrat, shall be resolved according to Sec. 17, Par. 1, no. 1, of the Zuständigkeitsgesetz with the following exception, that for the accomplishment of a concurrence a joint session of the magistrat and the city select committee is convened.

The Select Committee

Sec. 13

(1) So far as they are not, under Sec. 11 delegated to the council, the select committee is endowed with all the powers of a representative body (Vertretungskörperschaft).

(2) In the action upon concerns as enumerated in Sec. 11, Par. 1, upon request of the magistrat or by a 2/3 vote of the select committee, the jurisdictional question may be referred to the magistrat for its legal expert advice.

Magistrat and Oberbürgermeister

Sec. 14

(1) The magistrat prepares the decrees of the council and the select committee. It passes upon all legislative proposals made by the council or select committee.

(2) It holds hearings of the select committee for the purpose of securing coordination and unification of city and district administration methods and purposes.

Sec. 15

- (1) The oberbürgermeister directs the administration.
- (2) He directs the transactions of the council and select committee except as to the coordinating functions assigned to the collegial magistrat.
- (3) He directs and arranges the procedure and controls the active management of the municipality.
- (4) He is the legal adviser to the city administration and of the building police bureaux of the districts and the supervision over these bureaux.
- (5) He allocates, with the exception of those otherwise assigned under Sec. 24, Par. 1, the officials and employees of the city administration and removes them.

Sec. 16

- (1) The bürgermeister is the permanent deputy of the oberbürgermeister. He succeeds to the oberbürgermeister's duties in the manner and to

the degree determined by the oberbürgermeister. In the event that the burden demands, the oberbürgermeister may elevate also a member of the Stadträte to the functions and privileges of a bürgermeister.

(2) The Stadträte are the permanent deputies of the oberbürgermeister for designated transactions of the city administration.

Sec. 17

(1) As leader of the administration the oberbürgermeister is responsible for the entire conduct of local administrative affairs. He is responsible for the orders and instructions given the bürgermeisters and Stadträte.

(2) As permanent deputies of the oberbürgermeister the bürgermeister and stadträte bear the responsibility for the concerns delegated to them, without prejudice, however, to the responsibility of the oberbürgermeister for the commands or restraining orders which he gives them.

(3) The residuary powers of legal regulation of the oberbürgermeister, the bürgermeister, and the Stadträte as members of the Magistratskollegium are retained unaltered.

III District Administration

Sec. 18

The district bürgermeister is chairman of the district council, and exercises complete directorial powers. In case of a tie he decides the issue.

Sec. 19

- (1) The sessions of the district council are not public.
- (2) Sec. 2 applies to the district council.

Sec. 20

The honorary unpaid members of the district board receive an honorarium of 125 RM monthly. Sessional fees and sundry reimbursements are not allowed in addition to this amount.

IV Relation of the City Administration and Its Organs to the District Administrations and Their Organs

Sec. 21

(1) Concerning the competence in local administration of the administrative districts, in relation to the city administration, it is determined by the degree to which under this law functions are delegated to the district by local ordinances.

(2) In the enactment of such local ordinances the assent of the State ministry is required. In case such laws are not enacted and approved within one year after this act comes into force, the State ministry shall itself promulgate such ordinances.

Sec. 22

- (1) The ordinances contain:
1. The administrative jurisdiction of the central administration and of the district administration, within which each agency shall be selbständig.
 2. The administrative jurisdiction retained by the central administration the execution of which is in part devolved upon the districts.
- (2) The jurisdictional specifications contain:
1. The specification of those problems whose unified administration for the entire city requires their administration directly by the central organs.
 2. All other concerns as problems of the individual districts administered by the district administrative organs.
- (3) Ordinances deviating from the specifications of the communal tax-rate laws as well as those governing the work of the schools are not regulated by the above.

Sec. 23

The district boards are under the instruction and direction of the Oberbürgermeister in the administration throughout the district area.

V Municipal Officials

City Administration

Sec. 24

(1) The officials and employees of the city administration are chosen by the Magistrat upon nomination of the Oberbürgermeister, so far as this function is not under Sec. 11, Par. 1, otherwise provided for for designated officials.

(2) The Oberbürgermeister administers the oath of office to city administration officials.

(3) He has authority and jurisdiction over assigning officials to their posts in the administration.

(4) The specifications of Pars. 1-3 apply to the building police officials in the administrative districts.

District Administration

Sec. 25

Concerning the seating of officials of the administrative districts in the city administration, the displacement of officials of the building police, as well as the placing of district officials in the several district administrations, the Oberbürgermeister with the advice of the affected district bürgermeister is given the authority. For

honorary officials, district bürgermeisters, and Stadträte of the administrative districts, the provisions of Article I apply.

VI STATE APPROVAL

Sec. 26

The Oberbürgermeister and the bürgermeisters require the approval of the State ministry. The Stadträte, the district bürgermeister, and the various members of the district boards require the confirmation of the state supervisory board.

Sec. 27

For the purposes of the Städteordnung the municipal organs charged with responsibility under the sections concerning state supervision are the city select committee, the Oberbürgermeister, the district councils, and the district boards.

Article II

The tenure of all unpaid members of the magistrat ends with the promulgation of this law.

Article III

- (1) This law goes into effect March 31, 1931.
- (2) All inconsistent laws are at the same time repealed.
- (3) The appropriate ministry promulgates an administrative order to give effect to this law.

The preceding is transmitted from the Landtag as a law. The constitutionally required assent of the Staatsrat is given.

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