A Pattern of Local Government Growth: Sheffield and its

Building Regulations 1840-1914.

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by

Anne Rebecca Neeves BA (Leeds)

Department of Economic and Social History

University of Leicester

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The aim of this study is to chart and analyse the development of building regulations in Sheffield during the period 1840-1914. Although building control can be seen as a phenomenon in its own right, the evolution of building regulations and their implementation illustrate more general trends in the changing nature of local government. Thus, the specific example of building regulations will be used to analyse developing trends in local government in general, and the local government of Sheffield in particular, during this period. This concentration on one area of local government jurisdiction, in one specific locale, enables the investigation to cover a sufficiently long and varied period of continuous development, without sacrificing the degree of detail necessary to understand the most intimate causes and connections, but allowing the cumulative effects of the whole range of changes to be identified and analysed. It also allows a continuous analysis from the Chadwick/public health era of urban control to that of town planning 1900-14.

It is however, impossible to look at the development of local government in one particular town in complete isolation. In essence, the experiences of all towns, during the period under consideration, were similar. Local peculiarities, economic specialisations, and geographical or natural advantages might make some problems more or less pressing, but any location experiencing a rapid growth of population faced common problems; how to cope with housing that population, supplying water to it,
disposing of its waste products and dealing with its disease or death. It was as a response to these necessities that the institutions and machinery of local government developed.

Nor would a study of one particular town be comprehensible without reference to the development of central government during this period, if only for the simple reason that by 1914 there was a greater quantity of matters, than previously, in which the central government felt itself to have a legitimate interest. Hence, there is a sense in which it is merely a truism to state that there was 'centralisation' during the period.(1)

However, the theory of centralisation in the history of local government of nineteenth century England has actually little meaning in terms of its realistic application. The use of centralism as a concept to explain the evolution of the relationship between the central and local authorities is inadequate. Although supervision by departments of central government was being extended, local government was never directly administered by agents and the servants of the central government responsible not to the local electorate, but to a central department in London. The key to the development of central supervision and control lies not in the evolution of a system of centralisation, but in the struggle by government to create and impose national uniform standards of sanitary administration within the framework of local autonomy.(2)

It is the aim of this thesis to analyse the struggle by central
government to create and impose national and uniform standards of building regulation, and to examine the way in which one particular town, Sheffield, responded to that struggle. This analysis will be used to highlight some of the trends in the pattern of local government growth in the period. The limitations of this project preclude a detailed discussion of developments in other towns. However, it is hoped that the framework established will be amenable, at some future juncture, to expansion in this direction.

This chapter is divided into three main sections.

Section I defines precisely what is meant by 'building regulations', and lays down the parameters of this study.

Section II considers the theoretical debate surrounding nineteenth century government growth. The position of this study within the general debate is specified.

Section III provides a survey of the literature, in the several distinct areas of academic interest, upon which this study impinges.
I Definitions and Parameters

It should be noted at the outset that 'building regulations' came to be widely dispersed through many pieces of legislation. It is therefore necessary to define precisely what is meant by the term. 'Building regulations' and 'building byelaws' are often used as synonymous terms. This is not correct since a byelaw refers to a specific kind of regulation. A byelaw (the word coming from the Saxon and Old English word 'by', meaning town) is a law which is partial and local in its operation. It is additional to statute law, and therefore has to be certain in its enactment, free from ambiguity, general in its application, and reasonable in its requirements.(3) Within the context of the model byelaws, issued by the Local Government Act Office and the Local Government Board, the term acquired additional implications. Building byelaws, when locally adopted, were specifically concerned with the details of construction of new streets and buildings. They were not retrospective. Streets and buildings were only 'new' during the process of construction, on completion they became 'old'. Thus repairs and alterations did not fall within the remit of building byelaws. Building byelaws are building regulations in the narrowest of senses. 'Building controls' or 'building regulations' are much wider terms which encompass all provisions relating to building within byelaws, general statutes and local acts. However, since all clauses which impinged on the subject of building could be included under these heads, it is necessary to impose some practical limits.
Thus, for the purposes of this study, the following are not included with the terms building regulation or control. Remedial housing legislation designed to deal with the dead weight of defective housing which accumulated in the absence of effective building regulation does not fall within the scope of this study. Although constructive housing legislation, where the local authorities became the developers and building owners under the regulations, is of passing relevance. General works of improvement are only relevant in so far as they concern constructive redevelopment. Debates regarding such matters as compulsory purchase and loans are beyond the scope of this study. Interest in streets is limited to the fact that they comprise the spaces in between buildings. The regulation of traffic and the maintenance of road surfaces and such like, are not relevant. The criteria for inclusion within the definition of 'building regulations' have been determined by a pragmatic approach. All building byelaws, and regulations contained within general and local acts which were referred to the local administrative unit, the sub-committee of the town council, have been assumed to be relevant to this study, unless persuasive factors dictate otherwise.
Over recent decades the development of the machinery of government during the nineteenth century has attracted considerable academic interest. Social, political and administrative historians have struggled with enormous complexities in attempting to explain how and why the system of government evolved as it did. The inherent complexities of the subject are reflected in the collective views of historians, within which many bones of contention exist. For instance, did the nineteenth century experience a revolution in government growth, or more pedestrian evolutionary growth? Were the changes experienced generally exogenous, or were they part of a genuine historical process? Was the increase in government activity the product of ideological or pragmatic impulses, or a combination of both? Did the establishment of an administrative state represent a triumph of collectivism over individualism?

Despite many differences of opinion, there are several broad areas of consensus. It is now generally accepted that the very age of individualism and laissez-faire saw the birth of a centralised administrative state. That is, within the middle quarters of the nineteenth century permanent and wideranging changes were initiated which transformed a loose and old fashioned polity, with few central functions and little central power, into a much more actively and nationally regulated society. It is universally acknowledged that the changes
experienced stemmed from the enormous economic and social dislocations consequent upon the allied processes of industrialisation and urbanisation.

There is also general agreement that the responses of government to the problems, engendered or exacerbated by economic and social change, were practical, pragmatic, unplanned and ad hoc. In the first instance social policies and their administration were geared to meet real and pressing problems, 'not to breathe life into some abstract theory or to satisfy some metaphysical whim.'(4) Government acted, often hastily, in response to the pressure of circumstances. Such actions produced administrative developments that were not generally expected nor universally wished for.

It is also generally accepted that once the state had stepped in there was a vital element of self generating administrative momentum. This was because in carrying out whatever policy pragmatic political expediency demanded, government increasingly came to use officials to enforce it. These officials in gaining expertise implementing policy came to define its future goals, and thus became progenitors of further policy initiatives.(5) This approach is most highly developed in MacDonagh's five stage model of government growth.(6)

This study, which explores in detail a specific chain of legislation and its administration, lends itself particularly to
MacDonagh's brand of bureaucratic analysis. Other models of
government growth deal with various stages of intervention; for
example, the state's first foray into protective legislation, the
professionalisation of the inspectorate, or the establishment and
working of central government departments. Another group, in
attempting to explain shifts in government activity, tend to
categorise legislation under broad heads, such as 'public
health', 'poor law', 'factory' or 'education'. Within these
categories a multitude of different strands of legislation
developed. Thus, apart from MacDonagh, few, if any, models cover
a sufficiently long or varied period of continuous development,
in sufficient detail, for the most intimate causes and
connections to become clear, or for the cumulative effects of the
whole range of changes to be identified and analysed.

It is for this reason that MacDonagh's model of government growth
has been extensively utilised in this study. That is not however
to say that this model has been used as a framework into which
the development of building regulations has been slotted; nor
have other modes of analysis been completely ignored, where
appropriate parallels and contradictions will be examined.
Rather the aim of this study is to synthesise the various modes
of analysis to produce a model of local government growth.

Due to its prominence within this study, it is necessary to
consider in detail MacDonagh's hypothesis. The five stage model
of government growth was abstracted from MacDonagh's detailed
investigation of emigrant protection between 1800 and 1860.(7) This model purports to demonstrate that government growth during the nineteenth century was not random, but was the product of a genuine historical process, in which administration is itself creative and self-generating.

Stage one of this legislative-cum-administrative process is seen to have its most common origin in exposures of social evils. On the whole these exposures were exogenous, rarely in the first instance being the fruit of the practice of administration or of regular inquiry. Once the evils were exposed sufficiently, they came to be perceived as 'intolerable', and this perception engendered a demand for a remedy at any price; since men's instinctive reaction was to legislate the evils out of existence, this remedy was found in the promotion of prohibitory enactments. Thus, an irresistible engine of change was set in motion. However, as the threat to legislate took shape, the process itself was usually resisted, the endangered interests, whatever they might be, brought their political influence into action. Almost invariably there was compromise in the course of drafting the bill. In the committee stage in Parliament the restrictive clauses of the proposed legislation were relaxed, the machinery of enforcement weakened, and the penalties for defiance whittled down. Nevertheless the measure, however emasculated became law, a precedent was established and a responsibility assumed. The first stage of the process was complete.
The second stage began when it was disclosed, sooner or later, that the prohibitory legislation had left the original evils largely, or even altogether, untouched. Generally speaking, first statutes tended to be ineffective beyond the concessions yielded in the course of their drafting and passage. This was so because the draftsmen and the politicians knew little or nothing about the conditions they were attempting to regulate, and paid little or no attention to the actual enforcement of penalties and the achievement of objectives. In consequence, the first act was but an amateur expression of good intentions. The solution was the appointment of special officers to ensure that the provisions of the act were carried into effect. At this point the process assumed its own momentum.

The appointment of a body of men, however few, meant a much fuller and more concrete revelation, through hard experience and manifold failures, of the very grave deficiencies in both the restrictive and executive clauses of the statute. This quickly led to demands for legislative amendments in a large number of particulars. These demands were made, moreover, with a new and ultimately irresistible authority, for the first time incontrovertible first hand evidence on the extent and nature of the evils was being accumulated in the occasional and regular reports of the officers. In addition to the demand for further legislation, there came an equivalent demand for centralisation. This too arose as a matter of obvious necessity from the practical day to day difficulties of their office. For, without
a clearly defined superior authority, the executive officers tended towards exorbitance or timid inactivity, or an erratic veering between the two. The officers themselves soon came to recognise the need for an authoritative superior, both for the definition of law and status, and for protection against an anarchic public. Moreover, centralisation was quickly seen to be required for two other purposes; firstly, for the systematic collection and collation of evidence and proposals for reform; and secondly, for the establishment of an intermediary or link between Parliament and the executive in the field. Sooner or later, the pressures born of experience succeeded in securing both fresh legislation and a superintending body. The point at which it did is the culmination of the third stage.

The fourth stage of the process consisted of a change of attitude on the part of the administrators. Gradually it was borne in upon the executive, and through them on the central authority, that even the new amending, or perhaps consolidating, legislation did not provide a fully satisfactory solution. Doubtless it embodied many or most of their recommendations, and effected substantial improvements in the field concerned, but experience soon showed that it was possible, endlessly possible, to devise means of evading some at least of the new requirements, and equally that the practical effects and the judicial interpretations of the statutory provisions could not always be foreseen. Experience also showed, though less rapidly and clearly, that the original concept of the field of regulation was
much too narrow. Finally, the appetite for regulation (that is, a deepening understanding of what could and should be done) tended to grow with each partial success. All this subtly wrought a volte face in the outlook of the administrators. Gradually they ceased to regard their problems as resolvable, once and for all, by some grand piece of legislation, or by the multiplication of their own number. Instead they began to see improvement as a slow, uncertain process of closing loopholes and tightening the screw ring by ring, in the light of continuing experience and experiment. In short, the fourth stage witnessed the substitution of a dynamic for a static concept of administration, and the gradual crystallisation of an expertise or notion of the principles of government, of the field in question.

In the fifth and final stage the executive officers and their superiors now demanded, and to some extent secured, legislation which awarded them discretions, not merely in the application of its clauses, but even in imposing penalties and framing regulations. They began to undertake more systematic and truly statistical and experimental investigations. They strove to get and keep in touch with the inventions, new techniques, and foreign practices relevant to their field. Later they even called directly upon medicine and engineering, and the infant professions of research chemistry and biology, to find the answers to intractable difficulties in composing and enforcing particular preventative measures. Once their findings were
proved, the corresponding regulations passed effortlessly into law, and unperceived the ripples of government circled even wider. In the course of these latest pressures, towards autonomy and delegated legislation, towards fluidity and experimentation in regulations, towards division and specialisation of administrative labour, and towards a dynamic role for government within society, a new sort of state was being born.

As with all generalisations, MacDonagh is fully aware that his model does not necessarily correspond in detail with any specific branch of government growth. Even in the field of social reform, where it was most likely to operate 'purely', it was not always present. He even goes so far as to admit that in its exact form, in an unbroken adherence to the pattern, it was perhaps rarely present. Thus, the stages into which the process has been divided should not be regarded as sacrosanct, or necessarily equal in duration, or indeed anything more than the most logical and usual type of development. What MacDonagh presents is simply a description in convenient terms of a very powerful impulse or tendency that was always immanent in the middle quarters of the nineteenth century, and which, according to him, was extraordinarily often, though by no means invariably, realised in substance.

However, MacDonagh appends a number of cautions to his model, which are of great significance when a similar analysis is attempted for building regulations. It is strongly emphasised
that the model does not supply a complete answer, nor is its operation automatic. The correlation between social problem and administrative remedy was seldom exact. The impulse was always prone to be distorted by accidents of personality or ideology or politics, by financial considerations, or by the state of expert opinion at the moment when the remedy was being debated. The combination of such factors might have far reaching consequences, both per se, and on the all important timing of reform.

Moreover, a large number of forces could positively, and more or less effectively, resist the process. Perhaps most important among these was the contemporary passion of holding down, and even reducing if possible, the level of public expenditure, and with it the size of the public service. In addition, interested groups possessing political influence, the general parliamentary acquiescence in commercial norms and ethics, and the master ideologies of the day, political and economic atomism, had all to be overcome or circumvented if aroused. This was true to such an extent that MacDonagh maintains that the closer a subject engaged the attention of public opinion, the politicians, and the civil servants, with both the power and fixed ideas, the more likely it was that the process would be diverted or frustrated.

Indeed, MacDonagh used emigrant protection as an example for the very reason that it avoided such general scrutiny,

Emigrant protection is a comparatively simple and unadulterated subject. No Wilberforce or Shaftesbury, no Chadwick or Trevelyan directed its reform. No league or association was dedicated to its amelioration. No
political party or parliamentary interest took it up. No jealous local authority or powerful trade society succeeded here in holding back the tide of centralisation and official regulation. All this makes it possible to study the indigenous development in as 'pure' and uncomplicated state as is likely to be found. (8)

What MacDonagh therefore attempted to do, was to distill the essence of bureaucracy from the accidental influence of exogenous factors, in an attempt to discover what Novak has loosely termed 'the ideal type of bureaucracy.' (9)

MacDonagh's model has been subjected to some criticism for generalising from the facts of emigrant protection. While it is admitted that the analysis is correct for this very minor portion of government activity, doubt has been expressed as to whether the detailed study of passenger regulation demonstrates truths about the administrative revolution as a whole. (10) Though it should be added that much of the debate centres on the influence of Benthamism in the process of government growth, an influence that MacDonagh relegates, even to the point of suggesting that in some instances it was actually an obstacle to the development of modern government. (11)

More particularly, criticism has been levelled at three aspects of the five stage model; the notion of 'intolerability', the logical connection between stages one and two, and on the fact that by concentrating on impersonal forces, the role of individuals is neglected.
Jennifer Hart has pointed out that although 'intolerability' purports to be an explanation of why certain things happen, it is in fact a tautology, since when a situation was found intolerable, steps were taken in amelioration. In addition, there is no consensus as to what actually constitutes intolerability, no agreed criteria, and little agreement as to the bare facts. Having no specific time schedule attached to it, the concept of intolerability becomes so elastic that it is impossible to prove it false. Hart argues that, alone, the social conditions of the nineteenth century do not constitute a problem, since it was necessary that a principle or standard had to exist, against which conditions could be judged intolerable. It is Hart's contention that Benthamism provided such a standard with the utilitarian doctrine of the greatest happiness of the greatest number. (12)

Henry Parris, in the investigation of several branches of administration, has cast doubt on the logical connection between stages one and two of the MacDonagh model. This doubt is engendered by the fact that in four specified areas of government activity, before 1835, the realisation that legislation was ineffective resulted, not in the appointment of executive officers, but in further legislation. No explanation is found in the model as to why the transition took place when it did, nor why it had not done so before. The essential component found to be missing by both Parris and Hart is the influence of Benthamism. (13) Additionally, Parris cites four more cases,
after 1835, where first statutes in particular fields provided for the appointment of administrative officers, although the model requires that such appointments should be the product of accumulated experience. An explanation for this is found in the operation, after 1835, of a demonstration effect between different branches of central administration. Since this study is located in an area where this demonstration effect is said to have operated it is important that the model should be adapted to take this development into consideration.

Steven Novak regards MacDonagh's belief that the evolution of bureaucracies followed an inherent pattern of development, an internal logic regardless of external influences, as implying that all bureaucracies were essentially the same, and that all bureaucrats were simply passive agents of an irresistible process. Novak considers that by focussing primarily on the stages of growth, and by assuming that these stages were required for successful administration, that MacDonagh has overlooked one of the most dynamic elements in the course of government growth, that of professional zeal. Hart also stresses the fact that although the course of events may be effected by the machinery of administration, it was ultimately created by men, and worked by men, and what happened was due to people actually making decisions.

However, it is contended here that criticism in this area has been taken too far, since there is nothing in MacDonagh's model
that dictates that all government growth will follow an exactly similar pattern. Indeed the cautions appended to the model stress the fact that events could be, and were in fact, modified, frustrated or accelerated by external forces, and these included the influence that could be exerted by individuals. MacDonagh's own study of emigrant protection, and several studies which develop his thesis in other fields of administration, all acknowledge the role played in the process by individuals.

Notwithstanding the critical debate surrounding the model, it is widely acknowledged that MacDonagh has performed a useful service to scholarship by demonstrating that 'internal dynamism' played a crucial role in the process of government growth, and that a vital, and previously neglected, factor was the momentum of government itself.

It is recognised that in attempting to analyse the mechanics of one aspect of local government growth MacDonagh's five stage model is of great relevance. However, it is impossible to consider the formulation, acquisition and implementation of local building regulations solely in terms of the model. This is so for the following reasons.

Although this study is concerned with developments after 1840, building regulations after this date can be seen as continuing a much older tradition, dating back in the case of London to the twelfth century. Therefore they are not 'new' regulations in the
absolute sense; precedents do exist, albeit on an extremely limited scale before 1840.

Between 1840 and 1858 the development of building regulation was thoroughly entangled in the more general debate over public health. It is therefore difficult to analyse factors relating to building regulations in complete isolation; a very much wider range of factors has to be considered. In addition, the influence of Benthamism cannot be ignored, because of the direct involvement, in the investigative, report and legislative process of Benthamites, most notably in this instance Chadwick.

Building control was a very complicated form of regulation, although superficially it appears to be quite straightforward. The general statute, the Local Government Act of 1858, contained a provision which authorised local authorities to make building byelaws in certain specified areas. In effect, the responsibility for framing detailed regulations, in accordance with general statutes, was delegated to the local authority. The only uniformity implied by this type of control was that since towns were facing similar problems they would consequently frame similar regulations, it was extremely likely that local codes would be subject to considerable diversity, especially in details. However, since local codes of byelaws, to become effective, had to be sanctioned by the Secretary of State, the facility existed for uniformity to be imposed. This trend was enhanced by the fact that, in response to demands made by local
authorities, the central departments, the Local Government Act Office and the Local Government Board, produced model codes of building byelaws, to be used as a guide in the framing of local codes. These models were, in effect, examples of quasi-legislation. Although the central authorities enjoyed the power of sanction over local codes of byelaws, they could not insist that any or all of the clauses contained in the models were to be adopted by local authorities. However, it must be added that in practice these models were extensively employed by local authorities. Thus, any consideration of the legislative progression has to be extended to include not only the revisions of general statutes, but also those of the quasi-legislation. It is notable that the quasi-legislation was much more sensitive, than general statutes, and was amended much more frequently in light of administrative experience and various legal interpretations.

All this made the acquisition of controls in a particular location very complex. Firstly, there was the problem of framing a general statute in the teeth of considerable opposition. Secondly, there were difficulties inherent in the development of a model code, applicable to all urban areas. And thirdly, there were vested interests at the local level which had to be circumvented before the measure could be adopted. At every stage of formulation and acquisition it was possible that resisting forces would be successful in frustrating or diverting the process. Because of the multiplication of levels, resisting
forces had far greater scope in the development of building regulations than they had in the sphere of emigrant protection.

The situation was further complicated by the fact that the adoption of general legislation and delegated legislation was not the only method by which local building regulations could be acquired. An alternative was provided since the local authority was itself a lawmaking body, that is, it could promote special legislation applicable to its own area of jurisdiction. Even before general legislation on the subject, many instances can be found of local authorities acquiring and administering building regulations under local acts of parliament. This raises the problem of relative intolerability; what was considered locally as intolerable, might not be recognised as such, either nationally, or in other localities.

As a consequence of the alternative methods of acquisition, many towns came to administer a confusing mixture of controls, under both general and local statutes.

Since the local authority itself was a law-making body, and as local officials worked within its jurisdiction, it performed many of the functions ascribed to a central authority by MacDonagh's model. These included, assuming the role of an authoritative superior, both for the definition of law and status, and for protection and support against the anarchic public. The local authority also came to perform the functions of collecting and
collating evidence and proposals for reform. In this instance it was the local authority that formed the link between parliament and the executive in the field. The central department did perform similar functions on a national level, however the direct link between it and the executive officers, identified by MacDonagh in the case of emigrant protection, is not present in this area of local government growth.

As indicated above, the model of government growth has to be adapted to take into consideration the fact that the first statute in the area of public health, within which building regulation falls, allowed for the appointment of executive officials. It also needs to be adapted since the central authority was also established by the first statute. The recognised explanation for this was that a demonstration effect operated between the various branches of government service, which precluded the necessity of learning through administrative experience. Though it should be added that the functions of both the executive officers and the central authority were subject to a considerable period of adjustment before they developed the attributes implied by MacDonagh's model.

For instance, the Public Health Act of 1848 allowed for the appointment of various local officials, including a surveyor. It was into the hands of this official that the enforcement of building regulations was entrusted, although this was only one small aspect of his total responsibility. However, it was not
until the emergence of specialised building inspectors (that is officers professionally charged with the carrying into effect the specific clauses relating to building) do we have executive officers of the type implied by the model. Looked at in this light, MacDonagh's contention that original statutes paid little or no attention to the actual enforcement of the detailed clauses holds a considerable amount of truth.

A similar argument can be applied to the establishment of the central authority. The central department responsible for building regulations, the Local Government Act Office, had very limited aspirations. In contemporary perception the establishment of the Office was regarded as a withdrawal from the concept of centralisation exemplified by the highly unpopular General Board of Health. However, as Royston Lambert has pointed out, contemporary opinion was irrelevant to legislative facts. (17) Although the Local Government Act Office was initially intended to perform only the most limited of central functions, under pressure of administrative necessity, of the unexpected working of the Local Government Act, and of the demands made upon it by the localities, it extended widely its interference in local affairs. Thus again, it would be true to say that the central authority came to acquire the functions implied by the model as a result of administrative experience.

Stage five of MacDonagh's model on the surface seems to imply that the process of administration, once securely established,
maintained itself immune from outside influences such as political pressures or vested interests. Thus, the range, scope and depth of regulations were ever increased in response to administrative necessity, regardless of any other considerations. However, it should be noted that the ultimate inevitability of self-sustained administrative growth was always subjected to the possibility of limitation. MacDonagh himself noted that government growth in the field of emigrant protection was checked by the abrupt fall in emigration, the advance of the steam ship and the emergence of the great shipping company. (18) Fraser has noted that political pragmatism could also limit the process; he provides the example of Lloyd George being forced to jettison death benefits in 1911 as the price of political expediency. (19)

With building control, the continuing expansion of the scope and complexity of the regulations had, by the end of the nineteenth century, engendered considerable popular and outspoken opposition. The dissatisfaction was in effect a reaction against what was considered, over-regulation. Thus, it is possible to maintain that in the area of building control, and potentially other areas, there is a sixth stage of government growth, that of re-evaluation of the principles and practice of regulation.

For all the above reasons, it would be a futile and uninformative exercise to attempt to evaluate MacDonagh's model in terms of this particular branch of government activity. Instead, the aim of this study is to refine the model to take into consideration aspects of local government growth. In this process of
refinement it is necessary to take into consideration different perspectives on the subject. There are two other explanations of government growth which need to be looked at. These are Checkland’s social action equation and Lubnow’s contention that government activity was conditioned by a conflict between two models of government growth, a traditional and an incrementalist view.

In attempting to explain why government acted in particular situations, Checkland developed the concept of a social action equation. There are three conditions governing its working.

i) Each specific situation had to reach such a level of deterioration as to be an outrage on public opinion.

ii) The indifference and hostility that stood in the way of a remedy had to be in some way, and to some degree, weakened. Both deterioration and reformism had to have a publicity dimension, for it was only when public attention was attracted that they could impinge on policy.

iii) The forces pressing for improvement had to attain such strength as to be effective.

Thus, the social action equation postulates that in a given area of social concern statutory action will occur when deterioration and reformism are greater than the inertias and resistances. Checkland recognises that his equation, like MacDonagh’s intolerability, is a tautology; that is, once legislation reached the statute book deterioration and reformism were necessarily greater that inertias and resistances. Nevertheless, he contends
that the equation is valuable in that it highlights the components of each of the social challenges, and the relationships between them.

In essence, Checkland's social action equation is very similar to stage one of MacDonagh's model of government growth, and can therefore be considered at the same time. Checkland does not elaborate in detail as to how government growth progressed further, but he is in general agreement with MacDonagh in that a legislative-cum-administrative process operated. When inspectors were appointed, and acquired experience of administration, they themselves became the prime movers of new legislation. (21)

Lubnow's study casts a rather different light on the subject. Government growth is seen as a trade off between two alternative views of society. (22) The traditional model put great faith in historic rights and customs enshrined in past practice of English government, with particular emphasis being placed on local self-government. It assumed, therefore, an attack via a growing centralisation on the traditional freedom of English institutions. The incrementalist model faced up to the new problems, not with any predetermined programme of action, but hesitantly and empirically. (23) Thus, state intervention consisted of a series of legislative actions which produced modifications in the existing administrative structure. (24) In this way continuity was enhanced. It is Lubnow's contention that the result of this trade-off was an administrative system sired
by the pressures of environmental change, but born in the womb of localist ideas, with a continuing emphasis on traditional values. (25)

Lubnow's view of the process of government growth is not inconsistent with those of either MacDonagh or Checkland. The two different views of society are to a great extent analogous to the two opposing forces operating in Checkland's social action equation, the resistances and inertias on the one hand, and reformism on the other. To MacDonagh the traditional view of society, with its respect for the position of local government, was a powerful force which had to be overcome, circumvented or compromised with if legislation was to reach the statute book. (26) The fact that this force was strong enough, in some cases, to resist successfully some of the radical ideas put forward by reformers ensured a degree of continuity. (27)

However, Lubnow himself acknowledges that the period between 1833 and 1848 was the one in which precedents were established for central inspection and delegated authority, the precursors for the shaping of central administration and government growth in later decades of the nineteenth century. (28) Again therefore, we are concerned with the initial stage of state intervention. Because Lubnow's analysis only extends to 1848, no explanation of the future development of government growth is provided. Nevertheless, a passing reference is made to the importance of a bureaucratic interpretation of events. Lubnow's incrementalist
model is characterised by a probing quality; as new administrative and political experience produced new information about desirable objectives, the very goals of public policy are seen to have shifted. The experience derived from continuing administrative and political activity was a major element in incrementalist government intervention.(29)

There is one specific aspect of Lubnow's analysis that is particularly appropriate to this study. This is his contention that localism played a vital role in government growth. In his chapter on public health Lubnow uses a plethora of illustrations, from the 1840s, to demonstrate that central government never had any intention of assuming the responsibility of administering local social affairs.(30) Where the need for a central body was alluded to its role was perceived as supervisory, it was the local boards that were always intended to carry the burden of sanitary administration. However, this is something of a negative argument, since it is from diminution of the role of centralism that localism derives its significance, the exact mechanism by which localism influenced public policy is not considered. It is one of the purposes of this study to demonstrate, using the example of building regulations, the positive contribution of localism to both local and national sanitary administration.
III Literature Survey

A study of this nature, which impinges on several distinct areas of academic interest, inevitably relies heavily on the labours of many researchers.

As outlined above the theoretical framework of this study is derived principally from MacDonagh's investigation of the passenger acts, and the five stage model of government growth that he abstracted from it.(31) The critical responses which this model attracted have also been considered, in order to refine and specify more clearly the parameters of this study.(32) Guidance has also been elicited from the works of those researchers who have attempted to apply the model to various branches of administration.(33) Also important in this area are the more general works concerned with social policy and government growth.(34)

One of the primary aims of this study is to examine the way in which central government struggled to impose national uniform standards of sanitary administration within a framework of local autonomy. In order to achieve this aim it has been necessary to consider the extensive range of secondary literature regarding the development of central and local government during the period, and that relating to the relationship between the two. For ease of analysis, the literature has been classified into various areas of particular interest.
As indicated above, central government was never directly involved in local administration, rather influence was exerted through the auspices of the central government departments. Thus Lambert's review of the activities of the Local Government Act Office, (35) and those by Bellamy and MacLeod on the Local Government Board, (36) provide essential information on the policies pursued by these departments of central government, and on the relationships that were established between the central departments and local authorities in general. Such studies provide a context within which the particular relationship between these departments and Sheffield can be analysed and evaluated. Since central government also sought to control local authorities via the legislature, the works of Clifford and Williams, (37) which provide extensive and wide-ranging insights into the development of private bill legislation and into parliamentary procedure, are invaluable. These again provide a general background for the detailed investigation of a particular situation.

Local government expanded dramatically between 1835 and 1914, and during this period became thoroughly institutionalised. There are a large number of secondary works concerned with the evolution of local government. Those found to be of particular relevance to this study include works by the Webbs, by Clarke, by Laski et al, and by Redlich and Hirst. (38) In addition to these general surveys, there are also a large number of works relating to the development of municipal government in a specific town or
group of towns. These have provided valuable comparative material, and have made it possible to assess the achievements, or otherwise, of Sheffield, in relation to those of other towns.

Notwithstanding the large number of local studies, it has become clear that the sphere of local government lacks an authoritative general work on local acts of parliament. No doubt the enormous scale and complexity of the local legislation has militated against the production of such a work. Such an enterprise is far beyond the limited scope of this study, nevertheless, it is hoped that this work will make a small contribution to this area of comparative neglect.

For much of the period under consideration the agenda for social reform was set by the confluence of interests represented by, and loosely grouped within, the public health movement. The various aims, objectives and achievements of the public health movement provides the background for the emergence of many specialised forms of legislation, one of which was building control. There are a considerable number of published works on the general, if loose, theme of public health. Notable and valuable contributions include those by Frazer, by Wohl and by Simon. But of particular significance to this study are those which concentrate on the relatively short period between 1840 and 1858, that is the period before building control became a phenomenon in its own right, but during which the issues and proposals for reform were thoroughly entangled within the more general concern.
for public health. These works include Flinn's introduction to the 1965 edition of Chadwick's Sanitary Report, and the two biographies of Chadwick, by Lewis and Finer.(41)

Another area of academic specialisation, of particular relevance to a study of building control, is the social history of housing. This discipline overlaps to some extent the history of public health, but does form a distinct strand of historical research. Of specific interest are those studies which concern the development of working class housing, for, as will be indicated,(42) it was this type of dwelling which felt most strongly the influence of regulation. These studies invariably contain some reference to building regulations, since the controls which emerged are often seen as direct responses to the grim conditions which accumulated in the absence of prohibitory legislation. Major works in this area include those by Burnett, Gauldie, Tarn, Daunton and Muthesius.(43) In addition there are many studies of working class housing in specific towns or areas. Eight such examples were published together, under the editorship of Chapman, in the form of a symposium in 1971.(44) This was the first major work to concentrate solely on the development of workers housing during the last century.

It is notable, however, that the vast majority of secondary works on both public health and housing, treat building control as a side issue, which is only referred to when it impinges on the main focus of attention. It is also significant that when the
subject is referred to, a passage from Ashworth's 1951 study of
the genesis of British town planning is almost invariably quoted.
In this passage Ashworth opined the judgement that has
subsequently become gospel,

Statutory or bylaw control of new building in the late
nineteenth century had many deficiencies which were only
gradually removed and operated very unevenly over the
country as a whole. But, in spite of this, nothing else
made so much difference to the physical appearance and
condition of British towns. Large parts of them were
built under this regime and still survive. They seem a
grim and depressing legacy, yet they represent a
considerable advance on what came immediately before.
The streets of this time were monotonous, but the
monotony of order was an advance on the earlier monotony
of chaos. They were devoid of all inspiration but at
least they were sanitary, exposed adequately to air and
moderately to light, and this was achieved widely and by
deliberate provision, instead of occasionally and more
or less by chance. (45)

It is not the primary aim of this study to challenge this opinion
per se, but if it is to be accepted that building controls were
responsible for this 'grim and depressing legacy' it is necessary
that the mechanisms by which this effect was achieved should be
articulated, so that they can be intimately examined and
analysed.

In embarking on such an investigation, invaluable assistance was
gained from Harper's study of the evolution of English building
regulations between 1840 and 1914. (46) This amounts to a
complete history of building regulations in their formative
years, and is a unique source of legal and technical detail.
Attention is focussed on national developments and on the special
building acts which relate solely to London. Provincial
developments are considered, though in general rather than in particular terms. Moreover, Harper concentrates on the formulation of national regulations, and does not attempt a systematic analysis of their administration, something which is central to this study. The summary tables of the principal building acts and model byelaws that Harper compiled for his thesis, have since been published, together with a short introductory essay.(47)

The essence of Harper's thesis has been distilled by Gaskell in his short book on building control, which considers the development of national legislation and the introduction of local bye laws.(48) Gaskell selects four towns as case studies in order to analyse the effects of legislative and administrative change on local authorities and their organisation of building regulation. But, as with Harper, there is limited consideration of exactly how building regulations were made effective. In his review of Gaskell's book, Burnett noted that the processes of administration of regulations - that is, the organisation, the personnel and machinery of regulation, the inspectorial and legal mechanisms of enforcement, and the evasions of and penalties for transgression - were not adequately examined.(49) It is hoped that by concentrating on these very areas this study will break new ground, by providing the essential explanation for the continuous process of re-regulation, and thereby, the growth of local government.
FOOTNOTES


(5) ibid. xxiv.


(8) MacDonagh, Passenger Acts, 7-8.


(12) Hart, 'Social Reform', 46-49.

(13) Parris, 'Revolution in Government', 30; Hart, 'Social Reform', 44.
(14) Novak, 'Professionalism', 458.
(15) J. Hart, 'Social Reform' 59-60.


(18) MacDonagh, Passenger Acts, 345.

(19) Fraser, British Welfare State, 243.


(21) Ibid. 87.


(23) Fraser, British Welfare State, 116.

(24) Lubnow, State Intervention, 27.

(25) Ibid. 29.


(28) Lubnow, State Intervention, 188.

(29) Ibid. 27.

(30) Ibid. 74, 78, 80, 81 and 82.


(32) Parris, 'Revolution in Government'; Hart, 'Social Reform'; Cromwell, 'Administration'; G. Sutherland, 'Recent Trends in
(33) Lambert, 'State Vaccination'; MacLeod, 'Alkali Acts'; Novak, 'Professionalism'; and Pellew, 'Explosives Act'.

(34) MacDonagh, Victorian Government; Checkland, British Public Policy; Fraser, British Welfare State; and Lubnow, State Intervention.

(35) Lambert, 'The Local Government Act Office'.


(42) Chapter Two, 72.


CHAPTER TWO: OVERVIEW 1840-1914

This chapter provides an overview of the whole period under consideration in this study, in order that its main concerns can be highlighted. As indicated in Chapter One, the nature of this topic precludes any simple structure or treatment, thus the aim of this chapter is to establish a framework which will support the detailed analysis contained in the subsequent chapters.

This chapter is divided into four main sections.

Section I analyses the prerequisites for the dramatic enlargement in the scope and function of central and local government that occurred after 1840. It was the growth and multiplication of urban areas from the middle of the eighteenth century onwards, and the consequent deterioration of the urban environment, that created the circumstances which necessitated local and central government intervention. The 1830s is regarded as a period of crucial importance, since it was during this decade that the institutional foundations for the succeeding government growth were laid, and that the seeds of public awareness of the need for such increased government intervention were sown.

In Section II the means by which both central and local government sought to effect a system of sanitary administration are considered. Thus, developments relating to general and local legislation are analysed, and the relationship between them
is examined. The measures adopted by central government, which were intended to instill uniformity into local legislation, are of particular concern.

Section III narrows the focus from a general discussion of increasing government growth, to developments relating to the particular strand of government activity that is the central theme of this study, building regulation.

In addition to concluding this chapter, Section IV provides a summary of the contents of the subsequent chapters of the study.
In the first instance the ability of the central government to create and define uniform standards for sanitary administration was dependent on the experience previously accumulated by towns undergoing urbanisation. It is therefore necessary to consider briefly what was happening to growing towns in the years leading up to 1840.

The nineteenth century saw a rapid increase in the population of England. The total doubled between 1801 and 1851 and doubled again before the outbreak of the First World War. Much of this increase was absorbed in the growing industrial towns. The pace of urban growth had started to quicken during the second half of the eighteenth century. The exploitation of coal and iron reserves and developments in the textile industries transformed, within one or two generations, tiny market towns in Lancashire, Yorkshire and the Midlands, into populous, smoky and generally ill-built industrial centres. This expansion, fuelled by the Industrial Revolution, generated industry and trade with their attendant prosperity and poverty, and attracted labour from the poorer areas and from a devastated Ireland. Developments in transport further served to encourage trade and mobility amongst the population and facilitated the communication of ideas. The rapid increase in the rate of change was to have its most severe effect on the fragile fabric of the towns; ramshackle houses were thrown up around insanitary factories and workshops; trout
streams were converted into foul sewers, and every open space became a rubbish heap.(1)

Responses to the emerging problems were limited before the 1840s, for a variety of reasons. In most towns little responsibility was accepted for this state of affairs. The prevailing ideology of laissez-faire militated against both local and national government intervention. It was generally accepted that competition, self interest and the profit motive should be given as open a field for action as was compatible with the bare necessities of enforced contract and public order.(2) In addition, the traditional instruments of local government, such as the parish and the township, were quite incapable of coping with the scale and intensity of these new conditions. Moreover, the novelty of the problems, combined with the limited technical know-how, ensured that, in the first instance at least, there was no consensus about potential solutions, nor any great confidence in the practicability of those solutions that were suggested.

Although it has been stated above that responses to these new conditions were severely limited, it would be incorrect to imply that no attempts were made to mitigate some of the evils associated with urban dwelling before 1840. The traditional organs of local government had little or no statutory power enabling them to deal with the cumulating problems. Thus, at first the only remedy which offered itself was that provided by private bill legislation.
From the middle of the eighteenth century onwards this mechanism was increasingly exploited. Many of the towns experiencing rapid growth, and the concomitant deterioration of the urban environment, promoted, and were granted, local improvement acts. These were usually promoted by the town's social, commercial and industrial elite; and were administered by the same in the guise of improvement commissioners. These local acts, in contemporary conception, had strictly limited functions; they were typically only concerned with lighting, watching, paving and cleansing; and were often limited in effect to the main streets and well-to-do districts of towns, rarely being applicable to those quarters inhabited by the working classes. Right up to the cholera epidemic of 1831-2 it is practically impossible to find any suggestion that a work of town improvement should be undertaken on the ground that it would improve public health. (3) The prime motivating force before that time was invariably to ensure greater comfort and convenience in passing along the streets. (4)

Before 1840 the basic principle of local government was local provision for local needs locally identified, within the limited sphere indicated above. This view was reinforced by two widely held assumptions; that those who belonged to a locality knew better than anyone else what that locality needed, and what was done locally was a local matter and did not significantly affect the lives of others. (5) And it was consolidated by a deep-rooted and widespread suspicion of central authority. The expression of
these beliefs is to be found in the abundance of local improvement acts passed between 1780 and 1840.

Some exposition is necessary at this stage in order that the main factors responsible for the change in dimension which took place in municipal and central government affairs after 1840 can be identified. These factors will be considered in two broad categories; firstly, those factors relating to the machinery of administration, and its overhaul, when its inability to cope with the profound changes taking place in society had been realised; and secondly, those factors relating to the increasing awareness of the nature and the scale of the profound changes that were taking place. For an explanation it is necessary to consider the events of the previous decade.

During the 1830s three important pieces of legislation reached the statute book. These were to have a significant effect on the subsequent development of local government, by laying the institutional foundations for a dramatic increase in the scale and the scope of municipal activity. The three relevant pieces of legislation were; firstly the Reform Act of 1832, which brought political power to a growing middle class in towns; secondly the Poor Law Amendment Act of 1834, which set a new pattern of administration between central and local government; and thirdly the Municipal Corporations Act of 1835, which established our modern system of local authorities.
Redlich and Hirst have identified a hidden law of politics, a law of universal application, which ensures that each success of the democracy in widening the franchise will be followed by a period of administrative reform, when democratic ideas are transferred from the formal sphere of political rights to the actual service of the state and the practical work of government. After each reform of the English Parliamentary machine there has been time left for bringing the subordinate public authorities and services, both national and local, into line with Parliament. In the period that followed the Reform Act of 1832 the main subjects for administrative reform were the Poor Laws and the municipal corporations.

The Royal Commission set up to investigate the administration of the Poor Laws revealed that, in the absence of any controlling influence, the political and administrative autonomy of the justices of the peace had brought the country to the brink of bankruptcy and ruin. The Commission advocated the complete reform of the system of poor relief by the removal of the discretion of the local authorities. The ensuing act established a Poor Law Board which centralised control of the system in London. The Board was endowed with large powers over local authorities and it enforced the carrying out of the Poor Laws by issuing rules orders and regulations. Assistant Commissioners were appointed to watch over the local authorities and to report to the Board. The unpopularity of the Poor Law Board is beyond the scope of this study, but the significant factor is that the
principle of centrally administered control was, for the first
time, realised on a large scale.

The report of the Royal Commission appointed to consider the
state of municipal government exposed a catalogue of corrupt
practices and flagrant abuses. It also revealed a great amount
of popular dissatisfaction with municipal councils, which was due
to the fact that the vast majority were self-appointed, and thus
beyond the reach of popular control. Their proceedings were
secret and there was no vestige of financial accountability. The
general picture presented by the report was one of complete
breakdown of administrative efficiency and a decay of the
elementary rules of local self government. The most damning
indictment was the mere fact that in most municipal boroughs of
any size municipal interests were managed, not by the
corporation, but by the special ad hoc bodies constituted under
local acts. However, in contrast to the machinery set up for the
administration of the Poor Laws by the Poor Law Amendment Act of
1834, the Municipal Corporations Act of 1835 represented not so
much of a leap into the future, as a regression into the
traditions of the past. The Act set up a form of administration
corresponding to the old English concept of local government.
The all important problem of the relation between local
authorities and the central government was settled in favour of
local autonomy, a few concessions only being made to the
advocates of central control.
It is notable also that the local commissions and ad hoc bodies were left intact by the Municipal Corporations Act. Redlich has suggested that this can be explained by the contemporary realisation that it would have been impossible, at the stroke of a pen, to get rid of the deep-rooted mistrust of municipal authorities. It would have also been contrary to the political creed of the day which held that the concentration of a number of branches of administration tended towards mismanagement and corruption. But perhaps a more important explanation of Parliamentary disinclination is to be found in the confidence which the institution of private bill legislation retained. This system had been designed and developed in order that local government might be built up bit by bit, to suit the needs of a particular locality. The character of boroughs was so infinitely varied it might well have seemed impossible to frame general provisions suitable for both sleepy country towns and great manufacturing centres. This argument concerning general provision and the minutia of local requirements was to recur frequently throughout the period under consideration.

The framers of the Municipal Corporations Act drew the lines and fixed the principles for a new era of municipal government. It is a testament to their success that apart from additional legislation to widen the franchise and to introduce safeguards against corrupt practices, the system that was introduced in 1835 remains virtually intact today. However in the shorter term, the
Act provided the secure foundations for an unparalleled expansion of local government activities.

The growth of insanitary conditions and of sanitary science soon led to general legislation about public health. Local autonomy was partially breached since this general legislation carried with it some of the principles of central control already established over the poor law authorities. However, instead of creating local boards of health to carry out the law, akin to the local poor law boards, Parliament adopted the town council as the local sanitary authority, thus preserving, to a considerable degree, the autonomy of the local authorities for sanitary purposes.

The legislative measures outlined above provided the institutional framework for a vast increase in municipal and central government activity in the field of sanitary administration. However, the extent of this intervention, its direction, and the channels through which it was to be conducted, were determined by the heightened awareness of the problems that faced the rapidly changing society. Before the institutions of both central and local government could intervene it was first necessary that public opinion moved in favour of such intervention. Thus a sufficient awareness of the problems was a necessary prerequisite to government action. Or alternatively, in MacDonagh's terminology, the exposure of 'intolerable' problems made preventative action by government inevitable.
Though beyond the limits of this study, it can be argued that a similar process of exposure of intolerable evils was responsible for the legislative changes alluded to above. The concern here is to uncover those factors responsible for moving public opinion, and hence both parliamentary and municipal government, in the direction of preventative action. The growth of awareness was not limited to the 1830s, it was a cumulative process, but the seeds sown in this decade were decisive.

The dynamic factor responsible for increased government intervention, and hence the changing the relationship between central and local government, was in the first instance due to what Hennock has termed the centralisation of knowledge. It would be inaccurate to suggest that the discoveries which led medical men to the conclusion that crowded, insanitary and badly ventilated dwellings were inconsistent with health, were a product of the 1830s. Physicians in the first half of the eighteenth century were fully aware of the dangers to health that resulted from bad sanitation, although they did not understand the transmission of disease; and by the 1770s health was beginning to be studied in a scientific way. The significant point is that such awareness was limited to specialists in the field of medicine. The importance of the 1830s in the history of urban health is to be found in the increasing centralisation of such knowledge, which found a much wider audience, and was thus instrumental in creating effective public opinion to support the views of medical men.
Enid Gauldie has identified six factors which worked together to confront the people of Britain with the appalling conditions prevailing in their towns. These are, the publication of census figures and mortality rates in 1831; the Registration Act of 1836; the reports of the Poor Law Commissioners, following the Poor Law Amendment Act of 1834; the formation of a number of societies interested in statistics and social studies; the continuing and accelerating threat of riot and revolution; and the attacks of King Cholera in 1831-2 and 1848.\(^{(10)}\)

The establishment of the Registrar General's Office in 1837 enabled standardised information to be collected on births, deaths and marriages for the whole country. Thus, it was now possible to construct national statistics on age distribution at death and on the incidence of disease and mortality rates. For the first time it was possible to quantify local variations from the national norm. The figures published by the Registrar General's Office confirmed the results of the 1831 census, in that urban death rates were found to be very noticeably higher than rural rates. From 1837 onwards those interested in public health were provided with reliable statistics with which to campaign for reform. Moreover, with the appointment of Dr William Farr, as compiler of abstracts at the Registrar General's Office, the campaigners for reform acquired a powerful advocate. In his hands the Annual Reports of the Registrar General became a vehicle for the expression of passionately held personal views.
for the direction of propaganda against the opponents of public health reform, and for agitation for state intervention. (11)

These reliable statistics were just what was needed to strengthen the case of those already perturbed by the condition of the poor. The administrative framework established by the Poor Law Amendment Act of 1834 made the centralisation of knowledge regarding the condition and needs of the poor possible. The first reports of the Poor Law Commissioners revealed a state of poverty and squalour that was truly shocking. The revelations engendered the conviction in those responsible for administering the poor laws (including, notably, Chadwick), that prevention of disease would be more economic, and should therefore be more important, than cure. The conditions that had reduced so large a portion of the population to pauperism had to be dealt with. A chain of causality was established; the filth produced by urban dwellers engendered, according to medical orthodoxy, epidemic diseases, which in turn burdened the authorities with widows and orphans. Hence, rising taxation for poor relief was directly attributable to filth, which in consequence had to be removed.

The provision of centralised knowledge regarding the condition of the poor was not the only growth area in information during the 1830s. The decade experienced a rapid growth in the number of local societies interested in the collection of facts and statistics illustrative of the condition of society. (12) The new concern for statistical method overcame the fundamental weakness
of earlier local surveys, which, lacking a broad statistical basis, appealed to the emotions rather than the intellect, and were consequently often dismissed as exaggerated, untypical or unimportant. The local statistical surveys could be much more detailed than national enquiries. House to house investigations could be instigated by local societies, but would have been bitterly resented if conducted by central authorities. The painstaking efforts of local societies in the collection and presentation of hard facts, in a manner too irreproachable to be ignored, had real impact, both on the communities in which they worked and at a national level. The activities of such societies, in conjunction with the publication of official statistics, meant that there was little possibility of any section of the middle classes remaining entirely ignorant of the problems inherent in the new industrial society.

All the facts and statistics did nothing to appease the middle class apprehension of revolution and riot. Indeed it has been suggested that Chadwick, in his reports, deliberately manipulated this fear in order to hurry the progress of reform. As an increasing quantity of information on the conditions prevalent in large towns became widely available, the middle classes became increasingly aware. The conditions which seemed to thoughtful people to be genuinely unbearable, engendered the fear that the time must come when the poor would bear them no longer, and would rise up in a rage to overturn the society which had allowed such things to happen. As Gauldie has suggested it was, 'the
rationalisation of their own disgust that caused middle class people to fear revolution.'(15)

However, more terrifying still than the fear of revolution was the fear of cholera. Unlike poverty, dirt and diseases such as typhus and typhoid, it was not confined to the overcrowded working class districts of growing towns. No respecter of class barriers, it could strike at all levels of society with little warning and profound devastation. It provided a terrifying example of the vulnerability of an urban society devoid of any protection, and was a reminder that health problems could not be limited by class or by geographical area, but were rather the concern of society as a whole. But, despite the fact that cholera frightened, its effects were largely transitory. The epidemic of 1831-2 melted as swiftly as it came, and with it went the emergency measures of both local and central government. The disease was not around for long enough to create a consistent demand for new social policies. The national enquiries into the condition of large towns, and of the condition of people living in them, were not embarked upon until the next decade, and, superficially at least, did not chronologically nor logically follow the visit of cholera to British shores.

Cholera cannot therefore be considered in isolation as the progenitor of the Public Health Movement, but rather as one factor, among those outlined above, which contributed to a heightening of general awareness of the terrible conditions
prevailing in large towns, and which militated in favour of reform.

However, all the above argument does not purport to maintain that public opinion was totally converted to the cause of public health by 1840. Indeed the battle did not really commence until that date. Before 1840 little progress had been made in the detailed suggestion of remedial measures, thus few of the opponents to reform had actually revealed their hand, and few of the obstacles to reform had been clearly defined. It is in this area that this study is located, thus 1840 is its starting date. However, the important point being made at this stage is that the prerequisites for dramatic enlargement in the scope and function of government activity, both local and national, existed by 1840.

A summary of what has been suggested so far is as follows; great changes were taking place in society from 1750 onwards. In the first instance responses to these changes were intensely local, but as has already been pointed out, they were limited and inadequate. Institutional weaknesses in the prevailing systems of representation, poor relief, and local government were identified, in light of these changes, and were rectified by the three pieces of legislation passed in the 1830s and alluded to above. Moreover, the beginnings of a growth of public awareness and understanding of the deep-rooted problems abounding in centres of concentrated population presaged their thorough
investigation, and inevitably led to legislative proposals for their amelioration.
The central concern of this study is an investigation of the way in which central government sought to create and impose national uniform standards of sanitary administration on local authorities. The most obvious example of this can be found in the promotion of general acts of Parliament, of universal application which obviated the necessity of independent local legislation. The period between 1840 and 1914 is characterised by the increasing tendency for general legislation to replace local legislation. These could be adopted or adapted at the discretion of local authorities, under the supervision of central government departments. For the purposes of this study, the relevant legislation includes the string of Public Health Acts and amending acts passed between 1848 and 1914, which also includes the Local Government Act of 1858. The central departments responsible for administering these acts were successively, the General Board of Health, 1848-58; the Local Government Act Office, 1858-71; and the Local Government Board, 1871-1919.

The avowed aim of this study is an investigation of the way in which a specific type of regulation evolved in a specific town. On the surface this appears to be a fairly straightforward exercise. The statutory authority was provided for building regulation by the legislative measures listed above. Therefore the obvious approach should be, the location of sources of
pressure for the revision of legislation, and the consideration of how this pressure is related to the actual experience of implementation, in the given town, or the aggregate experience of many towns. Given the fact that the English administrative system was undeniably more centralised in 1914 than it was in 1840, the logical expectation would be that successive central authorities exerted a progressively tighter hold on the autonomy of local authorities.

However, it is not the nature of administrative history for it to be quite so straightforward. Although the trend of increasing centralisation (that is, control by central government departments) is not substantially questioned, the implication that this trend followed a simple linear progression is.

In the first place, it is important to note that the origins of much of the general legislation, in the area of sanitary administration, were to be found in earlier local legislation. The pressures that had initially led local authorities to promote local legislation were not totally relieved by the passage of general legislation, as inevitably weaknesses and gaps soon emerged. Moreover there was little compulsion associated with the early general statutes; it was still the prerogative of the locality to decide whether or not to take advantage of the opportunities provided. The initiative remained with the local authorities. The exercise of this initiative is to be found in the continuation of the practice of drafting special local
legislation. Towns continued to be faced with problems to which the sparse general legislation provided, in their opinion, no adequate remedy. They continued to draft their own bills, either supplementary to general acts, or in preference to them, especially if the latter involved some degree of central control. In doing this the larger towns preformed a vital function, that of identifying and defining new statutory needs. This function continued throughout the period, with the drafters of general legislation capitalising on the experience accumulated by the local law makers. It must be admitted that compulsion did become more common towards the end of the nineteenth century, but it remains true that for all but the last few years of the period under consideration the initiative lay overwhelmingly with the local authorities.

However, a system which allowed the local authorities complete independence was not at all what the centre had in mind. Its aim was to secure national uniform standards, an aim that could be seriously undermined by the tendency to promote local legislation in preference to national legislation. It was therefore of paramount importance that control was exercised over the local authorities' ability to promote local acts. Central government had the ability to exercise such control through its monopoly of the law granting process. Local acts could only be sanctioned by Parliament, and legislative committees could wield considerable powers of amendment before Royal Assent was acquired.
By 1845 the system of local legislation was in almost complete chaos. Year by year, as successive defects came to light, or new wants developed, the provisions contained in special acts became more complicated and more numerous. Clifford noted that the statute book became more and more unwieldy, up to the point when five large printed volumes were hardly sufficient to contain the local acts passed in a single session, while the general acts for the same year went easily into one volume. This situation was unnecessary since a great number of the clauses were not of particular application, but were common to all acts within each type of local legislation, such as, for instance, railways, local administration and public order.

However, although these common clauses purported to be, in substance, alike, no adequate means existed for ensuring absolute uniformity. The variety of the provisions led to a considerable increase in litigation, and as sections relating to similar objects often differed in different acts, a legal decision upon one act seldom acted as a binding precedent on another. The enormous size of the bills presented to Parliament, and the perplexing and needless diversity of form, meant that legislative committees faced an impossible task in attempting to ensure uniformity across the range.

A select committee to investigate the problems relating to private bill legislation was set up in 1846, with Joseph Hume as its chairman. Its chief concern was the sacrifice of public
interests incidental to the promotion of private bills. The need for establishing a greater degree of control over local bills was one of the main recommendations of the committee, especially since in the confusion objectionable, and often contradictory, provisions were frequently sanctioned. This made local legislation almost impossible to administer, or in Hume's terms, making 'the law doubtful and embarrassing even to those who are professionally versed in it.'(17)

A possible solution to this chaos was sought in consolidation acts, similar to the type that had already drastically reduced the length and confusion of railway acts.(18) In line with the recommendation of Hume's committee, in 1847 eight consolidating or 'clauses' acts, covering a wide range of matters relating to local government, were added to the statute book.(19) These acts gave direct power to no local authority, but contained clauses that could be incorporated by reference in private bills, with any modification necessary to meet local peculiarities.(20) The phraseology of common clauses was standardised, which made drafting easier and reduced the possibility of dispute or misunderstanding.(21) This meant that legislative committees were freed from a considerable burden of work. The greater brevity allowed for better scrutiny of the bills concerned, since attention could be easily and more quickly directed to what was special in each case.(22)
The immediate effects were dramatic. In 1856 it was estimated that since 1847 the consolidation acts had been applied to almost 3000 private acts, saving some 130,000 pages of print, or, including the reprinting of bills, at least a million pages. The statute book was relieved of an enormous mass of unnecessary print, and a far greater degree of precision and uniformity could be secured than was ever possible under the previous system. (23)

The committee of 1846 also hoped that the confusion in local legislation would be further reduced by the passage of general sanitary measures, which would obviate the necessity of private legislation in all but special cases. This recommendation was fulfilled by the passage of the first Public Health Act of 1848.

But perhaps more significant, in the light of future developments, were additional recommendations of the 1846 committee that were not adopted by Parliament. It was initially proposed that a model bill should be appended to each of the consolidating acts. If a local authority intended to deviate from this model, the reasons for the departure were to be stated in the preamble of the bill, and the intention to deviate was to be stated in the notices. Moreover, it was also recommended that whenever a corporation or a local authority applied to Parliament for a new bill, it should be a requirement that all previous acts were to be deposited, with the new bill, at the Board of Trade. This department would then report to the House whether the new bill should proceed, or whether all previous acts should be
repealed, the old and the new provisions being consolidated into a new bill. These stringent recommendations were never adopted. History was to show that the champions of state intervention in the public interest were a great deal in advance of public opinion.(24)

By 1848 local authorities requiring powers to control their rapidly changing environments had a vast range of controls available to them. Those contained in the consolidation acts were accessible by mere reference in locally promoted legislation, and in addition they could adopt, without any application to Parliament, the powers contained in the Public Health Act of 1848. Proceeding by either, or both, methods should have ensured a considerable degree of uniformity. It can therefore be assumed that the central authorities presumed that they had got the situation under control. However, this was not the case. In MacDonagh's terms, the central authorities were trapped within a static concept of administration, and had yet to realise that even amending or consolidating legislation did not provide a permanent solution. Experience had yet to show that the problems facing society were not resolvable, once and for all, by one piece of legislation, but rather, improvement was a slow uncertain process of closing loopholes and tightening the screw, ring by ring, in the light of continuing experience and experiment. In essence MacDonagh's fourth stage in his model of government growth had not been realised.(25)
In theory, it might not be unreasonably expected that as the wants of urban populations must, in all essential respects have been the same, that it would have been possible for Parliament to hold in its hand a code, applicable to all such communities, which could be amended from time to time as the necessity arose. If in addition, Parliament refused to sanction any special legislation, save in the most exceptional circumstances, a high degree of uniformity could have been attained. However in practice, it was found that uniformity was not established, either by the general measures or by the consolidating statutes. This was due to the fact that Parliament would not or could not take the trouble to amend its general statutes in order to keep pace with local wants. Thus, the local authorities were obliged to apply for the special powers that were rendered necessary by the new social conditions. Although it should be noted that the larger towns especially continued to prefer their own legislation because of their suspicion of central control. Notwithstanding this proviso, it remains true that future confusion in local legislation could have been avoided if Parliament had been more conscientious in updating its general legislation, by the inclusion of those clauses whose public utility had been proved by local experience, and by making good those defects that had been identified in the process of administration.

Future confusion might have also been avoided if another of the legislative products of Hume's private bill committee had been successful. The Preliminary Inquiries Act of 1846 provided for
local enquiries to be made, by relevant government departments, into the proposals contained in local bills. Its aims were to elicit the facts of each case with greater certainty and economy, and to save the time of parliamentary committees. In practice however, the act proved to be very troublesome and expensive, and the reports of the departments seldom carried much weight at the committee stage of the bill. The experiment was discontinued in 1851 with the repeal of the act. Ultimately it became routine for public departments to scrutinise bills which fell within their respective spheres of responsibility; their opinions were reported to Parliament, and were then referred to the committee on the bill. Thus, the Preliminary Inquiries Act can be seen as a premature attempt to impose extra-Parliamentary control on local legislation.

Hence, although local legislation was without a doubt more effective after 1847-8 than it had been before, it quickly outgrew both the general and consolidating acts. Between 1850 and 1882 parliamentary policy and practice towards legislation promoted by local authorities lacked sufficient coherence to ensure uniformity. It was true that a degree of uniformity was provided by the fact that local authorities found it easier to acquire provisions that already had an established precedent. Though this, as often as not, resulted in towns acquiring controls for the simple reason that other towns had already got them. By the 1880s local legislation was again in a chaotic state. In the absence of supervision towns acquired strings of
local measures, with provisions on similar themes being found in many enactments, such that, 'no-one except a lawyer, and sometimes no lawyer without great trouble, could tell what the law really was.'(28)

In 1882 the want of harmony in municipal legislation, on which the Private Legislation Committee of 1846 had commented so strongly, was again referred to in the House of Commons. Attention was directed to several bills promoted by municipalities, containing police and sanitary regulations, which extended, and in some cases were at variance with, the general law, and in substance, if not in form, were passed without the knowledge of Parliament. Anomalous and irregular clauses had been sanctioned by Parliament due to the fact that they had been unopposed, and had hence escaped publicity. The bills referred to were passed on to the specially appointed Police and Sanitary Regulations Committee. This body was instructed to act as the committee on the bills in the normal way, but was in addition to report specially to Parliament its reasons for sanctioning provisions which varied the general law.

The primary recommendation of this Police and Sanitary Regulations Committee was not surprising, given previous experience; it directed that, 'some steps should be taken by the House to secure more uniform and stringent supervision of the unopposed clauses in private bills.'(29) The Committee did however, recognise the valuable experience that had been
accumulated by some local authorities, in the exercise of powers in excess of the general law, should be capitalised upon, with several categories of regulations being recommended for inclusion in any future amendment of the Public Health Acts. (30)

The intimation of the Committee that general legislation should be amended was not immediately acted upon by Parliament. This meant that municipalities had no alternative but to continue to promote exceptional legislation. Two developments, however, ensured that local legislation was kept under closer scrutiny by Parliament after 1882 than it had been before.

The first development was the adoption by the House of Commons of a new Standing Order (173A). This instructed Parliamentary Committees considering any bill promoted by a local authority, to examine the bills with reference to specific criteria. For the purposes of this study the most relevant of these criteria are as follows; committees had to report specially to the House of Commons justifying the powers approved which were in conflict with, deviated from, or were in excess of the general law; committees were also obliged to inform the House of the manner in which they had dealt with the recommendations of the government departments upon the bills. (31) From 1872-3 onwards private bills which fell within the field of interest of the Local Government Board had been referred to the Board for report. Standing Order 173A ensured that departmental report were
seriously considered by bill committees, something that had not always been guaranteed before 1882. (32)

The second development was the annual appointment of the Police and Sanitary Regulations Committee after 1884. This committee, especially in its early years, had a considerable influence on ensuring the uniformity in local legislation. It also proved to be a persistent, if not always successful, advocate of the necessity of updating general legislation. Of particular importance was the close relationship which developed between the Police and Sanitary Regulations Committee and the representative of the Local Government Board, Mr Boyce, who attended the committee meetings in an advisory capacity. The dependence of the committee on the knowledge and experience of Mr Boyce was acknowledged, with monotonous regularity, in the annual reports of the Police and Sanitary Regulations Committee. Just one example from the report of 1894 illustrates the point, 'his presence during the deliberations of your committee [is] essential to the due and satisfactory discharge of its duties.' (33)

Thus, by the mid-1880s central government had, in a piecemeal fashion, established a framework within which the parliamentary activities of local authorities could be, if not controlled, at least effectively monitored. The efforts of the legislature and the central government departments were harnessed together in an attempt to impose a uniform system of national sanitary
administration. The practice of promoting local legislation persisted within this framework, and continued to perform the valuable function of identifying new areas requiring general legislation. But now the drafting of clauses, with which the general legislation was to be amended, was carried out in a much more systematic way, with the Police and Sanitary Regulations Committee performing a co-ordinating function. However, all this does not imply that the system worked smoothly from the 1880s onwards. The imperfections inherent in the system, the delay in amending general legislation and the intransigence of local authorities, among other factors, all created friction which militated against absolute uniformity. Nevertheless, for the first time a framework existed which, subjected to a process of continual refinement, ensured a much greater degree of uniformity than had hitherto been the case.

Any study which aims to investigate the acquisition, over a period of almost 75 years, of local legislation, is embarking on a very complex task. The complexity of the situation is vividly portrayed by Clifford, in his account of how an interested ratepayer would have to proceed if he wanted to gain an understanding of the municipal law under which he was governed.

First he must study the Municipal Corporations Act, which regulates the election of the Town Council, their powers and duties. He must then look carefully at the Public Health Act of 1875 for a mass of law on sanitary and other subjects, applying to all urban or rural communities. This statute, unfortunately, is not complete in itself, for it incorporates by reference parts of other statutes, which must be searched for and digested. Here, however, an
enquiring ratepayer is on common ground with the inhabitants of similar places, and shares with them the benefits and defects of this general legislation, that is-and the reservation is important-so far as it is not varied by provisions in special Acts. After having mastered this very considerable body of law, a student's difficulties may be said to begin. He next has the task of ascertaining what general statutes...have been adopted by the local authority, and what parts of the Consolidation Acts have been incorporated in his local Acts. As this incorporation is by reference only, he must go again to the public statute book for his information, which he will find scattered over many volumes, the fruit of many sessions. Long before reaching this stage he will probably have found that the local acts affecting his community are still more numerous and scattered, the earlier part repealed, and when unrepealed often involving great difficulties in reconciling their provisions with those of later enactments. Such a collection would form a library in itself, and no inconsiderable one. Probably of the many rate supported public libraries in large towns, not one contains a complete series of the special and general statutes which would enable the diligent ratepayer to obtain exact knowledge of the municipal law to which he is subject within the municipal boundary. (34)

If, in addition, a ratepayer wanted to find out how the legislation came to be acquired, he must add to his list, the reports and evidence of national enquiries, Parliamentary proceedings, the proceedings of the local council, the correspondence between the council and the relevant central government department, and the special reports of the parliamentary committees on local bills.

Such a study would be a Herculean task, and no doubt a lifetime's work, and would be far too great an enterprise to be encompassed within the limitations imposed by a study of this nature. It is for this reason that just one thread running through this tapestry of legislation has been selected for detailed consideration, that of building control. It is envisaged that
this particular focus will illustrate more general trends in the evolution of local government growth during the period under review.
III Building Regulations 1840-1914.

The evolution of the framework within which local building regulations developed was a slow process and cannot be related to a particular piece of legislation, but was the result of a series of practical responses to a changing situation. It was not until the Local Government Act Office published its 'form' of building byelaws in 1858, that building control emerged nationally as a distinct phenomenon. The publication of this model code, intended to protect public health, can be seen as the culmination of a process which originated in 1840.(35) From the early 1840s onwards the environmental quality of houses was discussed in terms of its relationship with the public health. Reformers recognised that in order to secure the abundant provision of light and air, that was considered vital for healthy dwellings, there would have to be statutory measures to ensure that the necessary features were incorporated in the layout of housing. The regulations that emerged however were in no way a direct response to this ideal—though the examination of building regulations from the point of view of sanitary reform inevitably tends to emphasise that relationship, and to conceive a line of logical development in the process of housing reform and control. The public health context is insufficient since an assessment of building control needs to encompass the legal and administrative contexts, the balance of national and local interests, as well as the political and economic forces peculiar to individual towns.
It is therefore necessary to move away from considering building regulations purely through the public health movement, though the available sources are an obstacle to this. The sources tend to concentrate attention on the necessity to regulate domestic buildings, especially those inhabited by the working classes, despite the fact that most building controls applied equally to industrial and commercial properties. The sources also tend to reflect the stereotypes of the working class house and the jerry builder that were used to force through legislation. To admit that not all such houses or builders were substandard would have seriously undermined the case for reform. However, it should be borne in mind that it was because of this propaganda that building control was to become widespread, and that it was exactly this class of house and builder that were most in need of regulation. At this lowest level the temptation to undercut regulation standards was greatest, and was thus the point at which the effects of regulation would be experienced most strongly.

Building control was the adopted child of the public health movement. It was protected, moulded and promoted by the movement, but it was not a natural child. The content of the Local Government Act Office's 'form' of building byelaws, and the national structure established in 1858 owed much to precedents which predated the Public Health Movement per se, and hence the start of this thesis. Thus, notwithstanding the chronological parameters of this study, some reference has to be made to
developments before 1840, because of their significance to subsequent events.

As noted above, many of the towns experiencing rapid growth, and the concomitant deterioration of the urban environment, promoted local improvement acts. Since the prime motivating force behind these acts was to ensure greater comfort and convenience when passing along the streets, it was inevitable that such acts included clauses designed to control the features of individual buildings which impinged on street life; specific examples included, cellar flaps in pavements, architectural projections, protruding steps, doors opening outward into the street, and even in some cases washing lines. Thus, by the end of the eighteenth century, rudimentary building controls existed in some, if not all, local improvement acts.

These controls were most highly developed as local building acts. There were relatively few of these before the 1840s, but early examples include, the London Building Act 1774, the Liverpool Building Acts 1834 and 1839, and the Bristol Building Act 1840. (In the last two cases the specialised building measures were preceded by more general improvement acts.(36)) The clauses contained in these building acts covered three major areas, preventing the outbreak and containing the spread of fire; preventing encroachments on streets; and ensuring the stability of buildings.
The publication of the 1858 'form' of byelaws was crucial. The form set the pattern of development for the rest of the period under consideration. However, an examination of the genealogy of the clauses contained in the Local Government Act Office's form illustrates a significant degree of continuity with pre 1840 regulations. In his detailed study of the evolution of English building regulations between 1840 and 1914,(37) Roger Harper demonstrates the way in which post 1840 building regulations conform to the traditions of the old. He makes it clear that although the immediate progenitors of the 1858 'form' were, the London Building Acts of 1844 and 1855, the Towns Improvement Clauses Act of 1847, and the Liverpool Building Acts of 1842 and 1846, the origins of these measures stretch even further back.

The Metropolitan Building Act of 1855 was itself the progeny of the 1844 London Building Act and the Towns Improvement Clauses Act. The latter piece of legislation was in fact a collection of standardised clauses which had tended to recur in local improvement acts from the late eighteenth century onwards. It thus represented the accumulated experience of many towns. Harper has identified specific links with the building and improvement acts of, Liverpool (1837, 1842, and 1846); Bristol (1788 and 1840); and Dover (1810); and the London Building Act (1774). The major precedents of the London Building Act of 1844 were the act of the same name of 1774 and the abortive bill for regulating building in large towns (the Normanby Bill) of 1841. The Normanby bill itself contained clauses that had been
abstracted from the local legislation of those towns that had most fully developed building control before 1840; London, Bristol and Liverpool.

The important point being made here is that building regulations were not 'invented' by the public health movement. The new controls for health were grafted on to a much older stem. Traditional building regulations relating to fire, encroachment and stability were extended after 1840 to encompass new controls intended to protect health. Thus, despite the continuity, 1840 represents a watershed in the history of building regulation. Before that date, controls were designed primarily to protect property and people outside buildings, after 1840 their function was expanded to also protect the health of people living inside the buildings.

The Local Government Act of 1858 was an adoptive act which incorporated the power for local authorities to make byelaws for the regulation of the construction of new streets and buildings, within certain defined areas.(38) The act proved to be a measure of central significance in the succeeding development of building regulations. A 'form' of byelaws was issued by the Local Government Act Office in conjunction with the act, and was intended to be used as a guide by those authorities preparing local codes on the subject. In issuing this model, the Office was conscious of the delicate balance, inherent in a system of byelaw control, which existed between the centre and the
localities. It stressed that the form was merely suggestive, and that it was up to each authority to decide which clauses were applicable to each individual locality. (39)

The national structure established in 1858 was one which balanced local concerns with a certain degree of central control. This central control was an attempt to secure uniformity and standardisation, and to ensure the dissemination of national experience, but the introduction and implementation was left firmly in local hands. This balance was achieved against a background of local mistrust of the development of any central controlling agency. It illustrates the government's aim of creating and imposing national, uniform standards within a framework of local autonomy.

Renewed interest in the sanitary administration of the country was reflected in the setting up of a Royal Commission, in 1868, to investigate and report on the issue. The report of the Commission, published in 1871, confirmed the system of byelaws, with its delicate balance between central and local power, as the most appropriate for dealing with sanitary matters. In line with the main recommendations of the Commission, the Local Government Board was established in 1871, and the consolidation and codification of all previous sanitary legislation was achieved with the passage of the Public Health Act of 1875.
The Public Health Act repealed section 34 of the Local Government Act but re-enacted its provisions, in an expanded form, in section 157 of the new act. Following the precedent established in 1858, the Local Government Board issued a set of model byelaws, which while retaining the main categories, clarified and extended the provision within them. Throughout the remainder of the period section 157 of the Public Health Act of 1875 was the principal byelaw making section in force, although other powers were grafted on to it by section 23 of the Public Health Acts Amendment Act of 1890, and section 24 of an act of the same name of 1907. In line with the extensions made to the authorising statutes, the Local Government Board's model building byelaws were periodically revised, in total seven times between 1883 and 1912.(40)

However, as indicated above, in more general terms, a time lag existed between the identification and definition of the need for general legislation, by towns at the forefront of the new social experiences, and the passage of an appropriate general measure. This lag was circumvented by the promotion of local legislation. As a consequence, the byelaw making provisions of the general law came to overlap with similar powers contained in local acts. Thus the statutory provisions under which byelaws were made, and the byelaws made accordingly, were only one part of the mass of legislation by which Parliament sought to control building. There were in addition, many sections in public general acts, and an immense number of local acts, wholly or in part, which had the
same objective. Thus, any discussion of building control which left out local acts would be entirely misleading.

Moreover, during the period under consideration, an additional branch of legislation relating to building and development reached the statute book, with some of the principles of town planning receiving national legislative recognition in the Housing and Town Planning Act of 1909. Despite the fact that this Act's provisions did not affect existing built up areas, the freedom and opportunities offered by new ideas of the town planning movement fundamentally challenged the restrictive framework of byelaw control. Thus, the impact of these new ideas on the established system of building control has to be considered.
IV Conclusion and Chapter Plan

The chapter has sketched the outline of those issues that are central to this study. It has demonstrated that, with persistent parochialism, the larger local authorities sought to acquire sufficient powers to deal with the social problems with which they were confronted; this led them to the promotion of local legislation. In the practice of administering the powers thus acquired, weaknesses and gaps were identified and the desire for refined and wider powers was enhanced, hence the momentum was provided for additional applications to Parliament. National propaganda after 1840 revealed to central government, not only the extent of the social problems facing society, but also that the lack of uniformity in the institutions and in the powers of local government were themselves obstacles to reform. This led central government to promote general legislation, and to create central departments to administer it, in an attempt to impose uniform standards. When it became clear that such measures, by themselves, were insufficient, new parliamentary practices were introduced to monitor more closely the legislative activities of municipalities. Thus, as experience was accumulated by central government, and the shortcomings were identified, the momentum was provided for additional forms of control.

Therefore, a study of this kind involves the consideration of the mechanics of government growth on two levels, central and local. At the national level, attention is concentrated on the
developments appertaining to the legislature, and on the activities of central government departments, in relation to the aggregate experience of all local authorities. At the local level, the activities of the institutions of local government in dealing with local problems, in Sheffield, will be the focus of attention. Within this study the two levels of government growth are considered separately; although this division is artificial it is adopted for ease of analysis. A continuing theme through both elements is changing nature of the relationship between central and local government, and the changes which occurred in the modes through which that relationship was carried out.

The following six chapters of this study alternate between the central and local perspective.

Chapter Three: National Developments 1840–58.

Chapter Three analyses the way in which the problems of the 'new' industrial society were identified and defined, and explains how legislation relating to local government in general, and building regulations in particular, reached the statute book. By demonstrating how the framework for a national system of local building regulations emerged, a context is established within which local concern and debate can be located, and the ground is prepared for assessing the development of building control after 1858.
Chapter Four: Local Government in Sheffield 1840-64.

The particular concern of Chapter Four is to demonstrate the mechanisms by which the uniform standards of sanitary administration, created and defined by central government, were disseminated nationally. Included in this chapter therefore, is an analysis of the various factors which were influential in the acquisition by Sheffield town council of the Local Government Act of 1858. By demonstrating how Sheffield came to acquire this Act, by describing the mechanics of local legislation, and by reviewing contemporary attitudes towards the regulation of building, the ground is prepared for the detailed analysis of the development of building control contained in chapters Six and Eight.

Chapter Five: National Developments 1858-90.

The central purpose of Chapter Five is to analyse the ways in which central government conducted its continuing struggle to ensure uniformity in local sanitary administration. Attention is concentrated upon the instruments devised by central government departments, and in Parliament, towards this end. Chapter Five demonstrates that during this period, although it was not generally acknowledged, central government had created an institutional framework which was underpinned by a belief in the dynamic accumulation of legislation.
Chapter Six: Building Regulations in Sheffield 1864-90.

Chapter Six undertakes a detailed investigation of the 'processes of administration' of building regulations in Sheffield between 1864 and 1890, together with an analysis of the ways in which controls relating to building were expanded and refined during the period. The fact that administration itself can be creative and self generating is illustrated, by establishing direct connections between the implementation of the regulations and the formulation of new controls.

Chapter Seven: National Developments 1890-1914.

Chapter Seven considers the challenge posed to the established system of building control by the freedom and opportunities offered by the new ideas of the town planning movement. The attempts which were made by central government to modify the established system of regulation, in order to adapt it to the new demands of the time, are also examined. In Chapter Seven an analysis is conducted of the ways in which the national development of building regulations between 1890 and 1914 departed from the pattern of government growth predicated by MacDonagh's model. An alternative pattern is suggested, which postulates the existence of an additional stage of government growth.
Chapter Eight: Building Regulations in Sheffield 1890-1914.

Chapter Eight takes up the analysis of local building regulations from where Chapter Six left off. Moreover, the concentration on events in one particular locality, enables a detailed investigation to be undertaken into the challenge posed to the established system of regulation by the increasing interest in town planning ideas. This chapter also presents a local perspective of how the development of building regulations departed from the pattern of government growth predicted by MacDonagh's model.

Chapter Nine: Conclusion.

The concluding chapter of this study uses the preceding analysis of developments in the field of building regulation as a basis for constructing a refined model of government growth, one particularly concerned with the pattern of local government growth.
FOOTNOTES


(4) ibid.


(6) Redlich and Hirst, Local Government, 103-4.

(7) Hennock, 'Central/Local Relations', 41.


(9) E. P. Hennock, 'Urban Sanitary Reform, a Generation before Chadwick', Economic History Review, Second Series, vol. 10 (1957-8) 113. Though Hennock regards the 1840s as the significant decade.

(10) E. Gauldie, Cruel Habitations: A History of Working Class Housing 1780-1918, (1974) (hereafter Gauldie, Cruel Habitations) 101-12. The following section is based on Gauldie's Chapter 8, 'Publicity for Squalour'.


(12) The Manchester Statistical Society was founded in 1833, and the Statistical Society of London broke away from its parent the British Association for the Advancement of Science in 1834. Others established during the 1830s include those of Bristol, Leeds, Birmingham, Liverpool, Glasgow, Aberdeen and Belfast. Gauldie, Cruel Habitations, 105-6.


(14) Gauldie, Cruel Habitations, 108.

(15) ibid, 108-9.


2. The Gasworks Clauses Act.
3. The Commissioners
5. The Harbours, Docks and Piers Clauses Act.
6. The Town Improvement Clauses Act.
8. The Town Police Clauses Act.


(20) ibid. 54-55.


(23) Clifford, *Private Bill Legislation* 2, 530

(24) Chapter Five, 231-32.


(27) See below, 66-7.


(30) ibid. paragraph 15.

(32) ibid. 216 and 222.

(33) PSR, P.P. 1894 XV, 3, paragraph 5.

(34) Clifford, Private Bill Legislation 2, 533-34.

(35) The emergence of building control as a distinct phenomenon is analysed in Chapter Three. It is roughly parallel to Stage One in MacDonagh's five stage model of government growth.

(36) The Bristol Improvement Act 1788 and the Liverpool Improvement Act 1825.


(38) 21 & 22 Vic. c. 98, section 34.

(39) Gaskell, Building Control, 23-23.

(40) Knight's Annotated Model Byelaws of the Local Government Board, (1st edn. 1883); (2nd edn. 1885); (3rd edn. 1890); (4th edn. 1893); (5th edn. 1897); (6th edn. 1899); and (7th edn. 1905).

(41) 9 Edw. 7. c. 44.


(43) Chapter Seven, Sections I and II, and Chapter Eight, Sections II and III.
CHAPTER THREE: NATIONAL DEVELOPMENTS 1840-58

The aim of this chapter is to consider how the problems of the 'new' industrial society were identified and defined, and how and why particular legislative solutions were formulated. In the first instance this chapter will deal with the general debate over public health, since it was out of this general mêlée that the framework for a national system for local building regulations emerged and became established under the Local Government Act of 1858. In demonstrating how this Act came to contain the provision enabling authorities to produce local codes of building byelaws, the ground will be prepared for assessing the post 1858 development of building control, and a context will be established within which local concern and debate on the subject can be located.

The bureaucratic and legislative development of public health administration is a story of incoherent and fitful growth of central government powers, and of reforms generally pushed through in the face of both political and general indifference or open hostility. Most public health measures did not form a central plank in any ministry's platform. General elections and the fortunes of ministries hardly hinged on issues of public health, and neither party developed a comprehensive ethic or philosophy of public health. And yet the central government's involvement with public health grew, as a response to the widely exposed needs of the day.(1)
This chapter will investigate how, in spite of indifference and hostility towards proposed legislation, remedial measures did reach the statute book. In addition, and most importantly for present purposes, it will demonstrate, using the example of building regulations, how central government came to assume overall responsibility for the creation of national uniform standards of sanitary administration, but left the responsibility for their introduction and implementation firmly in local hands.

It has been indicated in the introduction that the key to the development of central supervision and control of building regulation lies in the struggle by government to create and impose national uniform standards of sanitary administration, within a framework of local autonomy. The 1858 Local Government Act symbolised the central government's commitment to this struggle. However, it would be going too far to suggest that this commitment was the fruit of deliberate policy; rather it was the culmination of a process that had begun in 1838, but the outcome of which was in no way inevitable.

This chapter will be divided into four main sections.

Section I will consider developments during the period 1840 to 1858 relating to the 'process of exposure'. The ways in which the problems facing society were perceived will be analysed, as will the proposed legislative solutions.
Section II will concentrate on aspects of the general debate over public health which particularly relate to the subject of building control.

Section III examines the events and attitudes, relating to local government in general and building regulation in particular, in the decade leading up to the passage of the Local Government Act of 1858. It was during this decade that the foundations of a national system of building control were laid.

Section IV briefly considers the contemporary perception of executive officers, those agents who, in MacDonagh's terms, brought the administrative-cum-legislative process to life. The discussion of this issue is introduced at this stage because, although as yet their influence is of only limited significance, the function of these officers figures strongly in subsequent chapters of this study.
The Process of Exposure.

The ten years preceding the passage of the 1848 Public Health Act can be regarded, with qualifications to be discussed later, as analogous to stage one in MacDonagh's five stage model of government growth. According to MacDonagh once a social evil was sufficiently exposed, the ensuing demand for a remedy at any price set in motion an irresistible engine of change. The Public Health Act was the culmination of a process of exposure which followed a general pattern of enquiry, report and legislative recommendation. Indeed in this instance the process included the unsuccessful promotion of legislation which foundered in the face of resisting forces. The Public Health Act itself was a compromise between what the reformists considered desirable, and what was practically attainable, given the various resisting forces.

The process of exposure was initiated in 1838 by the inclusion, in an official government publication (the Fourth Report of the Poor Law Commissioners) of three reports vividly portraying the awful conditions prevailing in some part of London. The reports were the work of three fully qualified medical men, Doctors Kay, Southwood-Smith and Arnott. Their reports exposed the fact that the vast majority of the inhabitants of the chief city in the world were living in physical circumstances which precluded healthy existence; and that, even with the exercise of prudence on their part, these evils could not be avoided. They concluded
that because the evils described were essentially 'removable', it was the responsibility of the state to provide the necessary environment for healthy living.

In August 1839 Blomfield, the Bishop of London, addressed the House of Lords on the subject of the London doctors' reports, and moved that an enquiry be made into the sanitary condition of the labouring classes. (According to Sir John Simon this move was undertaken at the instigation of Edwin Chadwick.(3)) In his position of secretary to the Poor Law Commissioners, Chadwick embarked upon this enquiry in the Autumn of 1839.

Chadwick had been at work for six months when R. A. Slaney, an MP and public health enthusiast, who was impatient with the slow progress being made by Chadwick's enquiry, secured the appointment of a select committee of the House of Commons. This select committee was instructed to enquire into the circumstances affecting the health of inhabitants of large towns and populous districts, and, on the basis of the evidence collected, was to make recommendations as to how sanitary regulations could be developed for their benefit. Between March and June 1840 the select committee examined 40 witnesses. Its report, which was published on 17 June 1840,(4) contained three major recommendations; the first and second related to the drafting of two pieces of national legislation, a general building act and a general sewerage act. The third suggested the establishment of local boards of health in each town.
The premiss on which the select committee was appointed was that town dwellers needed the protection of sanitary regulations. Although there was unanimity on this point among public health enthusiasts, the view by no means attracted universal support. Thus, one of the objects of the Select Committee was to establish the ground rules of state intervention.

One of the first points recognised by the committee was that the conditions described by the London doctors were by no means exceptional. Witnesses from major towns in England, and from Scotland and Ireland, confirmed that the problems were general. This evidence led the committee to the conclusion that all centres of population, 'appear to stand in need, more or less, of measures calculated to enforce sanatory [sic] regulations for the benefit of the humbler classes.'(5) Thus, any legislation contemplated would have to be of a general nature.

All the evidence submitted to the select committee confirmed the findings of the London doctors: the correlation between dirt, disease and death; the inability of the working classes to improve their situation, and their consequent exploitation; and the palpable failure of existing local authorities, under existing regulations, to provide adequate protection. All these were cited as sufficient justification for national legislation. It is, however, clear that altruism was tinged with some anxiety about the threat posed by the massed ranks of the potentially depraved, urban dwellers. By far the most persuasive factor used
in favour of improved regulations was the saving of the poor rates that would be achieved if investment was put into the prevention of disease rather than its cure. This mixture of motives is neatly encapsulated in this extract from the select committee's report.

It is hoped that they [the committee] will be justified in the conclusion they have come to that ultimately a great saving to the community will thereby take place; and even if that were not the case, that some measures are urgently called for, as claims of humanity and justice to great multitudes of our fellow men and as necessary not less for the welfare of the poor, than the safety of property and the security of the rich.(6)

Notwithstanding the evidence that was accumulating vindicating intervention, the committee still found it necessary to provide reassurance to the effect that legislative action had definite limits. Thus,

The regulations would be framed so as to interfere no farther with everyone's right to manage his own property than was necessary to protect the health of the community; nor would they extend beyond what the necessity of that urgent duty of government justified.(7)

The 'urgent duty of government', under the committee's criteria, extended to a building act, a sewerage act, local boards of health, and a few other miscellaneous provisions.

In general, the Report of the Select Committee on the Health of Towns lacked understanding, precision, definition and foresight, and, to use MacDonagh's phrase, was but 'an amateur expression of good intentions.'(8) That this was so was reflective of the circumstances under which the inquiry was conducted, and, significantly, the alacrity with which it was completed. In a
period of just over three months, the committee analysed the enormous urban problems generated by industrialisation, and deduced from that analysis the steps that should be taken to mitigate the evils.

The limitations of the report can be further attributed to a number of specific causes. Firstly, it should be noted that, as a distinct professional group, medical men dominated the inquiry. Nineteen, out of a total of forty witnesses, were professionally involved in medicine. They worked on the front line and experienced firsthand the dreadful consequences of neglect; they were the ones calling loudest for protective regulations, in spite of the fact that they had only a limited idea of how such regulations would work. Secondly, the quality of the committee's report, depended to a large extent on the extent and reliability of the information that it received. Thus, on technically complicated matters, such as building, drainage and sewerage, the understanding of the committee was limited by the understanding of the witnesses. Given the rudimentary and contradictory knowledge that was available on these 'new' technical subjects, the lack of precision and definition is not unduly surprising; especially since only two, of the forty witnesses appearing before the select committee, were professionally associated with building. Thirdly, the fact that the recommendations put forward by the select committee, as far as general legislation was concerned, were in a field with few legal precedents, to some extent explains the problems experienced.
However, it is not only in hindsight that the limitations of the report of the select committee become apparent. It is difficult not to agree with Chadwick's assessment of the select committee's recommendations, which he dismissed as, 'offhand and easy generalisations, which could be reduced to little practice.' (9)
The consequences and implications of the recommendations had not been thought through; the respect demonstrated for property interests ensured that these would not be seriously threatened; and the sanction given to existing organs of government implied that their inefficiency and inadequacy would be nurtured.

After presenting his committee's report, Slaney then introduced a bill based on its recommendations into the House of Commons. But the bill, like the report, was superficial and premature and never received a Second Reading in Parliament. (10)

Notwithstanding this failure, the recommendations of the Select Committee on the Health of Towns did provide the foundations for legislation promoted through the House of Lords. Despite the fact that this legislative attempt was itself ultimately abortive, its passage through the initial parliamentary stages added considerably to the contemporary debate.

During the London inquiries of 1838, one of Chadwick's mild converts to the cause of public health was Lord Normanby, who, in September 1839 succeeded Lord John Russell as Home Secretary. (11) Normanby accepted eagerly the findings of Slaney's committee and
early in the 1841 session introduced three bills based on its recommendations;

1) A Bill for the Improvement of Boroughs
2) A Bill for the Regulation of Building in Large Towns
3) A Bill for the Better Drainage of Large Towns and Villages.

These bills were lost in September 1841 when the government fell, but were reintroduced early in February 1842 in the House of Lords; by the end of February they had reached the Commons. The history of the bills was complicated by a series of divisions, and the drainage bill was lost altogether at an early stage. However, during March 1842 a select committee was appointed to consider the bills relating to building regulation and the improvement of boroughs.

The evidence submitted to the Select Committee on Buildings Regulation provides a detailed analysis of the bills, and a very thorough commentary on the problems surrounding the subject of building control. The Slaney committee had made the recommendations, but this committee considered their implications. There were no medical practitioners among the witnesses; surveyors, builders and council officials accounted for 14 out of the 15 witnesses, and the fifteenth was a property owner. All were in the business of building, owning or administration and were thus well placed to give the inquiry the benefit of their expert knowledge and experience.
The issues raised by the select committee's investigations were to prove of lasting significance, despite the fact that the bills never reached the statute book. One illustration of this is to be found in the fact that, after the reports of the select committees of both 1840 and 1842, it became generally accepted that traditional forms of legislation relating to building, sewerage and town improvement could be expanded to encompass provisions designed to protect and preserve the public health. That this was so is attested to by the fact that many towns during the 1840s, acquired local acts of Parliament which incorporated at least some of the provisions that were discussed before the select committees.(13)

Whilst both the select committee inquiries had been going on Chadwick was working away in the background on his sanitary report, that had been commissioned in 1839. He had been ordered to cease work by Normanby, much to his irritation, while the fate of the building regulations bill was decided, but the inquiry was restarted when Sir James Graham was appointed Home Secretary. The Sanitary Report was finally published on 9 July 1842.

The results of three years work had turned Chadwick away from small scale detailed regulations, towards the whole spectrum of sanitary reform.(14) The Report on the Sanitary Condition of the Labouring Population concentrated on a more profound analysis of disease, of which unhealthy dwellings were merely a symptom. Chadwick took the revolutionary step, in terms of the science of
sanitation of the time, of considering house drainage, street drainage, main drainage, water supply, and street cleansing and paving as all interconnected and inseparable constituent parts of one great and general problem. Chadwick was now therefore fundamentally opposed to partial solutions symbolised, for example, by the Buildings Regulation Bill.

Chadwick identified the 'problem' as one of atmospheric pollution. (A conclusion influenced and sustained by the miasmic theory of disease transmission.) It followed that the steps necessary to remove this atmospheric impurity, at its multiplicity of sources, included drainage and sewerage, refuse disposal and scavenging, and the provision of abundant supplies of fresh water. It was concluded that the internal economy of a house was primarily affected by defective internal and external drainage. This defective system produced the damp and the dirt, with which the inmates of a house so often failed to contend. (15) Chadwick also indicated the very difficult problem of separating cause from effect,

It will have been perceived how much of the existing evils result from the external arrangements for drainage and for cleansing, and for obtaining supplies of water. Until these are completed, therefore, the force of evils arising from the construction of houses themselves could scarcely be ascertained. (16)

It was not until about 50 years later when the external arrangements had been supplied, and when a measure of sanitation had been brought to the majority of British towns, that the evils
arising particularly from the construction of houses could be isolated.

On the whole, the Sanitary Report consciously eschewed making recommendations, preferring to leave the facts to speak for themselves. As Flinn has pointed out, the Report devoted the greater part of its space to establishing four major axioms. 1) Establishing the correlation between insanitary conditions, inadequate water, and overcrowding on the one hand, and high mortality, disease, and low expectation of life on the other. This was counterbalanced by illustrations of the effectiveness of improvements. 2) An assessment of the economic cost of ill health. 3) An assessment of the social consequences of ill health. 4) Establishing the necessity for an effective administrative system for public health.(17)

The purpose of the Sanitary Report was to influence public opinion, and to achieve that it needed publicity. As it was a House of Lords report it had only a limited circulation. Chadwick therefore arranged for its publication in quarto form, as this was less bulky than the parliamentary folio.(18) More copies of the Sanitary Report were sold by the stationery office than any previous government publication.(19) It has been estimated that in total over 10,000 copies were either sold or given away.(20)
Sir James Graham, the Tory Home Secretary, was unenthusiastic about the cause of sanitary reform. It was therefore a measure of the effect of Chadwick's report, and of the advances made by other public health campaigners, that early in 1843 a Royal Commission on the state of large towns and populous districts was appointed.\(^{(21)}\)

The Sanitary Report had outlined the case for reform, but had provided no details of the legislative measures necessary, beyond general principles. The role of the Royal Commission was to substantiate, by more systematic and widespread survey, the accuracy of Chadwick's work, and thence to point more precisely to details of legislation. The Royal Commission was thereby, a logical extension of the Sanitary Report.\(^{(22)}\)

Though Chadwick was not appointed as one of the commissioners, he nevertheless exerted a considerable influence on proceedings. The meetings of the Royal Commission were held at Gwydyr House, the headquarters of the Poor Law Commission, to which Chadwick was secretary. Chadwick took control by marshalling and priming the witnesses, by taking notes of the evidence, by preparing resolutions, and by drafting reports.\(^{(23)}\)

The reports of the Royal Commission reiterated, confirmed and expanded the findings of the previous inquiries. Not surprisingly, given the influence of Chadwick, an all embracing approach to public health problems was adopted, and this approach
is reflected in the recommendations. The commissioners concluded, as had their predecessors, that additional powers were necessary for the effectual correction of existing evils. But they were convinced that no progress could be made until the administrative arrangements for drainage, paving, cleansing and the supply of water were improved by placing them in the hands of one local body. Even then it was considered vital that a department of central government should be given powers to inspect and supervise local sanitary work, in order that the recurrence of local inaction and neglect could be avoided. Underlying the report was a cry for the extensive remodelling of the role and functions of both central and local administration. (24)

After the second report of the Royal Commission was published in February 1845 unrelated events, such as the Irish famine and the corn law crisis, conspired to prevent public health legislation. Lord Morpeth did introduce a Public Health Bill in 1847, only to have it thrown out. A new revised bill was introduced early in 1848, which, after a prolonged struggle and the sacrifice of certain provisions, but aided at the end by the impending epidemic of cholera, finally became the Public Health Act of 1848, the culmination of ten years work. (25)

At the start of this chapter it was indicated that the period 1838-48 in the bureaucratic and legislative development of public
health administration, could be regarded as roughly analogous to stage one in MacDonagh's five stage model of government growth, that is, the first legislative response to the exposure of a social evil. The preceding account has demonstrated that the events of 1838-1848 cannot be so easily categorised.

This is because once it was accepted that existing legislation was a stem onto which the new health regulations could be grafted, we move into the realm of re-regulation. The enquiries of the 1840s exposed not only the terrible social evils crying out for regulation, but also the inadequacy of existing local agencies, operating under existing local legislation, to cope with the problems. The realisation that existing legislation was incapable with dealing with the problems at hand was followed in MacDonagh's model by the appointment of inspectors who were charged with the responsibility of ensuring implementation. However, in the area of public health administration, such appointments were not at this stage considered decisive. Instead, the way forward was seen to lie in centralisation and uniformity.

It is apparent that by 1845 the prevailing view was that the only way in which order could be brought out of chaos was to impose uniformity on both the organs of local government and the powers at their disposal. The implications of this belief were, that all local government functions should be centralised in one local authority, and that the plethora of varying local acts of
Parliament should be superseded by a general act that was nationally applicable. It was also recognised that, in order to prevent local authorities neglecting their obligations, some central supervisory body was needed. It should be noted that this central body was never intended to assume the responsibilities of local authorities, but was only meant to oversee their activities. The Public Health Act of 1848 provided a uniform code of regulations and established the General Board of Health as a central supervisory body. However, the centralisation of local government was much more complicated. Some towns did make progress in concentrating all the functions of local government in one body, but many obstacles could and did militate against this. Chapter Four will illustrate this point in relation to one specific example, Sheffield.

Thus it can be seen that this example of government growth encompasses elements of stages one, two and three of MacDonagh's model.

It has already been indicated that some towns had acquired local acts which included provisions that were intended to protect and preserve the public health, before the national act reached the statute book. The mere fact that they did so highlights some of the problems associated with MacDonagh's concept of intolerability. It is an implicit assumption of MacDonagh's analysis that if a social evil called forth a prohibitive enactment, ipso facto that evil must have been intolerable.
Thus, in this case it could be said that some evils were considered intolerable in some localities before others, and before such evils were considered intolerable nationally. However, the existence of a local prohibitive act is not necessarily a reliable yardstick of intolerability. In some cases towns acquired wideranging local acts merely to avoid the spectre of central domination. It would therefore be a mistake always to interpret such an acquisitions as a sincere expression of the determination to tackle the enormous social problems.

It should also be noted that even after the passing of the Public Health Act many of the larger towns continued to promote local legislation. The avoidance of central interference was not always the dominant motivation. These larger towns, which were in the forefront of the new social experiences, continued to face problems to which the sparse general legislation provided in their opinion no suitable remedy.(27) Thus, notwithstanding the above comment, it is possible to regard this 'relative intolerability' as a vital factor in the national legislative process. In the absence of inspectors reporting directly back to a central authority, the promotion of local legislation directed the attention of the legislature to new areas requiring regulation, and/or the need for re-regulation. It was this process that undermined general statutes, and which in time was to erode central government's static concept of administration.
II Building Regulation.

The preceding section has dealt with the process of exposure of a myriad of social evils which eventually culminated in the Public Health Act of 1848. Despite the fact that a considerable amount of the debate concerned aspects of building control, and the fact that a national buildings regulation bill had been promoted, the subject received only minimal attention in the 1848 Act. Notwithstanding this scant legislative recognition, the issues relating to building control brought up before the 1840s enquiries had lasting significance. Indeed, the failure of a national building act, and the absence of detailed provisions relating to building in the Public Health Act, to a great extent determined the way in which building control was subsequently to develop. Thus, it is necessary to consider in greater depth the aspects of the general debate that particularly concerned building control during the early 1840s.

In the earliest stages of the process of exposure a general building act was considered to be the most obvious solution to the manifold social evils. The first suggestion that an enactment of this nature would be an appropriate vehicle for improvement is to be found in Dr Southwood Smith's 1839 report to the Poor Law Commissioners. (28) It is apparent that at this time the secretary to the Poor Law Commissioners was also thinking along the same lines. A letter written by Chadwick to Lord John Russell, the Home Secretary, before he embarked on his enquiry
into the sanitary condition of the labouring population, (29) and the circular letter sent to all assistant Poor Law Commissioners, at the start of the enquiry, (30) indicate that the only legislative measure initially contemplated was a general building act, concerned with such matters as house drainage and the width of streets.

The promotion of a national building act was one of the three measures recommended in the 1840 report of the Select Committee on the Health of Towns. Such protection was seen to be needed by many town dwellers, who, having to live close to the sources of employment in the centre of towns were particularly susceptible to exploitation by building speculators. The situation was compounded by the fact that the smallest property was the most remunerative, since such houses could be tightly packed on to the available ground. Sanitary conveniences such as water, drainage and toilet accommodation could be ignored with impunity. With the ownership of property dispersed in the hands of petty capitalists, there was little hope that improvement would be generated in the absence of regulation.

Thus, it was the unanimous opinion of the witnesses who appeared before the Select Committee on the Health of Towns in 1840 that protection should be extended to the working classes in towns. The debate was centered on the type of regulations necessary, and the responsibility for their enforcement.
Various forms of accommodation were designated as health threatening, these included, cellar dwellings, houses built back-to-back, and houses built in closed courts. It was therefore envisaged that any ensuing act should prevent these forms of unhealthy construction. In addition certain features were judged to be essential requirements for healthy living, these included, the provision of open space, in front and behind, and proportionate to the height of the house, in order to provide adequate ventilation; the provision of conveniences, an absolute essential for health and decency; the provision of refuse receptacles, the absence of which was considered inconsistent with cleanliness and therefore health; and finally, sufficient underground drainage to connect houses to common sewers. Thus, it was envisaged that these new features regarding health would be combined with traditional clauses concerning safety and convenience, of the type already contained in the London Building Act of 1774, to form a national building act.

The Report of the Select Committee on the Health of Towns was a testament to the desirability of regulation, rather than a thorough investigation of the predictable implications of legislation of this nature. A typical illustration of this can be found in just one example. A doctor from Leeds, when questioned on the likely consequences of the regulation of speculative building, replied, 'I think the expense would never be such as to prevent legitimate speculation, and it strikes me that some check ought to lessen the effects of the avarice and
neglect of many proprietors.'(31) This reply, and numerous other that could be cited, demonstrates that there was a pervading belief that, although regulation would inevitably increase construction costs, and hence rents, the improved standard of accommodation would render the inhabitants both willing and able to pay the increased charges, thereby rebalancing the equation.

It is significant that the two witnesses professionally involved in building were the only ones to express definite reservations about this realignment mechanism that was otherwise found so attractive. Thomas Cubitt (builder) predicted that the result of inflated rents would be an increase of overcrowding which would wipe out the advantages gained by improved accommodation.(32) Although John White (district surveyor) was convinced of the necessity of regulations to protect the working classes, he was also very wary of any measure that would exert upward pressure on rents, which he considered to be already high enough.(33) Both men supported the idea of regulation, but from experience knew that the major limitation would be the inability of many to afford the, albeit improved, regulation standard accommodation. Such views were not however reflected in the select committee's report.

The analysis of this issue was taken a stage further by witnesses appearing before the select committee that was set up to consider Normanby's Buildings Regulation Bill. Many of the professional witnesses reiterated the point made by Cubitt and White that
since tenants could not afford the existing rents, any increase would result in more overcrowding, which would nullify the effect of any improved accommodation. But more worrying still was the fear that increased costs would reduce the returns on any investment in cottage property, and this would deter potential investors. The supply of houses would thus be constrained, and an upward pressure would be exerted on rents of existing houses, which in turn would lead to increased overcrowding. Thus, far from actually improving working class dwellings, the introduction of building regulations could very well have rendered them more expensive and overcrowded and thus, even more unhealthy.

Although in the long run the Slaney committee's assumption that inhabitants would be willing and able to pay increased rents could be said to have had some validity, this was not true in the short term. The immediate problems surrounding the introduction of building regulations were most clearly articulated by Chadwick in his Sanitary Report.

"For practical legislation on the subject of increased charges on tenements, the labourer must be considered in a state of penury, and ready to shift from bad to worse for the avoidance of the slightest charges, and therefore to be approached with the greatest caution."

Thus, any legislative measure would have to be limited in order that the increase in rents would be minimised.

This awareness of the need to restrict the application of building controls can be seen to have operated during the committee stage of the Buildings Regulation Bill. The original
Bill, in addition to traditional concerns of structural stability fire and encroachment, included a number of health provisions of the type recommended by the Slaney committee. Included in these were provisions intended to prevent forms of construction designated as health threatening, namely, cellar dwellings, back-to-backs, and houses in closed courts. There were, in addition, clauses to promote ventilation, both inside and outside dwellings, and one clause regarding the provision of yards and conveniences for small houses. There were no clauses concerning house drains, and their connection with sewers, as these were lost with the drainage bill. The Bill sent to the select committee contained 79 clauses, that which emerged contained only 35. Of the 35 clauses relating specifically to building construction (as distinct from administrative clauses) that were present in the original Bill, only 11 remained after the committee stage. During the course of the committee's proceedings the clauses relating to back-to-backs and court houses were lost, as were most of the traditional building regulations.

The debate in committee, and the eventual loss of the clause banning back-to-backs, clearly illustrates the desire to limit rent increases. Joseph Franklin, the surveyor to Liverpool Corporation, was of the opinion that the provisions of the town's building act had increased the cost of building, but that the resulting increase in rents had been limited to about one per cent, or 10 shillings a year. However, the Liverpool act did
not proscribe the construction of back-to-backs, as the Bill intended to do. Various witnesses submitted estimates of the increased costs that would be consequent upon the building of cottages in accordance with the provisions of the proposed Bill; that is, not built back-to-back, with yards and conveniences, with walls of specified minimum thicknesses, and with stipulated amounts of timber. The estimates of the proportionate increase in building costs ranged from 25 to 30 per cent. (38)

It was the fear that this increase in costs, by increasing rents, would multiply the number of families sharing houses, that engendered particular concern. It was felt by the majority of witnesses that sole occupation of a house was of great importance, both in terms of the moral and the physical welfare of the family. (39) (One of the objectives of the Liverpool Building Act of 1839 was to ensure that sole occupation was not put beyond the reach of the poorer classes.) Therefore most witnesses found themselves having to make the unpalatable choice between back-to-back houses and multiple occupation. Only one witness found the limitations of the back-to-back so deleterious to health that he felt it necessary to come down in favour of multiple occupation. (41) Most decided, with varying degrees of reluctance, in favour of the back-to-back; though the majority of these did admit that a rear access would make such houses much more comfortable and healthy. The back-to-back did however have its supporters, and was thought by one particular witness to be a useful and cheap dwelling for the working classes, especially for
small families or single people. Irrespective of personal preferences, all witnesses agreed that if the back-to-back was proscribed, the direst consequences would ensue.

A few years later, the Royal Commission again considered the position of the back-to-back. The commissioners concluded that the evils arising from this form of construction were not so marked as to warrant its complete prohibition.

Although the desire to avoid unduly increasing working class rents is a sufficient explanation of the loss of particular clauses, it does not provide a complete explanation of the loss of the whole Buildings Regulation Bill.

The Buildings Regulation Bill was not welcomed enthusiastically. The vast majority of the 53 petitions submitted on the Bill, both from town representatives and individual landowners, were presented in opposition. Most witnesses who appeared before the select committee on the Bill, claimed to be sympathetic towards its aims, but demonstrated that cruel economic facts of life would combine to prevent the realisation of such aims. Much was also made of the sanctity of the rights and privileges appertaining to private property. Nevertheless, there were indications that it was not the controls themselves that were at issue, but it was the fact that such controls were to be contained in a general act of parliament that posed the problem. Witness after witness, in addition to questioning whether the
proposed Bill would have the desired effect, argued that their particular town was currently operating adequate and effective regulations, and would hence not benefit from any general measure. These witnesses were concerned that local interests would be subordinated to national control. It is this concern which, to a large extent, explains why so much cold water was thrown on the proposed Bill.

This view is corroborated by the fact that Liverpool, Manchester, Newcastle-upon-Tyne and Leeds, (to cite just a few examples) acquired local acts of Parliament during the early 1840s, and all incorporated at least some of the provisions that were discussed before the select committee. Even while the Normanby Bill was progressing through Parliament Liverpool was promoting its own new building act. The town had succeeded in securing an exemption from the bill before it was eventually lost. Two years after the committee on the Normanby Bill had been warned by Thomas Hopkins, the chairman of Manchester's Sewerage and Paving Committee, that the cost of banning the back-to-back would be prohibitive, the reform was effected under a local act. The Leeds Improvement Act of 1842 contained 25 clauses that were directly abstracted from the Buildings Regulation Bill. The overriding motive behind the timing and character of these local acts was the avoidance of central government domination. This view was articulated by the chairman of Liverpool's Health of the Town Committee,

It was generally found that when general legislation took place, the particular wants of places at a distance from
London were not as much attended to, therefore it was desirable that they themselves apply their own remedy to what they should find to be their own wants. (46)

All these examples imply that the objections were directed towards the spectre of central control, rather than at particular provisions; thus, the tenor of the evidence that was submitted to the select committee has to be viewed with this in mind.

Despite the failure to produce any general legislation, the debate contained within the reports of the select committees on the Health of Towns and on the Normanby Bill were influential in the continuing development of building regulations. As indicated above, building controls did become enshrined in some local Acts of Parliament, albeit not in any uniform or systematic manner; and most of the clauses of the Normanby Bill were to become legislation in the London Building Act of 1844. Although a national building act had proved unacceptable, the precedent of building regulations as health regulations had been established, and a precedent in the legislative process was all important. In addition, the acquisition of building regulations, even only in a relatively few towns, dramatically increased the scope for the gathering of experience in their administration.

The failure of the proposed national building act was in itself very significant. It emphasised the need to cater for local interests and variations, and illustrated the difficulty of applying a rigid system to all towns. It also clearly
demonstrated that sanitary reform and environmental control had to be made effective on the local and not on the national level.

Chadwick, in his own enquiry, had reached just this conclusion. By 1843 he was well aware of the limitations that would beset a national building act. 'It is dangerous to legislate in detail, for the information is not usually available for legislative preparation against all existing local difficulties, and still less, future important contingencies.'(47) Chadwick thus highlighted the essential conditions for effective national building control. In 1858, sixteen years later, the Local Government Act empowered local authorities to make building byelaws. The uniform structure was set out in the act, but the essential element of flexibility was retained, with the local authority able to select the byelaws that were most appropriate for its own district.

When it came to actually proposing detailed legislation the Royal Commissioners did consider the propriety of extending building controls nationally. They discussed with numerous builders of working class houses the potential costs and benefits of introducing detailed regulations intended to increase stability or reduce fire risks. The commissioners found few examples of unregulated construction that was at particular risk from fire. (It should however be noted that this had less to do with the methods of construction, and more to do with the fact that, in working class homes fires were rarely left unwatched; and also
that rooms with small cubic capacities did not provide fertile conditions for fire spread.) It was therefore concluded, after careful consideration, that it was not necessary to introduce into a general measure stringent regulations which would increase costs of construction merely to provide against fires that rarely occurred.\(^4\)

The criterion by which the commissioners assessed potential building regulations was as follows: was the necessity of the provision sufficient to overcome the upward pressure that would be exerted on rent levels? In only three areas was this criterion considered to have been satisfied.

Firstly, it was recognised that to prevent houses from being built so close together as to constitute a health risk, courts and alleys would have to be subject to minimum widths, proportionate to the height of the houses, and would have to be open at both ends.\(^4\) In this way external ventilation would be secured. Precedents for such provisions were to be found in local acts in London, Manchester, Liverpool and Leeds.\(^5\)

Secondly, the commissioners were persuaded that cellar dwellings were so often so totally unfit for human habitation that regulations for their control were absolutely imperative. Again precedents were to be found in local acts.
Thirdly, it was thought that the provision of proper and sufficient conveniences for the accommodation of inhabitants was absolutely vital for healthy dwellings, it being, 'unnecessary to dwell upon the extensive injury to health, decency and morals which such defective arrangements inevitably entail.'(51)

Improvements were necessary, not only in the quantity of privies available but also their quality. It was essential that privies should be watertight, in order to prevent contamination and saturation of contiguous walls and adjoining ground. Precedents for this type of clause were found in the local acts of Leeds, Liverpool and Salford.(52)

It was only in these areas that the need for protective national legislation was considered pressing. It was generally believed that interference in the minute details of construction was unnecessary. The Royal Commissioners were well aware that a few towns, namely London, Bristol and Liverpool, were operating detailed codes of building regulations, but thought that insufficient time had elapsed in order that their effects could be analysed with certainty.(53) Thus, the possibility of such controls being applied nationally was not altogether ruled out, but first they had to be proved to work effectively in practice.

It is therefore easy to understand why the Public Health Act, which appeared in 1848, did not contain a whole series of detailed constructional requirements.
Notwithstanding this relative lack of legislative recognition, it should be noted that by 1845 certain principles had been established which were to govern the future development of building regulation. One of the principles established concerned the contentious issue of retrospective legislation. There was a deep-rooted antipathy for regulations, made after the event, to be retrospectively binding. This was quite apart from the practical difficulties that would have been encountered in, for instance, requiring an existing cellar dwelling to be provided with a three foot space in front. Even the London Building Act of 1774, the great precedent for succeeding building regulations, contained no provisions which gave the authorities power over buildings already erected. The antipathy, the practical difficulties, and the lack of legal precedent were to be decisive in the early development of national building regulations, and ultimately ensured that building regulations would only apply to new buildings in the course of their construction. Thus, the potential of building regulations to play a significant role in the improvement of existing buildings was effectively curtailed, and decisively determined that progress in this area would be achieved by a totally different route.

The second major principle firmly established by 1845 was that legislative provisions should in no way interfere with the privacy of domestic life. This was a manifestation of the belief in the sanctity of private property and individual liberty. An illustration of the working of this principle can be found in the
area of ventilation. Research in this area had established to
the satisfaction of the Royal Commissioners that vast evils
resulted from the breathing of vitiated air, but they did not
find it possible to recommend legislation on the subject. The
objection to this sort of provision was that its enforcement
would result in an unacceptable interference in the privacy of
domestic life. Therefore, effective ventilation could only
be secured by education, and not by regulation. Thus the
recommendation made by the commissioners with regard to
ventilation was restricted to public buildings, where the problem
of interference did not apply. This reluctance to interfere with
the internal arrangement of dwellings is a continuous feature in
the future development of building regulations, with many
unsuccessful attempts to extend the controls to the inside of
houses. Consequently, throughout the period under consideration
building regulations were restricted to the shell of domestic
buildings.

However, notwithstanding the respect which was felt for private
property, the commissioners did think that there were some points
on which the public safety demanded interference inside the
house. It was thought necessary that the local authority should
have the powers to cleanse houses that were in such a delapidated
state that they constituted a threat to public health. A
precedent for this type of power was found to have existed during
the cholera epidemic of 1832. Thus, the distinction between
justifiable intervention and non-intervention can be summarised
as follows: an individual could with impunity endanger his own health, it was only when a third party was put at risk that the legislature could or should intervene.
III Laying the Foundations of a National System of Building Control 1848-58.

For all the discussions, proposals and debates devoted to the subject of building regulations, in legislative terms, there was, by 1850, only limited achievement. Progress was restricted to the establishment of principles, and the inclusion of a few controls relating to building in general acts. More extensive building regulations were to be found in the building acts of London, Liverpool and Bristol, and numerous other towns had acquired a variety of powers relating to building through the medium of local improvement acts. However, there was no uniform or extensive system of control, either from a structural or a sanitary point of view, and there was no mechanism to ensure that, once acquired, the powers would be implemented. Where local acts had been promoted as a defence against national legislation there was little hope of enforcement. In 1860 James Hole commented on the building clauses of the Leeds Improvement Act of 1842,

But if the cottage speculator chooses to disregard such regulations, he may do so with impunity. No summons has been issued for many years for any breach of the building regulations. The authorities are great friends of "moral suasion" pure and simple.

Nevertheless, it was within the decade 1848-1858 that the foundations were laid for the introduction of a national system of building control. It is therefore necessary analyse developments during this decade, relating to local government in general and building regulations in particular, which resulted in
the inclusion of section 34 in the Local Government Act of 1858. This was the provision which enabled local authorities to make byelaws for regulating the construction of new streets and buildings. The system of building control thereby introduced a degree of national uniformity and standardisation, but left the initiative for introduction and responsibility for enforcement entirely in local hands.

As indicated above, extraneous circumstances delayed the passage of the Public Health Act until 1848. It is significant, concerned as we are with the development of local government, that the Towns Improvement Clauses Act reached the statute book a year earlier. This was one of a series of clauses acts whose origins were discussed in the Chapter Two.

The pressure for streamlining private bill procedure was most keenly felt within Parliament, since the immense size and complexity of the bills, and limited parliamentary time, precluded their detailed consideration. The consequences of Parliament's previous failure to adequately control local improvement bills were vividly illustrated throughout the enquiries of the 1840s. The Royal Commission of 1843-45 was however the first enquiry to undertake a systematic survey of local improvement acts. The commissioners had found it necessary, in order to recommend the improvement of regulations, to institute an examination of the provisions of the numerous local acts already in operation. Due to the fact that there was
a lack of uniformity in the legal principles generally embodied in these acts, this branch of the inquiry had to be considerably extended. (61)

The Commissioners found that, although the local acts usually reflected a laudable desire to effect improvements, most appeared to be framed without due knowledge of the existing evils, or of the means necessary for their effective removal. In general, the acts were revealed as extremely defective, and in many instances quite inadequate to effect the purposes contemplated in their provisions. (62) Even where the provisions were found to have worked satisfactorily, the improvements appeared to have been executed more with a view to the glorification of the town, than directed towards maintaining the health of the whole community. (63) Since the local acts had usually been obtained by persons with limited information, as well as limited aims, they did not actually contain the provisions which recent experience had shown to be essential for successful sanitary improvement. (64)

The Towns Improvement Clauses Act of 1847 (65) was an ill-assorted collection of regulations, which included some measures relating to building, for instance cellars and street widths. It also included some of the more traditional building regulations; the covering of cellars in pavements, the opening of doors and gates inwards, the control of projections, and the hoarding of buildings during repairs. There were no detailed regulations
concerning the actual construction of buildings. There was however, one clause, 38, which required that notice in writing be given by any person intending to build a new house. The notice had to be accompanied by a plan showing the proposed level of the foundations. The local authority was endowed with discretionary powers of approval over the proposed levels. Clause 57 was a similar provision with regard to new streets.

The main drawback associated with the Clauses Acts was the continued necessity of promoting a local act. However, the advantages were considerable: the reduction in the length of bills allowed better scrutiny, and directed attention to what was special about a bill.

The Towns Improvement Clauses Act was a very significant feature in the future development of building regulations. Not least for the fact that, through incorporation in other acts, its provisions, notably those traditional building controls, were available to any authority that wanted them, right up to the twentieth century. In addition, the act signalled the first attempt by central government to instill some kind of uniformity into local legislation, and was thus a predecessor of the more institutionalised controls attempted later in the century. However, in the short term, the significance of the Towns Improvement Clauses Act, and the clauses acts in general, was the fact that they were models, and in this sense were precursors of
the 'form' of building byelaws of 1858 and the model byelaws of 1877.(68)

The Public Health Act of 1848 was primarily concerned with drainage, sewerage, water supply, paving and cleansing. It was only marginally relevant to the construction of buildings and the laying out of towns. However, under clauses 53 and 72, the two clauses contained in the Towns Improvement Clauses Act relating to the deposit of plans were re-enacted. In addition, there were some provisions regarding the building of privies and drains for new buildings, and also with respect to the occupation of cellars. But what was most significant about the Public Health Act, from the point of view of the future development of building regulations, was that it enabled local authorities to make byelaws with respect to health. The precedent for this had been set by the Municipal Corporations Act of 1835,(69) which had allowed councils to make byelaws for the good government of the town. This precedent was expanded to include public health in 1848, and was later to be the vehicle utilised for the propagation of building regulations.

The most contentious issue raised by the 1848 Act was that of centralisation. The General Board of Health, established under the Act, was not the omnipotent authority envisaged by Chadwick, lacking, to all intents and purposes, the essential power to initiate local action. Thus, its effectiveness was always limited. However, the most serious obstacle to the successful
operation of the Board was the general antipathy shown towards it. Most local authorities were reluctant to adopt the Public Health Act, they were not ready to accept the threat to their own interests implied by the Board's powers. Indeed, many local authorities promoted local improvement acts, encouraged by the fact that such an acquisition prevented the Board from imposing the provisions of the Public Health Act; even though, in practical terms, this action was little more than a sham.(70)

The English had a traditional dislike for anything resembling, or appearing to resemble, a continental style of strong authoritarian government.(71) Thus, throughout its brief life the General Board of Health, by symbolising centralisation, ranked among the most unpopular organs of government. By the mid nineteenth century Englishmen were in full revolt against the principle of centralisation,(72) and this was demonstrated by the emasculation of the Board in 1854, an event greeted by The Times with positive enthusiasm:

If there is such a thing as political certainty among us it is that nothing autocratic can exist in this country...Mr Chadwick and Dr Southwood-Smith have been deposed, and we prefer to take our chance of cholera and the rest, than be bullied into health.(73)

Although the Board lingered on until 1858, it was a shadow of its previously ineffective self.

The Public Health and Local Government Acts of 1858 were introduced to carve up the empire that had belonged to the now
defunct General Board of Health. Under the Public Health Act all matters relating to health were transferred, along with the medical officer John Simon, to the Privy Council. Under the Local Government Act the residual activities, including those relating to town improvement, were placed under the jurisdiction of a new department of the Home Office, the Local Government Act Office. The Local Government Act Office, and its activities, have until recently, suffered from relative neglect by historians, especially in comparison with its more illustrious twin, the medical department of the Privy Council.(74) Amid the general jamboree that accompanied the demise of the General Board of Health, the significance of the Local Government Act and the Office was lost.

In the opinion of C. B. Adderley, the Conservative minister who introduced it, the Local Government Bill had two distinct aims. Its first was to decentralise the whole system of health administration, by relieving local authorities of the obligation of referring to the central board in London. Its second was to provide the local authorities with ample powers of self-administration.(75) The ministers responsible for the bill, MPs in general, and the press all concentrated on the decentralising tendency of the measure, to the exclusion of everything else. They were convinced by Adderley, who no doubt believed it himself, that the Bill abolished, not only the Board itself, but also all the evils that were seen to emanate from it. And as Lambert has noted, 'Preoccupied by other more controversial
legislation, and baffled by the complexities and allusions of the Bill, Parliament passed it at a late hour, with little scrutiny and perfunctory debate.'(76) In these circumstances, the, albeit more scattered powers, which remained at the centre were ignored, and the basic continuity of centralisation which the act itself ensured were overlooked.

The Local Government Act incorporated and expanded parts of the Towns Improvement Act, the Public Health Act and many local acts, including the Metropolitan Building Act of 1855. Thus, by virtue of the acts incorporated in it, the Local Government Act constituted a very complete code of regulations for the purposes of town improvement, being more complete and more extensive than any previous local or general act.(77) Its great advantage over the clauses acts was that it obviated the necessity of promoting a local act. The Act could be put into force by a town council resolution with a majority of two-thirds. Its advantage over the 1848 Public Health Act was that, without the spectre of central supervision, but with all its advantages, extensive powers could be obtained.

The new mood, which dominated after 1858, was firmly rooted in the belief that in sanitary and in other matters the locality had to take the lead. This was directly acknowledged by Tom Taylor, the secretary of the Local Government Act Office, (formerly the secretary of the General Board of Health) 'Better in all matters of local concern a real progress of local opinion, however slow,
than a premature and delusive action of the central authority.'(78) The framers of the Local Government Act were optimistic that the people living in large towns could appreciate, and were ready to avail themselves of, the powers which the Act conferred.

The part of the Local Government Act most pertinent to this study is section 34. The inclusion of this section was a direct result of the experience that was accumulated through the operation of clauses in previous acts. As mentioned above the Towns Improvement Clauses Act and the Public Health Act both contained provisions regarding the deposit of notices and plans by prospective builders. The limitations of these clauses had come to light when attempts had been made to implement them. It was soon realised that it would be advantageous if local authorities had the power to approve or reject plans in relation to a much wider set of criteria. Under the existing clauses approval of street plans was only assessed in relation to the proposed level of the street; the approval of building plans was only dependent on the position of the privies and on the proposed levels of the foundations. Other criteria that were being thought of as desirable included, securing stability, preventing fire outbreak and spread, ensuring adequate ventilation and ensuring the provision of open spaces around buildings, -in effect the types of provisions set out in the Buildings Regulation Bill.
Local authorities were legally unable to insist that such matters were attended to. It was however, soon apparent that many of them were in the habit of withholding approval of plans, without specifying the objections, even if they had no legal right to do so. Moreover, some local authorities even went so far as to issue conditions to builders, on the understanding that if these were complied with approval would be forthcoming, in spite of the fact that such conditions had no legal force.

Such conditions have been framed, ex. gr. in Sunderland, Leicester and Coventry, and have been very extensively complied with by architects, to the great benefit, probably, of the district. But the conditions have no binding power by law. It is the object of this section [34]...to invest local boards with the power of making byelaws for the guidance of builders in constructing new houses and in planning new streets.(79)

The powers that had been contained in sections 53 and 72 of the Public Health Act of 1848 were repealed and re-enacted in an expanded form as section 34 of the Local Government Act.

Under section 34 local authorities were empowered to make building byelaws within certain specified categories. Only the broad outline of these categories was given in the Act, and no specific clauses were mentioned. There were four general areas in which local authorities could make byelaws, these were,

1) with respect to the level, width, and construction of streets, and the provisions for the sewerage thereof,
2) with respect to the structure of walls of new buildings, for securing stability and the prevention of fires,
3) with respect to the sufficient of space about buildings, to
secure a free circulation of air, and with respect to the
ventilation of buildings,
4) with respect to the drainage of buildings, to water closets,
privies, ashpits, and cesspits in connection with buildings, and
to the closing of buildings or parts of buildings unfit for human
habitation, and to the prohibition of their use for such
habitation.
Byelaws could also be made in relation to the deposit of plans
and notices, powers of inspection, and of action when the
regulations were contravened.

Thus, the Local Government Act, far from introducing a new form
of control merely formalised and standardised the control that
had come about in practice. It was as a response to the
limitations of existing legislation, that the building byelaw was
born.

However, it was felt that, without some kind of supervision,
there was a risk that local byelaws could become as variable as
the clauses in local acts, and therefore the byelaws were only
effective if they had been confirmed by the Home Secretary. His
brief was to ensure that the byelaws were neither unnecessarily
stringent, nor a vexatious interference in building enterprises.
This demonstrates that the interests of property owners were
still being carefully managed, and that the concern for the
economics of small house building had not yet been laid to rest.
There is no indication given in the Act that the Local Government Act Office intended to provide the local authorities with examples of specific clauses. Nevertheless, within three months of the Act receiving the Royal Assent, Tom Taylor, in his position of secretary to the Office, wrote to the clerk of every local board enclosing a copy of a 'form' of byelaws. The 'form' was intended to be used for guidance in the preparation of byelaws to be submitted for confirmation by the Home Secretary. In his letter Taylor stated that the 'form' had been produced as a response to the many applications that the Office had received from local authorities, asking for help and advice in the framing of local codes. These many applications were indicative of the level of interest that the Local Government Act engendered in the provinces, and of the level of interest in the acquisition of building controls. It should be noted however that Taylor put great emphasis on the fact that the form was limited to points which were likely to be of general application, and, no doubt sensitive to any accusations of central domination, stresses that the form was issued, 'solely in the way of suggestion.'

Local authorities were to be free to decide, which, if any, of the suggestions were applicable to their own specific areas, and to make such modifications as local circumstances dictated. These assurances illustrated the extreme sensitivity that existed concerning charges of centralisation, but should also be seen a realistic appreciation of the need for flexibility. However, despite all the qualifications, the Local Government Act Office was now in the business of issuing quasi-legislation.
The 'form' of byelaws contained 34 clauses, within the following categories.

1) with respect to streets 5
2) with respect to the structure of walls 6
3) with respect to ventilation 6
4) with respect to drainage 7
5) plans etc. 10

When a comparison is made with the buildings regulation bill, the first obvious factor is that the form's administrative provisions had been streamlined. The form tended towards more health orientated regulations, than to traditional building controls. This is partly to be explained by the fact that many of the traditional controls, such as those relating to encroachment, having been enshrined in the Towns Improvement Clauses Act, had ended up in different section of the Local Government Act.

The form of byelaws was the product of the accumulated experience of the previous 20 years. It included provisions taken from the Towns Improvement Clauses Act, and from the Metropolitan Building Act of 1855. (The 1855 Act was itself rooted in the Metropolitan Building Act of 1844, which was in turn partly based on the Normanby Bill.) Some clauses relating to foundations, timber and party walls were abstracted from the London Act and were included in the form, but many of its other clauses were not transferred, due to the fact that they had been specially formulated to meet the metropolis' particular needs, and were thought to be
unsuitable for provincial towns. The form also included clauses poached from other local acts, and a few new provisions were thrown in for good measure.

One important aspect of the form should be noted, and that is the fact that many of the clauses were imprecise, and their details were left entirely to the discretion of the local authority. Of the 25 specific clauses relating to details of construction, 21 reserved, at least some discretionary power to the local authority. Thus, although contained within a framework, a potential for extreme variation in interpretation and implementation did exist. Future developments were to dictate the extent to which this potential was realised.

The Local Government Act Office's form of byelaws of 1858 had very long and tangled roots. The type of control embodied in the form could be traced back to specific precedents in 1848 and 1835. (Though, of course, byelaws themselves are of ancient origin.) Its provisions combined the traditional building regulations, epitomised by the 1774 London Building Act, with the newer health orientated regulations developed during the 1840s and 1850s.

The form itself characterised the compromise that had been fought out between the agencies of central and local government. The form was to stand the test of time, and was to be the basis of building regulation throughout the period under consideration.
However, in 1858, that eventuality could not have been confidently predicted. The method of control had yet to prove itself in practice.

The obvious limitation of the form, as distinct from those that were to emerge as experience accumulated, reflect the continuing strength of traditional customs and principles. That its clauses only applied to new streets and buildings, revealed the powerful antipathy towards retrospective legislation, and ensured that the improvement of existing buildings would take longer and would have to be achieved by a different route. The fact that its clauses applied only to the shell of dwellings, and did not intrude upon internal domestic arrangements, reflects the enduring belief in the sanctity of private property and individual liberty.

The existence of the form was however, an endorsement of the general acceptance of the principle of regulation; the fear of the implications was no longer a sufficient excuse for inactivity, and the ideal of a minimum acceptable standard of accommodation had begun to take root. The economic implications of such an ideal were not immediately appreciated, but the precedent had been set, and the consequences had, ultimately, to be faced.
IV Executive Officers.

The main emphasis of this chapter has been to analyse the way in which powers relating to local government in general, and building regulations in particular, reached the statute book. However, as the above analysis of the origin of the clause enabling local authorities to make byelaws suggests, administrative experience was already playing a significant role in the regulative process. Thus, some mention has to be made of the contemporary appreciation of the role played by administrative officials.

According to MacDonagh, the appointment of an inspectorate was the result of the realisation that prohibitory enactments had left original evils untouched. However, although the Towns Improvement Act and the Public Health Act were first statutes in their fields, both allowed for the appointment of 'duly qualified' (83) or 'fit and proper' (84) person as a surveyor. It has been argued that such provision was the result of a demonstration effect operating between different branches of administration.(85)

Both Chadwick's enquiry, and that of the Royal Commission demonstrated a considerable awareness for the need for qualified officials. The great strides being made in sanitary sciences, and the huge responsibilities devolving upon local officials in the construction of such public works as sewerage systems, made
some test of competency essential. It was seen as absolutely necessary that the public, who as rate payers funded public works, or as, for example, builders would be subject to control, should be given some assurance that persons appointed as inspectors were properly qualified. (86)

However, notwithstanding this appreciation of the importance of qualifications, it is apparent that the first inspectors appointed in the fields of public health and town improvement were not the specialist executive officers envisaged by MacDonagh. These first officials were responsible for the whole range of controls which were contained within the authorising acts. It is significant that under section 37 of the Public Health Act the surveyor could also be the inspector of nuisances. It was inevitable that while the surveyor was busy supervising, say the construction of sewerage system, responsibility for, to take one particular example, building inspection, would devolve upon some minor official. The necessity for a corps of specialist building inspectors was not, in the first instance, explicitly recognised. Thus, the demonstration effect was only partial in its operation.
FOOTNOTES


(4) Select Committee on the Health of Towns, *Report*, P.P. 1840, XI.

(5) ibid. xii.

(6) ibid. xiv-xv.

(7) ibid. xv.

(8) MacDonagh, 'Revolution in Government', 59.


(13) See below, 113.


(16) ibid. 340.

(17) ibid. 58-61.

(18) ibid. 55.


(21) Lewis, Edwin Chadwick, 83.


(23) Lewis, Edwin Chadwick, 85-86.


(25) 11 and 12 Vic. c. 63.

(26) Chapter Two, 57.


(32) ibid. Q.3408.

(33) ibid. Q.2561.


(37) S. C. on Buildings Regulation, M. of E. QQ.213 and 223.


(39) For example, S. C. on Buildings Regulation, M. of E. Q.823.

(40) ibid. Q.253.
(41) ibid. Q.1048.

(42) ibid. Q.704.


(44) For example, S. C. on Buildings Regulation, M. of E. QQ.1731 and 1642, and Report, Appendix, no. 3.


(46) Liverpool Mercury, 13 November 1840.

(47) Flinn, Sanitary Report, 385.


(49) ibid. 60.

(50) ibid. 59.

(51) ibid. 61.

(52) ibid. 62.

(53) ibid. 63.

(54) S. C. Buildings Regulation, Minutes of Evidence, Q.918.

(55) R. C. on Towns, Second Report, 63-5.


(57) J. Hole, The Homes of the Working Classes, with Suggestions for their Improvement, (1866) 129.

(58) 21 and 22 Vic. c. 98.

(59) See above, 101.

(60) Chapter Two, 60.


(62) ibid. 5-6.

(63) ibid. 1.

(64) ibid. 6.
(65) 10 and 11 Vic. c. 34.


(67) Chapter Five, Section III, 230-40.


(69) 5 and 6 Will. IV c. 76.


(73) The Times, 1 August 1854, quoted in Gutchen 'Local Improvement', 85.

(74) ibid. 122-3.

(75) ibid. 123.

(77) T. Taylor, The Local Government Act 1858 and the Acts Incorporated therewith; together with the Public Health Act 1858, (1858) iii.

(78) ibid. xiv-xv.

(79) ibid. 51.


(81) ibid.


(83) 10 and 11 Vic. c. 34, clause 7.

(84) 11 and 12 Vic. c. 63, clause 37.

CHAPTER FOUR: LOCAL GOVERNMENT IN SHEFFIELD 1840-64

The aim of this chapter is to consider the development of local government in Sheffield between 1840 and 1864. As has been indicated in the discussion of national developments, it would be meaningless to discuss building regulation as a distinct phenomenon during this period. This is because it was regarded as only one component of a range of policies that were called into being by the consequences of industrialisation and urbanisation. Thus, the particular concern of this chapter is to analyse the mechanisms by which Sheffield town council, in 1864, came to acquire the extensive powers of local administration contained in the Local Government Act of 1858; one of which was the ability to control building.

The period between 1840 and 1864 was one of transition for Sheffield. At the outset the affairs of the town were managed by a variety of bodies, each vested with some power. A board of improvement commissioners administered lighting, cleansing and watching powers under an improvement act of 1818; the ancient body of the Town Trustees had limited jurisdiction over street improvements; and each of the seven townships had its own vestry and highway board. By 1864 local power had been centralised in the town council, by its adoption of the Local Government Act of 1858.
However the transfer and enlargement of power was neither automatic nor straightforward. The town council co-existed with the already established forms of local government between 1843 and 1864. Successive attempts by the corporation to assume and expand the powers exercised by the improvement commissioners and the highway boards met with considerable resistance.

It was, in a sense, inevitable that ultimately all local power would be concentrated in the hands of the town council. The scale of the problems engendered by industrialisation and urbanisation demanded action on a more comprehensive and integrated level than that which could be achieved through the traditional agencies of local government. The sanction by central government of the 'town council' as the appropriate organ of local government, and the consolidation of local power in the town councils of other towns, both illustrated the trend and reinforced the inevitability of a similar development in Sheffield. The most variable factor was that of timing. Combinations of political, economic and social circumstances, peculiar to individual towns, could either hasten or obstruct the process of local centralisation of power.

If developments in Sheffield are measured against MacDonagh's yardstick, it would have to be concluded that the town's social problems were not sufficiently intolerable to warrant prohibitory legislation until 1864. However, to use prohibitory legislation as the sole measure of 'intolerability', can be misleading. As
Checkland has indicated, statutory action will occur when deterioration and reformism are greater than inertias and resistances. In the case of Sheffield, attempts to acquire sanitary legislation were repeatedly frustrated by a number of forces which positively, and more or less effectively, resisted the process of reform. This was an eventuality for which MacDonagh had allowed. Thus we are faced with a complex problem. Most other large towns acquired local acts during the 1840s and 50s. Why was Sheffield different? Were the social problems experienced less pressing? Was the influence exerted by reformers less strong? Or conversely, were the inertias and resistances present in the town more powerful? This chapter attempts to provide answers to these questions by analysing the relationship between those local factors promoting change and those obstructing it.

This chapter is divided into five main sections.

Section I provides a brief resume of the repeated attempts made by Sheffield's town council to expand its powers of local administration.

Section II considers the range of forces that were operating within the town which more or less effectively resisted the process of reform.
Section III analyses the ways in which those factors resisting reform were increasingly undermined and counterbalanced by forces promoting change.

Section IV provides a detailed view of the local authority's approach to the promotion of local legislation. Despite the fact that in 1864 Sheffield town council resorted to general legislation, as the means by which powers of sanitary administration could be acquired, a local act continued to be an important vehicle by which additional powers could be obtained. Subsequent chapters of this study will refer to the numerous local acts, promoted by the town council between 1864 and 1914, which contained provisions relating to building and development.

Section V undertakes a brief survey of the way in which the ability to control building was perceived locally between 1840 and 1864. Thus, the foundations will be laid for the detailed analysis of the development of building control in Sheffield contained in Chapters Six and Eight.
Before any attempt is made to analyse the factors resisting and promoting reform, it is first necessary to conduct a brief review of events. In his book *Power and Authority in the Victorian City* Derek Fraser entitles the section on Sheffield 'A Difficult Passage to Reform.' He likens the process by which Sheffield town council became a potentially useful social institution to a three act play. While the difficulty with which reform was ultimately achieved is not disputed, it is suggested that Fraser overlooks the prologue to this drama. The three attempts to promote legislation, in 1851, 1858, and 1864, that were referred to by Fraser, had been preceded by a first attempt in 1846.

It must be admitted that the Sheffield Improvement Bill of 1846 did not get very far. Nevertheless, its promotion demonstrated that Sheffield was on a par with other towns promoting acts during the 1840s. The 1846 Bill was prepared during the gestation period of the general Health of Towns Bill. (This eventually became the Public Health Act of 1848.) Discussion on the subject of the national measure began in Sheffield in September 1845, soon after Lincoln’s bill was published. A committee of the town council was appointed in May 1846 to consider the Health of Towns Bill, and to report on the desirability of adopting the Act, or alternatively, applying to Parliament for a local act. An unsuccessful attempt to appoint such a committee had been made...
six months previously, but now the potential threat of central intervention, posed by the Health of Towns Bill, was used to stimulate activity. (7) The Local Act Committee came down strongly in favour of promoting a local act and a rough draft bill containing 192 clauses was appended to its report. (8)

This recommendation was not however acted upon by the council, and proceedings on the bill were suspended. The pretext for this decision was that, since the government was intending to bring in a general public health measure, it would be advisable to postpone consideration of the local bill until the national issues had been decided. Another consideration was the fact that the clauses acts were currently proceeding through parliament. There was great concern that if the council proceeded with a local bill before the exact terms of the model bill were known, it was possible that resulting lack of consistency would imperil the time and money already invested. The majority on the council preferred, unsurprisingly, to err on the side of caution by delaying consideration of the local bill until the situation in parliament was clearer. (9) This decision was supported by the local press. (10)

After the local bill was abandoned attention was switched back to national developments. The progress of the clauses acts through parliament paled into insignificance as the thunder clouds of the Public Health Bill gathered. The council initially supported the proposed measure, and a petition in favour of his bill was sent
to Lord Morpeth in May 1847. (11) Although the council entertained strong reservations about the centralising tendency of the bill, the necessity of the provisions contained within it was recognised. Therefore the petition was carefully worded, so that while the nature of the provisions of the bill were commended, the prayers of the borough were, 'not for the bill as it was, but subject to various modifications.' (12)

However, by March 1848 it had become clear that the various modifications required by the corporation were not going to be forthcoming. As a consequence the council's criticism of the bill became more explicit, and a memorial against the measure was dispatched. The corporation believed that the powers of the General Board of Health would discourage and repress local initiative. The subordination of the locality to the centre was considered most obnoxious since it would violate the principles of locally elected town government. Although the necessity for a central authority was recognised in some spheres, it was not considered appropriate for the effective application of sanitary regulations. (13)

Given the general reluctance of the town to be subjected to the external interference symbolised by the powers of the Board of Health, the momentum that had built up within the town council for the acquisition of extensive powers of sanitary administration was, in the short term, dissipated.
The local regulative process was again initiated in 1851, but this was not the result of a renewed appreciation of the 'intolerability' of the social evils abounding in the town. Instead it was due to the example set by the corporation of Birmingham's acquisition of a new improvement act. The connection was made by the editor of a local newspaper, 'Indeed we doubt whether the town would have moved now had not Birmingham set us the encouraging example of breaking through the net weaved by Mr Chadwick to ensnare the towns of England.' (14)

Birmingham's act had been in effect a test case. The corporation had had to resist the attempts of the General Board of Health to insert clauses into the bill which would have subjected the town to central supervision. (15) The ratepayers of Birmingham had had to pay dearly for establishing the principle, with the eventual cost of the bill being around £5,000. (16) However Parliament had conceded to the town the powers requested without the central control. Once Birmingham had slain the centralising dragon, other towns could take advantage of the precedent.

In accordance with the precedent set in 1846, a committee was appointed to draft the Sheffield Improvement Bill of 1851. The committee was to consult with a committee appointed by the burgesses, in an attempt to minimise the opposition. Although the risk of Parliamentary opposition had been reduced by Birmingham's trail blazing, the probability of local opposition could not be ignored, and therefore extreme care was called for in the drafting stages of the bill. (17) Despite the delicate
negotiations conducted by the sub-committee, and the great amount of time and care spent in the preparation of the measure, the bill foundered on the rocks of the opposing interests.

By the end of 1851 it had become apparent that there was strong opposition to various clauses in the bill, most notably those relating to gas, water and smoke. However, more entrenched opposition was generated by the self styled 'Central Democratic Association', the local chartist movement. The Association denounced the whole bill as arbitrary and oppressive, and successfully called upon all working men to oppose it.(18) A meeting of the burgesses of the borough held in December 1851 passed a resolution, which was binding on the council, postponing the bill for 10 months. Theoretically this would have only delayed the reform for one parliamentary session, but the manoeuver effectively killed the measure. The stigma surrounding the defeat of the council ensured a considerable delay before legislation was again attempted.

The promotion of the 1858 improvement bill was engendered by the quickening pace of economic activity, the consequences of which began to be felt around the middle of the 1850s. By 1858 many of the supporters of the earlier bill were convinced that the necessity of the 1851 bill had been amply demonstrated by what the town had suffered since, for the want of it.(19) To the improvers the conditions had become even more intolerable, with the situation growing rapidly and alarmingly worse.(20)
increased activity, traffic and population rendered an improvement act a much more urgent requirement than it had been in 1851.(21)

Special care was taken in drafting the 1858 bill, since the spectre of 1851 had not yet been laid to rest. Nevertheless, some reassurance was derived from the fact that the opposition to the previous bill had come from a political party that had since ceased to exist.(22) Such optimism quickly dispersed. Many people sincerely resisted the threat the bill posed to their popular rights and privileges, but this was the respectable face of the opposition. Two groups which were particularly threatened by the proposed act, the cottage property owners and the members of the highway boards, manipulated the popular vote in order to frustrate reform. The interests of both groups were served by provoking the masses with allegations of massive rate increases and huge spending programmes on ostentatious public buildings.

By the time the adoption of the newly passed Local Government Act was mooted, opinion on the subject of the local bill was already polarised and entrenched. Nevertheless, the Improvement Bill Committee, which considered the terms of the act, could not avoid the conclusion that if it was adopted by the borough it would supersede the necessity for a local act. Though there was vestigial reluctance to accept any general legislation, it was felt that if the same advantages could be secured under the Local
Government Act, without the expense of a local act, the council were bound to adopt it. (23)

The debate on the relative merits of the two measures was overtaken by events; the forthcoming municipal elections prevented a final decision being made. The council therefore passed a series of resolutions which allowed for either course to be taken by the newly elected town council. The municipal elections of 1858 resolved themselves into a question of whether or not the town council should apply to parliament for the improvement act. (24) Such was the antagonism engendered by the issue, that one candidate observed, 'Any goose may hope to be returned if he will only cackle "no improvement bill."' (25) The retiring candidates in two wards were even 'de-selected' on the basis of their support for the improvement bill. (26)

The results of the elections proved disastrous for the advocates of sanitary improvement. In every contest they were defeated. Of the 14 retiring members only the two opponents of the measure were re-elected. (27) The debacle ensured the demise of the local improvement bill and the abandonment of the proposal to adopt the Local Government Act. It would have been utterly useless to press the question any further, given the unequivocal statement made by the burgesses.

By 1858 the council were not much further forward than they had been in 1843. A proportion of the population considered that the
social evils in the town were 'intolerable', and were becoming more so, but the forces of opposition and resistance were strong enough to obstruct the passage of prohibitive legislation. As with the 1851 experience, the enduring memory of the wrecking tactics of the opposition contributed to the delay before the next serious attempt at reform was made.

The final act in this drama was something of an anti-climax, in comparison with the earlier tempestuousness. In February 1854 a committee of the council was appointed to consider and to report on the Local Government Act of 1858, and upon the expediency or otherwise of adopting the measure. It is significant that by this time the promotion of a local act was not even to be considered as an alternative. By 1864 the acknowledged ease of adoption of the general measure, and the vivid memory of the problems involved in the promotion of local legislation, combined to ensure that there was only one feasible way of proceeding.

The May meeting of the town council approved the adoption of the act by 36 votes to 14. A move to obtain, by vote, the opinion of the ratepayers on the subject was defeated by a similar margin. It was predicted that only two classes of men would vote against the act '-cowards, who were afraid of losing their seats, and men who had private interests to serve.'

As on previous occasions, public meetings were held on the subject of the proposed powers. The same well-worn arguments
against any regulations were employed. In addition, as was foreseen in 1858, the enormous borrowing powers contained within the act were considered particularly obnoxious. Moreover, the supervisory power invested in the secretary of state was thought to be invidious, and resurrected fears about centralisation.(31) However the council was not to be deflected from its proposed course by the views of, 'a few comparatively insignificant ward meetings.'(32) The absence of the vast majority of the ratepayers from these meetings was interpreted as consent for the council's plans.

The July meeting of the town council ignored the resolutions against the act forwarded to it from those meetings, and confirmed the adoption of the Local Government Act by 36 votes to 14.(33) Of the 14 who voted against adoption few were intransigently opposed to the measure. Many feared that history would repeat itself, and that an opposition backlash would ensure the election of members opposed to carrying out the act.(34) Such fears however proved to be unfounded.

The following November there were only four contested elections in nine wards.

It is remarkable how really insignificant a part has been played...by that 'great body' of the burgesses who were said to be determined to send all advocates of the Local Government Act to the wall.(35)

This insignificant role has been partly ascribed to the diversion created by the bursting of Dyke Dale Dam in March 1864. The whole town was riveted by the water question following this
appalling disaster in which over two hundred people lost their lives. It was the possibility of municipal control of the water supply (which did not in fact materialise until 1887) that was the central issue in municipal affairs in Sheffield affairs in the summer of 1864, and this to some extent took the limelight away from the public health issue. Keeping out of the limelight could be of crucial importance to the success of a measure. MacDonagh has observed that the closer a subject engaged the attention of public opinion the more was the process likely to be frustrated or diverted. Notwithstanding the contribution of the diversion that the disaster created to an immediate explanation of the acquisition of the Local Government Act, there were other forces inexorably shifting the balance in favour of regulation. These will be discussed below.
II Forces Resisting Change.

One of the most influential stimuli to regulative action was, as MacDonagh has indicated, the exposure of social evils. Without this, an analysis of the problems could not be undertaken, and therefore, remedial and preventative measures could not be framed. It will not be forgotten that 1838 to 1845 was a period of crucial development for the national public health movement. The contribution of the town to the national enquiries before 1843 is virtually non-existent. This is partly to be explained by the fact that before this date the town lacked a specific focus, and was preoccupied and distracted by the incorporation issue. It should however be noted that there was some local concern for the sanitary state of the town. In 1841 the Town Trustees commissioned a local doctor to conduct an investigation. This appeared in 1843 as *The Vital Statistics of Sheffield*. The volumes of evidence collected by the Royal Commission 1843-45, contain only written submissions from Sheffield, and those were solicited by the commissioners. Thus, the exposure given to Sheffield's condition during the early 1840s was sparse. The question therefore remains as to whether the evils in Sheffield were under-exposed or whether they were not evil enough to warrant exposure.

The risk to health that accompanied the process of urbanisation resulted, in the main, from a high concentration of people in a small area. Thus, the problems experienced by Sheffield were
essentially the same as those experienced by other towns. However, it does appear that Sheffield was fortunate in having certain natural advantages which, to a certain extent, offset the disadvantages of congregation. Sheffield was built on a number of steep slopes descending from the spurs of the high moors to the west and north, towards the sharply defined valleys of Sheffield's rivers. The natural watersheds of the town were numerous, variously converging on and draining into the rivers Sheaf, Porter, and Don, with its tributaries, the Rivelin, Loxley and Little Don. The underlying strata consisted principally of carboniferous limestones and millstone grit. Owing to its constantly varying elevation, scarcely any part of the town was subject to excessive dampness, whilst those localities that were remote from the centre of the town enjoyed an abundance of fresh air, light and (somewhat surprisingly) sunshine.

Such natural advantages however tended to undermine the 'intolerability' of the town's problems. Those in favour of sanitary improvements wanted to capitalise on the town's good fortune, but they were repeatedly overwhelmed by evidence, furnished by comparative statistics, of Sheffield's 'healthiness.' As Hennock has pointed out, in the case of Birmingham, favourable topographical conditions tended to be treated as a substitute for administrative action, rather than as a spring board for it.
The information that can be culled from Vital Statistics, and from the deposition of a local architect, William Flockton, to the Royal Commission(43), reveal that the standard of accommodation in Sheffield during the early 1840s compared favourably with other industrial towns. There were no cellar dwellings in Sheffield, though these were common in such towns as Liverpool, Manchester and Leeds.(44) The majority of families in Sheffield occupied separate dwellings. It was very rare to find several families sharing the same house, though again this was a frequent occurrence in most other industrial towns.(45) That most of these houses were built back-to-back was not yet considered to be a disadvantage. The only improvement that Flockton could suggest was that the rooms of the houses should be made a little larger and a little loftier.(46)

Although Sheffield was viewed in a comparatively favourable light among industrial towns, it was far from actually healthy. Even Sheffield had its flat and ill-drained areas where fever thrived. One of the Royal Commission’s roving reporters catalogued some of the insanitary practices. Sewer water was discharged into rivers and streams causing extensive pollution. The waste products from the towns slaughter houses added to the filth and putrid matter flowing into the water courses. Although the dungsteads and privies of Sheffield were as little of a nuisance to sight and smell as such objects could be, they would always, by their very nature, be offensive when found close to dwellings.(47)
Thus, Sheffield needed sanitary regulations as much as any other industrial town. Although this fact was appreciated by some, many others clung tenaciously to Sheffield’s good reputation for far longer than it was warranted. The town’s previously high standing was used as evidence of the fact that prohibitive regulations were unnecessary and therefore undesirable. It is significant that the opponents of the 1858 improvement bill used the contents of Vital Statistics to illustrate the healthiness of the town, much to the astonishment and chagrin of its author.(48)

The character of the cottage accommodation reflected the economic circumstances of the town, its superiority (relative to the standards of the time) rested primarily on the prosperity of the workers, employed in the town’s highly skilled steel industry and its derivatives.(49) Before the advent of the heavy steel industry, after mid century, there was not yet that large gap between merchants and manufacturers on the one hand and workmen on the other, which had become so common in the textile and the coal mining areas. There were few wealthy manufacturers, and the transition from workman to master was common.(50) Production units were small and specialised, and communities were closely knit. Workers in the highly skilled steel industry were relatively prosperous in comparison with industrial workers in other towns. This relative prosperity was evident in the high standard of accommodation, made so much of by local commentators in the early 1840s. It also accounted for the high profile of working men in the government of the town.
Before the 1850s (and in all but the first aspect after also) Sheffield lacked large manufacturing enterprises, a powerful Anglican hierarchy, a substantial professional and mercantile establishment, and a well developed public bureaucracy. Thus the characteristic institutions of local government were those at the neighbourhood level; it was within the tavern and the vestry that the local inhabitants discussed and largely decided parochial affairs. It is therefore not surprising that the political opportunities opened up by the rapid growth of the town should be seized first by leaders whose constituents were the artisans and traders of the town's tightly knit neighbourhood communities. Nor was it surprising that they should strongly resist the tendencies which would have taken power away from the local communities.\(^{(51)}\)

Thus the economic and social circumstances provided the artisans of the town with the ability, through their influence on the townships, to prevent the centralisation of local power in the hands of the town council. This was against the trend that was established by other large towns, which acquired local acts which initially centralised local power, and subsequently expanded that power.\(^{(52)}\)

The 1851 improvement bill, by abolishing the townships and thereby vesting all local power in the hands of the council, would have deprived many working men of their traditional rights. Those voters who elected the highway boards and the vestries
would not have necessarily qualified as electors under the new system, because of the property qualification attached to the municipal franchise. (53) The self-styled champion of the rights of working men was the 'Central Democratic Association', the local Chartist movement. That the Association was successful in frustrating the promotion of the bill was due to the leadership of Councillor Isaac Ironside. This was somewhat paradoxical since Ironside was largely responsible for its promotion in the first place.

It was in 1846 that Ironside became the chief spokesman of Sheffield's Chartists. His influence acquired considerable prominence in Sheffield during the late 1840s and 1850s. Inspired by Joshua Toulmin Smith, the great anti-centralist propagandist, Ironside established a system of ward and township autonomy to rival the concept of municipal reform. (54) Through the control of the ward committees municipal candidates could be vetted. At its height in 1849 Ironside's party occupied 22 of the 56 seats on the town council. Ironside himself held public office between 1846 and 1854, and from 1862 to 1865. On the town council he was one of the prime instigators of moves towards sanitary reform; supporting the appointment of the health committee and proposing the idea of an improvement act. However having created the system of township democracy, Ironside did not want to see it supplanted by the expansion of municipal authority. (55) So, he used his influence on the town council and
on public platforms to oppose the bill which would have increased the council's power to provide municipal services. (56)

Those responsible for promoting the measure were amazed that workmen could so strenuously resist a measure intended primarily for their benefit, and also by the ignorance and prejudice surrounding the bill. (57) It was profoundly felt that the burgesses had been led astray by the Democrats, who had, 'put out a placard calling upon people to come and oppose the bill, and stigmatising it by all means.' The apparent ease with which this was achieved undermined the confidence of many in such expressions of popular feelings, (58) and reduced the importance that was accorded to public meetings in the future.

Fraser has suggested that, 'the Sheffield Improvement Bill [1858] occasioned a fundamental conflict between ratepayer democracy and the municipal leviathan.' (59) However, it is argued here that, although this might be consistent with the 1851 experience, it was not true in 1858. As before, the 1858 bill did propose to transfer the responsibilities of the highway board to the council, and would, as a consequence, disenfranchise many. Fraser thus identifies the main attraction of the 1858 contest as one of township autonomy. There were other issues raised in objection to the bill, the old bug-bear of increased taxation; the suggestion that embellishment, rather than sanitation, was the aim of the bill; and the attempt to divert the whole debate by the proposal that the 1858 Local Government Act should be
adopted instead. These however are reduced by Fraser to mere
side shows to the main event. (60)

However, it is suggested here that the formidable show of popular
resistance to the improvement bill of 1858 was the product of far
less dispersed opposition than has hitherto been implied. Many
people sincerely resisted the threat the bill posed to their
popular rights and privileges, but this was the respectable face
of the opposition. The behaviour at public meetings betrayed a
far less ingenuous resistance. Wild accusations about the
projected implications of the measure, and of the motives of its
proponents, were imputed. It was implied that the bill would
result in an 'enormous, exorbitant and abominable amount of
taxation'; (61) that the rates would be levied to be frittered
away on the building of town halls and other public offices; that
the bill was only being promoted to provide positions for
gentlemen's sons; (62) and that the clauses of the bill were
uniformly limited, arbitrary and despotic. (63)

The inability of the town council to refute these allegations
will be discussed below, however it is the source of those
allegations that is of interest here. The two main groups
opposed to the improvement bill were the cottage property owners,
and the highway boards.

One of the chief acknowledged objects of the bill was to teach
owners that property had its duties as well as its rights. (64)
The bill thus constituted a threat not only to the owners' freedom of action, but also to their pockets. In an attempt to protect their interests, they endeavoured to excite the prejudices and the passions of the masses. Opposition was therefore manifest amongst the working classes, ironically those people the bill was most intended to serve. This manipulation of the popular vote was increasingly recognised; for instance, one alderman,

had the uncomfortable notion that the ostensible opponents of the bill were not its real opponents. The real opponents, who put forward these men in buckram to do their work, were the owners of cottage property.

Another council member expressed the fervent hope that the people would not be led away by the factious and self interested opposition of the property owners.

Since the improvement bill would have resulted in the extinction of the highway boards, it is not surprising that the boards resisted the acquisition of the measure. The old campaigner Ironside, though no longer on the council, was still influential among the highway boards. A report by the Sheffield Highway Board was considered at a council meeting in June 1858. The report defended both the health record of the town and the activities of the boards. It also deplored the fact that the 'time honoured vestries' were to be dispensed with. The council members were not impressed by the defence put forward in the report, the majority being convinced that the advantages of centralised administration of the highways transcended all objections. There was, in addition, a suspicion that the
opposition of the highway boards stemmed more from a fear of losing office, than from more substantial grounds. (69) One councillor, who had chaired a rowdy meeting of Sheffield Highway Board, was ashamed to admit that insinuations and abuse had been indulged in, rather than reasoned argument. (70)

Nevertheless, the symbolic importance of the popular rights enshrined in the highway boards resulted in a movement to alter the bill in order to leave the management and repair of the highways with the boards. It was hoped that such a concession would, if not smother the opposition to the bill, at least it might do away with a considerable amount, so that the most essential clauses, the sanitary ones, could be attained with minimal opposition. But a majority of the council considered that the joint administration of the highways and the sewers was essential, for the realisation of the sanitary objects of the bill. Moreover, it was envisaged that the highway boards would spend public money opposing the bill even if the highway clauses were expunged. (71) Hence the proposed motion to drop the highway clauses from the bill was defeated by 26 votes to 13.

In combination, the opposition of the highway boards and the cottage property owners was formidable. The interests of both groups were served by provoking the masses with allegations of massive rate increases and huge spending programmes on ostentatious public buildings; 'exciting the passions of the multitudes instead of informing them.' (72) The tumultuous public
meetings thus engendered, further undermined their prestige, and brought into disrepute the keystone of ratepayer democracy. Council members were, 'quite willing to listen to the public voice when it was the voice of reason, but not to yield upon all important questions to idle clamour and the mere clap-trap of agitators.'(73) At public meetings indiscriminate threats were issued that all council members who supported the measure would be put out of office come the municipal elections in November. Most councillors refused to be intimidated, certain in the belief that if the council was always to be guided by such expressions of opinion that it would never carry an important measure.(74) As indicated above, in the 1858 municipal elections, 'idle clamour' and 'mere clap-trap' won the day.

It has been suggested above that the fears of the majority of the burgesses were manipulated by vested interests, which wished to prevent the town council form acquiring new and extensive powers. The promoters dismissed the arguments put forward by the opposition as 'preposterous and ridiculous,'(75) and, 'merely a great deal of noise and bounce.'(76) But the arguments of the opposition stirred up very real fears. If such arguments were as spurious as these comments imply, why then were they so effective? It is suggested here that the ability of vested interests to manipulate the popular vote was enhanced by the council's failure to successfully refute the charges made against its proposed regulations. This in turn was due to the council's lack of prestige.
Sheffield's town council had an inauspicious beginning. It was brought into being, in 1843, by reluctant rate payers, in order to prevent the county justices having greater political powers in the town.(77) In its early years the council displayed hesitancy, doubt and delay in 'home policy', and perhaps a too meddlesome interference with 'foreign affairs'. The council conspicuously lacked any vestige of self respect. 'Its powers were small. Its capacity was smaller. And having really little to do, that little was done badly.'(78) The incompetence that was demonstrated in the exercise of its meagre powers undermined the likelihood that such powers would be expanded. For instance, in 1858,

The opposition of the working classes was not against the highway clauses only, but against the whole bill, their opposition being grounded on the want of confidence in the corporation, which they said had not used well the powers it already possessed.(79)

It was a 'Catch-22' situation, the council could not prove that it was worthy of new powers since its existing powers were so limited and defective, but it was not going to be vested with any expanded powers until its worthiness had been established.

The council's mediocre performance during its first years did little to raise its standing in the town. It was popularly believed that no one was sufficiently ignorant or incompetent to be ruled out of consideration for the position of town councillor. Thus, many men of character and standing held back from public office, reluctant to be associated with such a discreditable institution. This left the field free for lesser
men, whose aspirations to council offices were fuelled by less altruistic motives. 'Men of standing' were further alienated by the treatment afforded to those councillors devoted enough to suggest reform; men who took a deep interest in reforming measures were vulgarly maligned.\(^{80}\)

On one famous occasion the promotion of legislation resulted in a further slide in the quality of the council, both in terms of its moral tone and intellectual capability.\(^{81}\) Such was the hostility aroused by the 1858 improvement bill, that during the municipal elections of that year, no consideration of past services could save one of its supporters; and on the other hand, no question of personal character or of unfitness served to defeat an opponent of the bill.\(^{82}\) It was widely admitted that, in 1858, the council was brought down to its lowest point, in a short and inglorious career.\(^{83}\) It is not difficult to understand why the majority of the burgesses found it difficult to accept the refutations of the town council.
III Factors Promoting Change.

Notwithstanding the unpopularity of the town council, the balance of circumstances, though subject to fluctuation, was moving inexorably towards the centralisation of power locally. This had less to do with the demonstrated suitability of the town council as an administrative body, and more to do with the necessity for doing something.

Despite the predominant complacent attitude induced by the combination of natural and economic advantages, there were voices crying out for the need for sanitary reform. One prophetically remarked, 'if they were content where they were, they would soon be left behind.'(84) This sensation of being 'left behind' became an increasingly important factor in the promotion of, and justification of, new regulations. It has already been noted that Birmingham's success in acquiring an improvement act in 1851, initiated Sheffield's attempt in the same year. However more generally, the legislative achievements of other towns, put into sharp relief the failure of Sheffield to keep up. The possession of power came to be regarded as a symbol of civic dignity and prestige, and thus its acquisition was of supreme importance to any town concerned with its national standing. By the 1850s it was undeniable that Sheffield was being left behind. It was the only large town in the kingdom that had not got a modern (that is, post 1840) improvement act.(85) Such an act, which would have enabled the town council to pursue remedial and
preventative measures, was absolutely essential, 'to make the
town what it ought to be, a credit to the inhabitants, instead of
being, as now, the filthiest town in Yorkshire.' (86) Given the
sensitivity of the town council on the subject being denounced
publicly in the columns of the national periodical, the Builder,
cannot have been comfortable.

We have surveyed Birmingham, Stafford, Wolverhampton,
Newcastle-upon-Tyne, Hull, Shrewsbury and other towns, but
Sheffield, in all matters relating to sanitary appliances is behind them all. (87)

The results of these investigations prove that although
Sheffield possesses a medal of honour conferred at the
hands of the emperor of the French, it is as devoid of the
decencies of civilization as it was in the Dark Ages. (88)

Such criticism engendered blustering apologies in the columns of
the local press, but since the town council had proved by its own
actions that it was in fundamental agreement with the views
expressed, it did not have a leg to stand on. As time passed by,
consciousness of Sheffield's backwardness increased, and in
certain cases the necessity of keeping pace with other towns was
sufficient to convert some to the cause of improvement. (89)

The excerpts from the Builder are indicative of a powerful medium
used for the exposure of social evils - the press. George
Goodwin, the editor of the Builder, launched a series on
provincial towns with the specific intention of provoking a
reaction from hitherto inert local authorities. (90) When
Sheffield ultimately adopted the Local Government Act in 1864,
Goodwin implies a possible connection between his investigations
and the passage of the measure. (91)
Closer to home Sheffield's own local newspapers were performing a similar function. Both of the main locals, the Sheffield and Rotherham Independent and the Sheffield (Daily) Telegraph were enthusiastic supporters of reform. The strong local radicalism of the town was reflected in the pages of the liberal Independent, edited by members of the Leader family. In addition, when W. C. Leng arrived in the town in 1863, and took over the editorship of the conservative Telegraph, the paper's support for the more enlightened views, being displayed in the council chamber, was galvanised. The support of the local press for increased sanitary powers is attested to by the fact that there were numerous complaints of bias. For instance, it was suggested in 1864 that the press was assisting the promoters of the Local Government Act by reporting only the advantages of the measure, whilst ignoring its disadvantages, and the views of its opponents.

The above factors were influential in creating an atmosphere that was conducive to reform, but there is also a more profound explanation. The key is to be found in the deep-rooted industrial and social changes that began to be discernible after mid-century. It was the by-products of these changes, the accumulation of environmental hazards, and the concomitant threat to public health, that increased the 'intolerability' of the problems and highlighted the need for effective action.
The 1850s was a decade of spectacular growth, as measured by almost every indicator. The decade saw the birth of the modern steel industry, in response to new technical innovations and the expansion of markets both home and abroad. Steel was demanded by the railway, engineering and shipbuilding industries, and was also in demand for the production of armaments.(95) The conflict with Russia accelerated the growth of the Sheffield steel industry, which won massive contracts to supply armour plating to the British navy.(96) The population of the town increased by 37 per cent. It has been suggested that most of the 26,100 (52 per cent of the total increase) who migrated to the town during the 1850s were attracted by the burgeoning heavy steel industry.(97)

The physical amount of building necessary to accommodate the increase in population, both domestic and occupational, resulted in the formation of streets with a rapidity never before experienced in the town's history.(98) No control at all was exercised over the activities of the builders, thus, buildings were placed at any and every angle, obstructing ventilation. Buildings on one side of the street were sometimes as much as five to six feet above those on the other side, making their drainage a complicated and costly affair. Landowners were given no inducements to make streets wider. If they did, the increase in the cost of land would make the rents they had to charge uncompetitive, in comparison with those houses squashed together in narrow streets.(99)
The accelerated pace of uncontrolled growth engendered concern. A special committee of the council had been appointed to investigate the problem of undedicated streets (that is, those not under the jurisdiction of the highway boards), in response to requests of the inhabitants of the neglected districts. The committee reported that,

Many of the undedicated streets are in a disgraceful condition, being almost impassable, and require serious attention as they affect the physical, intellectual and moral condition of the people. Summary powers are required for their amelioration, which can be only obtained by a special act of parliament, or the adoption of the Public Health Act. The latter course is strongly commended.

Notwithstanding the fact that the 1858 improvement bill was unsuccessful, it remains true that momentum for reform was gathering pace. Economic and social changes not only highlighted the case for change, but also responsible for eroding some of the obstacles to it. The ability of Sheffield's artisans to obstruct reform, born of favourable economic forces, was in time undermined by successive changes in these forces. The localised artisan controlled mode of production in the light industries began to be challenged by the industrial organisation of the new steel works. Simultaneously, the close knit communities of 'old Sheffield' were increasingly eroded and diluted by the development of a class based residential segregation within the rapidly growing town. Thus, the balance of power and initiative was tending to shift away from the neighbourhood communities.
At the same time as forces resisting change were being undermined, they were also being counterbalanced by forces promoting change.

Much of what has been said so far relates to the lack of prohibitive enactments within Sheffield, and the containment of development within the period within stage one of MacDonagh’s model. However, this description does not accurately depict the situation. An array of powers relating to local government was vested in a variety of local bodies. The existence of those powers, though not specifically health orientated, emphasised the necessity for controls in that area. The experience accumulated through the administration of these, albeit inadequate and incomplete, regulations did provide some impetus for re-regulation and underpinned the need for an executive staff and for the centralisation of authority. These are all considerations which crop up in succeeding stages of MacDonagh’s model. Thus, to imply that Sheffield was transformed by one act of parliament, from a town without regulations, to a town with comprehensive powers of local self government would be a misleading simplification.

At its incorporation Sheffield town council was endowed with the powers contained in the Municipal Corporations Act, and between 1843 and 1864 various additional controls were acquired. Thus, the essential ingredients for an administrative-cum-legislative process existed. This process was further fuelled by the
experience 'borrowed' from local bodies within the town, which exercised extensive, though incomplete, powers over various aspects of local government. Through the exercise of powers, loopholes and deficiencies in the regulations were identified and a momentum for change was maintained.

The major authorities exercising power outside, the town council, were the highway boards. They were endowed with powers under the 1835 Highway Act. This Act predated the great debates on public health, and thus, contained no clauses directly relating to health. It did however, contain certain provisions on the subject of drainage. Theoretically the highway boards were empowered to make drains to carry surface water only, however, in practice they had habitually made drains deep enough to drain adjacent cellars. In an attempt to meet the demands of a new age, the provisions of the Highway Act were stretched beyond what was strictly legal. Though this practice was widely acknowledged as beneficial, its limitations were obvious. A major shortcoming was that when objections were put to the magistrates, the letter of the law had to be obeyed, regardless of the potential benefits to public health. However, more fundamentally, because each township had its own highway board efficient and uniform management was impossible to achieve. The division of the town, irrespective of its natural levels, meant that a comprehensive system of drainage could not be achieved, in the absence of the closest co-operation between the boards. Internecine warfare however, made the realisation of this ideal
just a pipe-dream. Moreover, because the highway boards were elected annually, radical action and ambitious plans were rare. Financial resources were limited, as, 'no highway board would incur the odium of levying more rates than have been commonplace.'(105) Thus, the prospects for rapid progress were not auspicious.

The surveyors to the local boards were also elected annually, and as a result they were most often cautious and conservative in the exercise of their public duty. Excessive zeal could render a surveyor obnoxious to his parsimonious and shortsighted constituents. However, the risk of this was apparently not large, since jobbery was common. William Lee emphasised the necessity for a surveyor to be qualified and experienced, remarking that, 'a person should not be a more eligible candidate for the office because he has many friends, but has been unfortunate in some other business.'(106) Lee was fully aware that the legislation was of little importance unless it was placed in the hands of properly qualified executive officials.(107)

The disadvantages that arose out of managing the highways through a system of highway boards, and under the provisions of the Highway Act, placed the town council in a position to suggest improvements. By proposing to unite all the highways in the borough, under one authority, the council believed that the inconvenience that resulted from unconnected plans and
inharmonious action, could be circumvented, and a considerable saving of expenditure achieved. (108)

The powers of the town council immediately prior to the adoption of the Local Government Act,

were limited to the watching of the borough, partially lighting it, the partial removal of nuisances, the management of the cabs, and weights and measures...They had also the carrying out of the Sales of Gas Act, the management of the Common Lodging Houses Act, and could give authority for the sale of paraffin oil, squibs and crackers. (109)

Notwithstanding the fact that this inventory was intended to illustrate the paucity of the powers at the disposal of the council, it also provides an accurate account of the powers that had been acquired since 1843. The incorporation provided only for the watching of the town, and the administration of justice, everything else was added on between 1843 and 1864.

For the purposes of this study, the powers of the greatest significance were those which delegated the authority to make byelaws, and those which provided for the appointment of executive officers.

Under the Municipal Corporations Act of 1835, the council was authorised to make byelaws for the good government of the town. These were subject to confirmation by the Secretary of State, and as such were models for subsequent developments. In October 1844, after several discussions and amendments, according to the wishes of the secretary of state, the council approved '69
salutary byelaws.' (110) In December 1851 17 byelaws were adopted in respect of common lodging houses. In July 1852 the council enacted a smoke byelaw which was disallowed in the November by the secretary of state; a similar byelaw was however passed and allowed to stand the following October. (111) After the council gained control of hackney carriages in mid 1862, a code of byelaws was framed for their management.

Despite the obvious attractions of byelaws as a method of control, the council experienced considerable difficulties when attempts were made to implement them. These problems derived principally from the fact that when tested in court the council's byelaws were often invalidated. Attempts to manage the cabs under a set of ineffective byelaws, produced a state of utter lawlessness that did nothing to enhance the reputation of the council. (112) One of the envisaged advantages of the Local Government Act was the obtaining of the power to make byelaws that would not be open to dispute in the Queen's Bench. (113) Though this confidence appeared to have been misplaced when it was later discovered that model byelaws also suffered from ambiguity, and thus unexpected legal interpretations.

MacDonagh regards the appointment of executive officers as the key to the working of the administrative-cum-legislative process. Once it had been disclosed that the initial regulations had left the original evils largely, or even altogether untouched, the solution of the problem was seen in the appointment of special
officers to ensure their implementation.\textsuperscript{114} Since it does not appear that any inspectors were appointed by Sheffield town council before the 1850s, it is most unlikely that their appointment after that date was the result of 'home grown' experience. Indeed the chief executive officers operating in Sheffield before 1850 were the surveyors to the highway boards, whose appointments were sanctioned under the Highway Act. Moreover, it was as a result of the adoption of general legislation that the corporation appointed its earliest inspectors; for example, the inspector of lodging houses,\textsuperscript{115} the inspector of nuisances,\textsuperscript{116} and the sale of gas inspector.\textsuperscript{117} It thus seems likely that when the council appointed a smoke inspector and an inspector of weights and measures, it was merely extending, in Sheffield, an already established principle, which had initially been derived from national experience.

Through the exercise of, albeit limited power, experience was accumulated by the various committees to which the executive officers were answerable. Shortcomings of the existing powers were highlighted, and the necessity for others was emphasised. The health committee in particular, despite its variable fortunes, provided a momentum for reform, and for the development of sanitary regulations.

The health committee was set up in December 1846, and almost immediately realised that it was, to all intents and purposes
paralysed for want of power. Nevertheless, the periodic investigations and resolutions of that committee concerning the sanitary state of the town, were effective in stimulating debates on sanitary matters. A mere 18 months after the electoral landslide of 1858 sanitary improvement was again suggested. This was greeted with derision by one of the opponents of the 1858 bill,

It was a great misfortune to have this question again introduced so soon after it had been settled...A longer period ought to have been allowed to elapse after the settlement of the question by the inhabitants, especially since there had been no particular disease or epidemic to cause the motion to be brought forward.

This last comment illustrates the opposition's failure to appreciate the value of preventative action, but more importantly it also indicates that concern for sanitary improvement simmered away under the surface, waiting only for a favourable combination of circumstances to emerge. Dramatic revelations or events were now no longer essential prerequisites for setting an 'irresistible engine of change in motion.' Though in the case of Sheffield, the engine stalled a few times before it could be induced to run smoothly. Another attempt to bring the subject of sanitary reform into the limelight, in 1862, proved to be premature. But it was only a matter of time before the opposing interests would again be challenged.

However, it should be noted that the influence of the health committee was limited by the severe financial constraints to which it was subjected. When, in 1847, the committee authorised
a report on the sanitary condition of the town, only £10 was voted for its expenses. The council got what it paid for. Haywood and Lee's report was an immensely detailed but anecdotal description of conditions prevailing in the town. It resulted from a methodical perambulation of the town by its authors. The recommendations appended to the report reflect, not only the conditions found to be existing in the town, but also attitudes expressed in the national reports of the early 1840s. In comparison with surveys conducted in other towns, a sharp contrast emerges. For instance, the statistical investigation into the social moral and educational state of the borough of Leeds, conducted by Robert Baker, cost that corporation £220. The results of this survey were published in the Journal of the Statistical Society of London in 1840. The wealth of data produced on the state of the town formed the basis of the Leeds Improvement Act of 1842, described by Clifford as 'one of the most comprehensive and complete which had then been obtained by local authorities.' It could be argued that if Sheffield's town council had had a similar mass of information at its disposal, it would have had considerably more success in refuting the allegations levelled by opposition spokesmen.
IV The Local Legislative Process.

Most of this chapter, through necessity, has concentrated on forces promoting and resisting change. In 1864 the principle of regulation was conceded. Although subsequently there were to be occasional flurries of widespread opposition on specific issues, there was nothing to compare with the scale and the scope of the popular resistance to regulations in general that was experienced before 1864. In the last decades of the nineteenth century opposition to proposed regulations became specialised and institutionalised. This was in response to the increasingly formalised procedures, regarding local legislation, that were adopted by the town council. It is therefore necessary to look closely at the development of the legislative process during this period in order to appreciate its operation in the next.

One obstacle to reform that has not yet been emphasised was the cost of local improvement acts. The cost of promoting a local bill was of crucial importance before the passing of the Borough Funds Act of 1872. Before 1872 the costs of promoting successful bills could be defrayed out of the first rate collected under the new act. The costs of unsuccessful bills could not, however, be funded out of existing rates. Thus, since the town had no funds that could be legally applied to the financing of an application to Parliament, an independent guarantee fund had to be set up. Promoting a bill was always expensive, what with employing parliamentary draftsmen and agents, and the payment of the
requisite parliamentary fees. For a general improvement act the minimum estimated cost was in the region of £800. (126) However costs could escalate dramatically if the measure was opposed, either by local threatened interests or by the parliamentary committees responsible for the bill. It followed that, in framing regulations, potential opposition had always to be carefully considered.

The process of formulating regulations was far from easy. Despite the fact that the 1846 improvement bill abstracted many common provisions found in similar acts, the committee responsible were forced to admit of the draft's imperfections,

When the difficulty of preparing the details of such a bill -a task requiring all the skill and experience of a regular parliamentary draftsman- is taken into account, they feel assured that the council will excuse their inability to frame a more perfect measure. (127)

When the 1851 bill was in the process of formulation, the availability of the Towns Improvement Clauses Act, and of the other clauses acts, considerably eased the drafters' problems, (128) but did not remove them entirely. It was still considered necessary to comb through all the local acts recently obtained. This duty devolved upon the town clerk, who, after spending many weary hours on the preparation of the bill, over a period of two months, made himself ill for the two months afterwards. (129)

The desire to solve various problems had to be modified in the light of potential opposition, from the general public, from
local vested interests, and from the parliamentary committees which considered the bill. In order to minimise costs, the opposition had to be disarmed by the selection of provisions which were self-evidently necessary. The 1858 bill, though to a large extent based on that of 1851, had had some of the clauses, identified as objectionable, expunged. Moreover, some of the clauses contained in local acts passed since 1851, and that were considered by the drafting committee as 'self-evidently necessary' were incorporated in the 1858 bill.(130)

The committees dealing with the bills found it impossible to cope with all the objections and suggestions bandied about at unruly public meetings, thus a system of consultation was initiated. Copies of the bills and reports of the committees were printed and circulated, in an attempt to broaden general awareness of the bills. The 1851 committee included a number of working men who had been nominated at ward meetings, and who had conscientiously attended the 10 long meetings which decided the final form of the bill.(131) A similar approach was adopted by the 1858 committee, but such was the ill-feeling stirred up by the bill, that the process of consultation never really got off the ground. According to one committee member, those generously invited to discuss differences of opinion over the measure, instead of accepting the committee's invitation, had roundly abused both, and had condemned the bill wholesale.(132) On the other hand, in the opinion of one of the bill's opponents, they were merely invited to make suggestions merely to be sneered at.
and then kicked out. Given the fraught atmosphere, and the polarisation of views, it was not surprising that the process of consultation had made little progress by 1858.

The formulative stage of the legislative process was side stepped in 1864, when the Local Government Act was adopted. The Local Government Act had certain conspicuous advantages over a local act, which made its acquisition less tortuous. To start with the procedure by which the act could be attained was more straightforward than that of a private local bill. It could be adopted by a simple two-thirds majority in the council chamber. But most significant were the powers granted by clause 23. Under this provision any costs incurred in connection with the adoption of the act would fall upon the borough. This was very important psychologically since it enabled the council to take a more dispassionate view of the opposition, instead of attempting to calculate it's worth in pounds, shillings and pence.

However, the adoption of this piece of general legislation was not a harbinger of future policy. Between 1864 and 1914 the corporation promoted many acts on the whole range of local affairs, at least 10 of which contained sanitary provisions. Moreover, byelaws, although sanctioned under general acts, were also subject to long and detailed formulative stages. Thus after 1864 there was renewed interest in the whole of the legislative process. When it became apparent that this process could not be influenced by the voice of the masses as expressed at public
meetings, interested opponents of proposed measure had to find alternative methods of exerting pressure on the decision making body. Thus, opposition groups were forced to become much more organised and specialised.
V Local Perceptions of Building Control 1840-64.

As previously indicated, to talk about building regulation as a distinct phenomenon during this period would be entirely misleading. The regulation of buildings was recognised, by some at least, to be a necessary and desirable form of control. However, it was regarded as only one component of a range of policies called into being by the consequences of industrialisation and urbanisation. Thus, the particular concern of this chapter has been the evolution of that organ of government, the town council, which was invested with the responsibility of building regulation in 1864. However, there was some interest in Sheffield before 1864 in the ability to control the way in which the town developed, therefore it is necessary to undertake a brief survey.

Soon after its incorporation, the town council was presented with the opportunity of acquiring extensive building controls. In a letter to the town clerk, from the secretary of the Royal Commission in September 1845, it was suggested that the town council consider the practicability of introducing into Sheffield the Metropolitan Building Act.(134) It is thus apparent that the idea of a national building standard did not immediately evaporate after the failure of Normanby's Building Regulations Bill of 1841-2. Instead an attempt was made to make the standard more palatable by suggesting that the local authorities adopt it of their own free will, rather than have it imposed upon them.
The council members, and the town clerk, being almost totally ignorant of the measure appointed two local experts (William Lee, surveyor to the Sheffield Highway Board, and William Flockton, an architect) to consider the act and to report back to the council.

The general conclusion of the report on the Metropolitan Building Act was that its provisions should be amalgamated with those of the Health of Towns Bill. This was because both of the measures had very similar intentions. Various provisions in the Act were acknowledged as being extremely useful; these included the laying of proper drains to every building, the fixing of street widths and levels, and the appointment of inspectors to supervise building work. However the authors of the report found themselves unable to recommend any restrictions which would interfere with the thickness of walls, the height and capacity of buildings, or of the materials used in the construction process. The justification for these reservations echo the views of the witnesses appearing before the Select Committee on the Buildings Regulation Bill.

The introduction of such restrictions would, in our opinion, be tantamount to a prohibition on cottage building in provincial towns...though substantial and partially fireproof buildings might be obtained, we fear that the morality of the artisan and his family would greatly degenerate, by compelling different families to herd together to economise rent.

In light of this report, the council, while admitting the usefulness of some of the act's provisions, was of the opinion that it would not be expedient to extend the Act to
It was thought that those desirable provisions could be incorporated in a local improvement act.

Without such a local act, the rapid expansion of the town during the succeeding two decades was totally uncontrolled. Building plots were laid out with little reference to natural drainage levels. No care was taken to ensure that houses were provided with adequate light and ventilation. The provision of privies was totally inadequate. Moreover, in many instances where they were supplied, they were often constructed in such a way as to cause a nuisance. No care was taken to place the privies in such a way as to admit of their being emptied easily, or to prevent their draining under the foundations, or into the cellars of adjoining houses. The consequences of uncontrolled development highlighted the need for regulation. Given the entrenched opposition of the property owners to the 1858 bill, there was little hope of improvement from that direction in the absence of control.

By 1868 matters had come to a head.

At present many cottages were built in a way so disgraceful to the builders that it was a disgrace to the council not to have taken the power of exercising some control over them long ago. (138)

The evils resulting from the want of power to regulate the level of streets and houses, and to prevent flimsy building, with all its attendant dangers to health, demonstrated to reformers the absolute necessity of putting the Local Government Act into operation in Sheffield. (139) There was residual concern that
regulation would increase multiple occupancy,(140) but as seen in
the national debate, this was no longer a sufficient
justification for inactivity. In 1864, after 20 years of
discussion, and at the fourth attempt, the reformers won the day.

The departments of the town council were re-organised in
September 1864, and the new administrative responsibilities were
distributed. Building controls were placed within the
jurisdiction of the Highway Committee. The committee's first
activity was to appoint a sub-committee to draft a code of
building byelaws. The code produced closely followed the Local
Government Act Office's 'form' of byelaws. This was put forward
for adoption at a full council meeting in October 1864. At this
meeting there was the almost inevitable backlash, which attempted
to dismiss the byelaws as 'crude, ill-advised and inapplicable',
but this view was rejected by the majority as an attempt to
prevent by procrastination the proper working of the Local
Government Act. There was also some additional concern that the
byelaws would effectively ban the back-to-back, but this was not
sufficiently strong to prevent adoption.(141) The
perception of the back-to-back had changed since the 1840s. The
fact that they had been banned in other towns, convinced the
majority of the necessity of banning them in Sheffield.
The experience of one particular town has been used to demonstrate the mechanisms by which the product of central government's efforts, in creating and defining uniform standards of sanitary administration, was disseminated nationally. By adopting, in 1864, the Local Government Act of 1858, Sheffield's town council was provided with a framework for local action which balanced local concerns and national control. National uniformity and standardisation had been achieved, but within a system which left the introduction of regulations, and their implementation, firmly in local hands.

However, what this chapter has also illustrated was the essentially local nature of the debate, and the equivocal relationships that existed between local opinion and authority, and between local and central government. It has been demonstrated that the arguments that raged within a particular urban focus tended to be of a different order than those marshalled nationally in support of reform. Thus, the need has been established for the assessment of the succeeding development of local government to encompass the legal and administrative context of the balance of national and local interests, as well as the political and economic forces peculiar to each town and city.
(22) ibid. M. Beal.
(23) S&RI, 14 August 1858, 10-11.
(24) S&RI, 6 November 1858, 10.
(25) S&RI, 30 October 1858, 11.
(26) T. Morrison, Brightside, S&RI, 6 November 1858, 10; and M. Beal, St Phillips, S&RI, 16 October 1858, 10.
(27) S&RI, 6 November 1858, 10.
(28) SCA, MS Council Minutes, CA104(5) 17 February 1864.
(29) ibid. 11 May 1864.
(30) S&RI, 12 May 1864, 4, W. Harvey.
(31) S&RI, 5 July 1864, 7.
(32) Sheffield Daily Telegraph (hereafter SDT), 7 July 1864, 3.
(33) SCA, MS Council Minutes, CA104(5) 6 July 1864.
(34) One example being P. Ashberry, S&RI, 9 July 1864, 10.
(35) S&RI, 2 November 1864, 3.
(36) Fraser, Power and Authority, 146.
(37) MacDonagh, 'Revolution in Government', 62.
(38) ibid. 58.
(41) First Annual Report of the Medical Officer of Health for the Year 1873, (Sheffield, 1874), 3.

(45) ibid. 69.


(48) S&RI, 16 October 1858, 11.


(51) This paragraph is based on Smith, *Conflict and Compromise*, 81-2.

(52) Some examples of local acts acquired before 1864:
  - Liverpool 1842, 1846.
  - Manchester 1845, 1853.
  - Newcastle 1839, 1846, 1853.
  - Birmingham 1851.
  - Leeds 1842.

(53) S&RI, 30 August 1851, 2, R. Otley.

(54) Fraser, *Power and Authority*, 141.

(55) ibid, 142.

(56) Smith, *Conflict and Compromise*, 84.

(57) S&RI, 13 December 1851, 2, Alderman Dunn and W. Harvey.

(58) For example, Councillors I. Schofield and R. Solly, ibid.

(59) Fraser, *Power and Authority*, 144.

(60) ibid. 143-4.

(61) S&RI, 16 October 1858, 10, W. Huthchinson.

(62) ibid. J. Kerry.

(63) ibid. R. Skelton.

(64) S&RI, 14 August 1858, 11, Dr Holland.

(65) S&RI, 30 October 1858, 11, Dr Holland.
(66) ibid. Alderman Dunn.
(67) ibid. J. Hall jun.
(68) SCA, MS Council Minutes, CA104(4) 9 June 1858.
(69) S&RI, 12 June 1858, Alderman Robson.
(70) S&RI, 14 August 1858, 10, W. Harvey.
(71) ibid. W. Harvey.
(72) S&RI, 16 October 1858, 11, Dr Holland.
(73) S&RI, 14 August 1858, 10, M. Beal.
(74) ibid. 11, Dr Holland.
(75) S&RI, 16 October 1858, 10, J. Wilson.
(76) ibid. Mr Roberts.
(77) Smith, Conflict and Compromise, 63.
(78) S&RI, 9 July 1864, 8.
(79) S&RI, 14 August 1858, 10, Alderman Mycock.
(80) For example, Alderman Dunn, S&RI, 20 December 1851, 6; and Dr Holland, S&RI, 11 September 1858, 10.
(81) S&RI, 13 November 1858, 8.
(82) S&RI, 6 November 1858, 10.
(83) For example S&RI, 9 July 1864, 8; and S&RI, 23 October 1865, 2.
(84) S&RI, 13 September 1845, 2, Alderman Hoole.
(85) S&RI, 13 March 1858, 10, Dr Holland.
(86) S&RI, 11 September 1858, 11, W. Harvey.
(87) Builder, 29 January 1861, 641.
(88) ibid. 5 October 1861, 676.
(89) S&RI, 18 February 1864, 4, P. Ashberry.
(90) Builder, 17 November 1860, 729.
(91) ibid. 16 July 1864, 531.


(94) SDT, 5 July 1864, 8, S. Lister.


(96) ibid. 85.

(97) ibid. 90-91.

(98) S&RI, 17 April 1858, 8.

(99) S&RI, 9 July 1864, 10, P. Ashberry.

(100) S&RI, 16 October 1858, 11, Dr Holland.


(102) Smith, *Conflict and Compromise*, 65.

(103) ibid. 85.

(104) S&RI, 16 August 1851, 2, Alderman Dunn.

(105) S&RI, 12 September 1846, 6.


(107) ibid.

(108) Report of the Improvement Bill Committee, preface to Sheffield Improvement Bill 1858, (Sheffield, 1858) 2.

(109) S&RI, 18 February 1864, 3, Alderman Webster.

(110) Furness, *Municipal Affairs*, 80, 9 October 1844.

(111) ibid. 97, 14 July 1852.

(112) S&RI, 9 July 1864, 8.

(113) S&RI, 18 February 1864, 3, Alderman Webster.


(116) SCA, MS Council Minutes, CA104(4) 9 November 1854 and 13 September 1855.


(118) S&RI, 16 January 1847, Supplement, 2, Alderman Dunn.

(119) S&RI, 14 April 1860, 11, Alderman Saunders.

(120) MacDonagh, 'Revolution in Government', 58.

(121) S&RI, 13 December 1862, 9.


(123) Hennock, *Fit and Proper Persons*, 188.


(126) S&RI, 13 September 1851, 2, Alderman Dunn.

(127) Report of the Local Act Committee presented to the Town Council 9 September 1846, (Sheffield, 1846) 4.

(128) S&RI, 30 August 1851, 2, E. Bramley, Town Clerk.

(129) S&RI, 13 March 1858, 10, E. Bramley, Town Clerk.

(130) Report of the Improvement Bill Committee, preface to *Sheffield Improvement Bill 1858*, (Sheffield, 1858) 2.

(131) S&RI, 6 December 1851, 2, Dr Hall and R. Leader.

(132) S&RI, 19 June 1858, 10, W. Harvey.

(133) ibid. Mr Bagshaw.

(134) S&RI, 13 September 1845, 2; and SCA, MS Council Minutes CA104(1) 10 September 1845.

(135) S&RI, 15 November 1845, Supplement, 1.

(136) ibid.

(137) SCA, MS Council Minutes CA104(2) 10 November 1845.
(138) S&RI, 18 February 1864, 3, Alderman Webster.
(139) S&RI, 12 May 1864, 4, Alderman Mycock.
(140) S&RI, 9 July 1864, 10, W. Hutchinson and R. Elliot.
(141) S&RI, 13 October 1864, 4.
The early campaigns for public health had identified uniformity as the key to the effective working of a national system of sanitary administration. Initial attempts to secure some degree of uniformity and standardisation across the country, by means of national legislation, had intensified the frictions inherent in the relationship between central and local government. The Local Government Act of 1858 was a significant factor in the resolution of such suspicions and apparent conflicts of interest, and, as the previous chapter has demonstrated, made possible the introduction of a system of administration which balanced local concerns and national control. The Act allowed for that control, along with the dissemination of national experience, within a system which left the introduction and implementation firmly in local hands. The working out of that balance, symbolised by the Local Government Act, was to provide the means by which an effective and extensive pattern of sanitary regulation was achieved.

The Local Government Act established the outlines of a framework which set the pattern of future development. The detested General Board of Health had been replaced by the more benign and less threatening Local Government Act Office; uniform codes of sanitary and local government regulations were attainable by adoption; and where provisions for local authorities to frame their own regulations existed (as in the case of building control), models were available for use as a guide. In essence,
there existed basic ingredients for a countrywide, uniform system of sanitary administration.

However, this should not be taken to imply that the process was either straightforward or inevitable. The development of local government was anything but smooth. England was in the process of learning how to administer its localities under conditions for which there were no precedents. The apparent uniformity implied by the framework was undermined by a variety of factors. The framework itself, as evolved by 1858, was the result of pragmatic expediency, and was the product of an urgent desire to find a system that would work, rather than the fruit of a deliberate policy initiative. This lack of a deliberate policy was reflected in the plethora of sanitary-type acts which reached the statute book between 1848 and 1870.

The operation of the first Public Health Act of 1848 highlighted the need for further regulation. Accordingly, fifteen 'public health' statutes were passed in the years between 1848 and 1870, relating to such matters as disease prevention, nuisance removal and sewage utilisation. This total did not include the many acts for special purposes, bearing most materially on sanitary interests, which sprang from the same motives which inspired the main sanitary legislation. These included acts relating to burials, baths and washhouses, vaccination, contagious diseases and adulteration of food. All this legislation accumulated on an
ad hoc basis, in the absence of any unifying plan or guiding philosophy.

The tendency towards proliferation that can be seen to have governed national legislation, was also discernible in the local sphere. Towns continued to be faced with problems to which the general legislation provided, in their opinion, no adequate remedy. They continued to draft their own measures, either supplementary to general acts, or in preference to them, especially if the latter involved some degree of central control. Between 1852 and 1867 over 3,600 local and personal acts received the Royal Assent. In the absence of any effective co-ordinating influence, uniformity in sanitary administration was further undermined.

The number of statutes, both local and national, and the way in which they were framed, without any attempt at synthesis or consolidation, resulted in utter confusion. The deleterious consequences of such confusion were spelt out in the second report of the Royal Sanitary Commission,

sanitary functions are classed together, or distinguished, with no apparent regard to any real affinity or difference...Such distinction without differences, the result of casual legislation regardless of what had preceded, are far more than merely illogical or unmeaning. They cause grave misunderstandings of the law, mislead public opinion, multiply expenses and aggravate disinclination to improvement, and mistrust of science.(2)

One of the main recommendations of the Sanitary Commission was the consolidation of all sanitary legislation. This was achieved
with the passage of the 1875 Public Health Act. This Act contained 343 provisions and involved the whole or partial repeal of 47 acts. (3)

As with the previous Public Health and Local Government Acts, the hope was entertained that consolidation would obviate the necessity of new legislation for many years to come. (4) Such a hope reveals that government was still trapped within a static concept of administration. It had not yet come to appreciate the fact that new amending and even consolidating legislation did not provide a fully satisfactory solution. Experience had yet to show that in attempting to create uniform standards of sanitary administration central government was faced with a complex and continuous struggle. Only towards the end of the period under consideration in this chapter did realisation begin to dawn. Problems ceased to be regarded as resolvable once and for all by some grand piece of legislation. Improvement was beginning to be viewed as a slow uncertain process of tightening the screw ring by ring in light of continuing experience and experiment. Thus, it is not until the fourth quarter of the nineteenth century that a dynamic concept of administration begins to replace the static concept in the field of public health. This is, in essence, MacDonagh's fourth stage of government growth.

Thus, the central concern of this chapter is an analysis of how central government conducted its struggle for uniformity in local sanitary administration. Attention will be concentrated on the
instruments devised by central departments and in Parliament towards this end.

This chapter will be divided into four main sections.

Section I considers the events of the period between 1858, when the Local Government Act was passed, and the early 1870s, when the recommendations of the Royal Sanitary Commission were beginning to be effected. During this period the Local Government Act Office was the central agency responsible for local sanitary administration.

Sections II and III concentrate on the period between 1871, when the Local Government Board was established, and 1890, when the Public Health Acts Amendment Act was passed. Section II analyses the ways in which the centre attempted to impose uniformity by means of the byelaw system, whilst Section III considers how the same aim was pursued with respect to local legislation.

Section IV considers the modifications to the established system of national sanitary administration introduced by the Public Health Acts Amendment Act of 1890.
The Local Government Act of 1858 transferred the responsibilities relating to the acquisition or exercise of powers of local government from the defunct General Board of Health to the Home Department. A special section, the Local Government Act Office, was created within the Home Department to deal with matters arising from the Act. While the dissolution of the General Board of Health and the surrender of the power to enforce the sanitary code upon a reluctant district from the centre may be regarded as retrogressive, on the whole the Act of 1858 represented an enlargement and improvement of the Act of 1848. Although it strictly preserved the permissive character of sanitary legislation the process of adoption was greatly simplified.

The governing principle of the Local Government Act Office was that local improvement was above all a local matter, and was therefore beyond the scope of central influence. Progress was therefore dependent on an appreciation in the locality of the need for reform. All central government could be properly called upon to do was place the means of local improvement as cheaply and simply within the reach of local authorities. This low trajectory of ambition was reflected in the Office's Annual Reports. These were mere statistical summaries of the years' business. The Office's power of reporting was never used to stimulate local action. In comparison with the way in which Chadwick, Farr and Simon exploited the right to make reports, the
Office's fundamental lack of purpose, ambition and imagination is revealed. (7)

Despite this apparent lack of enthusiasm for the principle of extended influence, practical necessity dictated otherwise. Between 1858 and 1871 over 700 places adopted the Local Government Act. The majority of these were small towns which were so overwhelmed by a sense of inadequacy in the face of new problems, so utterly confused by the state of sanitary law, and so fearful of the enormous cost of improvement, that they were only too willing to rely on the superior knowledge accumulated in the central department. (8) Thus, notwithstanding the timidity of the Office, patent need ensured the extension of its influence.

The willingness of smaller towns to adopt the Local Government Act was not matched by their larger counterparts. Self consciously believing their problems to be special and professing a curiously anachronistic and irrational objection to 'centralisation', the large towns preferred to work alone, through expensive local acts and their own professional staffs. (9) At first sight, the fact that most of the larger towns continued to act independently seems to undermine the apparent uniformity in the spread of sanitary administration. However, these larger towns were not so superior that they were not prepared to take advantage of national experience. In designing tailor made acts, local authorities made use of the standardised provisions in the Local Government Act. Thus, in
spite of the fact that many of these acts contained new provisions, some uniformity was at least maintained.

In addition, many local acts embodied powers, similar to those contained in the Local Government Act, to make byelaws. Byelaws made under these local acts, like those made under the national act, were subject to confirmation by the Secretary of State. In framing byelaws under local acts, local authorities made extensive use of the 'forms' of byelaws issued by the Local Government Act Office. Most large towns issued building byelaws during the 1860s, and in almost every case these were modeled on the pattern established by the 1858 form of byelaws for new streets and buildings.(10) The Office also issued forms of byelaws regarding hackney carriages, slaughter houses, nuisances and cleansing of footways. Given the example of building byelaws, it is more than likely that local byelaws produced on these other matters closely followed the national models.

It is therefore necessary to distinguish between the limited impact of the Local Government Act in terms of the number of towns actually adopting it, and its far greater significance in terms of its influence on local legislation, and, for the particular purposes of this study, on the concept and content of building control.(11)

The framework established in 1858 tended to promote uniformity, but this was not absolute. Although it was the policy of the
Local Government Act Office to discourage applications for local legislation,(12) the limitations of the general legislation, and of the forms of byelaws, militated against this aim, and hence uniformity. By using the example of building byelaws this trend can be illustrated. It was the weaknesses and flaws present in form of building byelaws which were partly responsible for an increase in local legislation, the very thing such models were intended to obviate.

The problems encountered with byelaws based on the form stemmed from the fact that many of the clauses were imprecise and their details were left to the discretion of the local authority. Thus, when tested in court, many of the byelaws were found to be ultra vires, because they exceeded the power of the authorising statute. Although an act of Parliament could give a local board the power to have work done 'as they should in each case determine', no byelaw could give such authority.(13) To be consistent with the principles of general law a byelaw must be certain in its enactment, general in its application, and must afford complete direction to those who are to obey it. Since most of the byelaws in the form gave a local board discretionary powers, uncertainty was always involved. This was contrary to the essential requirements of a byelaw, thus any such clauses were liable to be found ultra vires. This legal uncertainty made it almost impossible for local authorities to pursue successful prosecutions under the byelaws. According to one of the Local Government Act Office's own inspectors, 'at present almost
anybody can question a byelaw and can interpose to prevent its exercise.'(14)

The doctrine of ultra vires, as developed by the courts, made local authorities entirely dependent on Parliament, not only for the extension of powers, but for the legitimisation of powers they already had.(15) Manchester's experience was typical, it was very soon found that when we came to consider the byelaws carefully, with a view to litigation, very many were utterly unauthorised by the powers under which they were avowedly made, although approved by the Secretary of State. We therefore had to introduce this session several clauses which were absolutely necessary to enable us to carry out what is intended by those byelaws, but which the power itself to make byelaws does not give.(16)

Thus it can be seen that the developing trend towards uniformity, nurtured by the framework established by the Local Government Act, was to some extent undermined from within. All was not lost however since within Parliament the provisions of local acts were scrutinised with ever greater care.(17) According to witnesses appearing before the Royal Sanitary Commission, in the House of Lords, the Chairman of Committees, Lord Redesdale, was particularly cautious as to the clauses he allowed, local authorities had to prove the necessity of the special legislation they promoted.(18) In the House of Commons Mr Bouverie had performed a similar function, being 'very particular as to the builders clauses, and who preferred in his situation as chairman to see public measures instead of local acts.'(19) Despite the increasing care taken over the progress of local legislation parliamentary policy and practice still lacked the coherence to ensure uniformity. Special cases were often proved, and many
local authorities returned to parliament session after session, spending large sums of money in the search for extended powers.

By the late 1860s both local and national legislation was in a confused state. Act upon act had been piled up, one to amend another, until confusion reigned supreme. 'Men learned in the law' had considerable difficulty in understanding the jungle of legislation, and thus its interpretation was always subject to considerable variation. (20) In such a situation effective administration was difficult if not impossible.

Administrators at the Local Government Act Office became increasingly aware of their limitations. Although they could grant powers to local authorities, they had no means of ensuring that such powers were carried into effect. (21) The Office's more active twin, the medical department of the Privy Council, built up a massive dossier which revealed that a huge gulf existed between the laws and their application, and which revealed conclusively that the permissive legislation had remained largely unapplied. (22)

It was widely recognised among sanitary reformers that the key to effective administration lay not in more legislation, but in the codification of existing laws. This recognition led to a reform movement for a simplified health act which would integrate all the ad hoc legislation that had been passed over the previous two decades into a clear and practical code of laws. (23) In this
reform movement doctors played a leading part. In May 1858 a joint committee of the British Medical Association and the Social Science Association was set up with the aim of 'promoting a better administration of the laws relating to...the improvement of public health.' (24) Following a petition to the government of the joint committee the Royal Commission on the Sanitary Laws (the Sanitary Commission) was appointed in November 1859. (25) The concern of the doctors, and the appointment of the Commission, were symptomatic of a national movement of opinion, in which public health had become, for the first time, a subject of widespread and urgent interest. (26)

The Sanitary Commission undertook the arduous task of not only consolidating and codifying all existing sanitary legislation, but also of suggesting necessary alterations and additions. A draft of a comprehensive statute was appended to the Commission's second report. However, as important as the streamlined legislative provisions, were the series of recommendations that the Commission made with regard to administration. These were made with the intention of giving full and general effect to the sanitary laws, in the hope that a future slide into confusion might be avoided. The Commission's recommendations included the requirement that all functions of local government should be concentrated in the hands of one local authority, in order that the obstacles to sanitary improvement, resulting from the variety and overlapping jurisdictions of numerous local bodies, could be avoided. The Commission's enquiries had amply demonstrated the
fact that permissive legislation had not been too successful, thus, the new statute was to be made imperative.

But most important of all of the Commission’s recommendations were those relating to the establishment of a strong central body. It was thought expedient that the administration of the laws concerning public health and poor relief should be presided over by one central authority. This authority was to be provided with a large staff of officials capable of controlling and inspecting the administration of the sanitary and poor laws. It was suggested that the central authority should have the power of compelling a local authority of perform its statutory duty. In addition, the central body should be able to issue orders and regulations, which were binding on the local authority, with a view to securing that the uniformity provided for in the law should not be lost in their administration.(27) Notwithstanding the high regard for a powerful central authority, the Commission went to great pains to indicate the proper relationship between central and local government.

The Central Authority...must nevertheless avoid taking to itself the actual work of local government. We would leave direction only in the central power. It must steer clear of the rock on which the General Board of Health was wrecked; for so completely is self government the habit and quality of Englishmen, that the country would resent any Central Authority undertaking the duties of the local executive.(28)

Thus there were definite limits to the power of any central authority. It may control, stimulate, and, in some cases,
supplement the efforts of local bodies, but it could never be a substitute for them.(29)

Such was the impact, both in and outside Parliament, of the second report of the Sanitary Commission, that one of its more important recommendations can be said to have been disregarded. The Local Government Act of 1871 created a unified and centralised public health administration. The Local Government Board combined in one body the functions previously exercised by the Local Government Act Office, the Poor Law Board, the office of the Registrar General, and the medical department of the Privy Council.(30) In 1872 some of the functions within the sphere of local government but previously administered by the Board of Trade were also transferred to the new central body.(31) In the same year the Public Health Act rationalised the chaos of administrative jurisdictions by dividing up the whole country into urban and rural sanitary districts.(32) The same Act also authorised the Local Government Board to require the appointment of local medical officers of health and nuisance inspectors. Finally, in 1875 all the laws relating to public health were revised, codified and superseded in the Public Health Act of 1875.(33)

As part of its general investigation into the sanitary administration of the country the Sanitary Commission undertook an analysis of the working of the byelaw system, taking evidence from both Local Government Act Office inspectors and from the
representatives of local authorities. It was recognised that the problems encountered in the courts with byelaws had been a serious obstacle to reform. The suggestion of dispensing with byelaws altogether was considered as a solution, since by enacting similar provisions within general statutes the problem of ultra vires could be avoided. However, the commissioners held fast to the principle that although matters of general application should be included in general legislation, matters which required adaption to varying times or localities, or which were too minute for general legislation, were fitting subjects for byelaws. Thus, it was concluded that byelaws were too useful to set aside, and that no adequate substitute could be found for them. The commissioners were confident that the problem of doubtful validity was diminishing, and would continue to do so.

The experience of the last few years, and the decisions which have taken place, have thrown much light upon the subject. It is everyday becoming more easy to avoid the most fatal flaws, and to accomplish with success the most necessary objects.

This was a key decision; it enshrined the instrument of the byelaw within the system of sanitary administration; it confirmed the byelaw as the appropriate method of controlling intricate and detailed matters, of which building construction was a prime example; and it ensured that the model byelaws issued by the Local Government Board in 1877 followed the format of the pattern outlined in 1858.
Before embarking on a detailed analysis of how the Local Government Board attempted to instill uniformity in local administration, it is first necessary to consider some of the implications of the Sanitary Commission's report on this study of a particular aspect of local government growth. The two areas of specific concern are, the perceived function of the central department and of its inspectorate; and the enduring belief that the problems facing society could be solved by the judicious application and implementation of statutory controls.

In MacDonagh's model, executive officers were those men appointed to ensure that the regulations were carried into effect. Their intimate involvement in the administration of regulations, and their direct contact with the central authority, provided the vital momentum for the legislative-cum-administrative process. However, in this instance, the men charged with the responsibility of implementing the regulations were local executive officers, who had no direct contact with the central department, since they were appointed by and reported to the local authority. The role of the inspectors appointed by the central authority was restricted by the concept of the proper relationship between local and central government. They were to advise and assist local authorities, by making available to them expert knowledge accumulated at the centre, but day to day administration of the regulations was to be left in the hands of the local appointees. Thus, in this model of local government growth a vital link in the administrative-cum-legislative process
is missing. It is therefore necessary to indicate how momentum within the process was maintained in the absence of direct communication between executive officers and the central authority.

In the absence of direct involvement in the administration of regulations, national officers were dependent on the experience accumulated and reported on by local officials. However, before the inauguration of the Local Government Board there were no established channels by which information about what was actually happening in the country was transmitted to the centre. The Local Government Act Office only knew as much about the activities of local authorities as it had learnt from their applications to the Secretary of State, or from local complaints and appeals. (39) However, after 1871, the steady development of general inspection, the considerable increase in correspondence between the central and local officials, and the almost oppressive demand for statistics of all kinds from local authorities, considerably increased central awareness of local activity. The experience accumulated by the Board, through its solicitation of information, was consolidated and reinforced by its direct contact with individual authorities. Under various statutes and parliamentary standing orders, the Board had to be consulted, and had to sanction, any attempt by a local authority to promote a local improvement act, or to acquire or revise a set of byelaws. The close scrutiny of the provisions of local bills and byelaws, ensured that the officers of the Board were kept
continually up to date with the problems encountered with the existing powers, and with the new powers that were being suggested.

We find, therefore, in this field of administration, that it was the local executive officers who provided the initial momentum for the refinement and expansion of legislative powers. When the powers required were not available in general statutes, or in byelaws authorised by the same, local authorities responded to this momentum by promoting, and acquiring, local acts of parliament. As will be demonstrated below, it was the passage of local statutes, that were in advance of the general measures, which eventually provided the impetus for national re-regulation.

The fulfilment of all the major recommendations of the Sanitary Commission can be regarded as the culmination of the introductory phases of government growth in the field of sanitary administration. The system thus established reflected the enduring belief that all problems were amenable to determinable laws or principles. One of the central beliefs of the sanitary reformers was that the welfare of the majority of the population could be improved by the passage and implementation of prohibitory legislation. It was widely believed that the living conditions of the poor would be improved by the application of measures designed to reduce the prevalence of epidemic and endemic diseases; by restoring health, earning power could be raised sufficiently to allow the renting of decent houses. Under
building regulations 'decent' houses would be the only ones available. It was further believed that market forces would adjust to the state of the law, 'wages would in the long run adjust themselves to that rent below which habitation could not be got.'(40)

While the administrative system, as refined between 1871 and 1875, was becoming well established, and a measure of sanitation was being brought to English towns and cities, it began to be realised that theoretical truths were not necessarily practical possibilities. Some deep seated problems, such as poverty, eluded legislative solutions, while others, such as the improvement of the defective housing stock of previous generations, highlighted the need for positive state interference and expense. Although this study concentrates on the continued development of prohibitory legislation, it should be noted that positive state intervention, though starting from a low base, becomes increasingly significant during the remainder of the period.
II The Bylaw System.

As has been previously indicated, the limitations imposed upon a project of this nature preclude an all embracing approach to the study of local government growth. Thus, a particular focus, that of building regulation, has been selected for detailed analysis. Consequently, the succeeding exposition of the activities of central government will concentrate on this aspect, in the hope that more general trends in the pattern of local government growth can be identified and explained.

In accordance with its aim to guide, to inform and to stimulate local activity, one of the first moves of the Local Government Board was the preparation of a clear and methodical digest of sanitary law, for use by the newly formed urban and rural district sanitary authorities. In advance of the consolidation of the extremely numerous and varied sanitary acts, some authoritative guide was an absolute necessity. However the Board was reluctant to move further, in advance of the consolidating process. Consideration of a suggestion that the Board issue a series of model byelaws was deferred until the process of codification and consolidation was complete.

Section 34 of the Local Government Act, that which authorised local authorities to make building byelaws, was superseded by section 157 of the Public Health of 1875. The essential framework of the original section was left intact. Local
authorities were to continue to be allowed to make building byelaws within four categories; that is, with respect to, streets, the structure of walls, ventilation, and drainage. The most significant changes were made to the second part of the section. The power to make byelaws regarding the structure of walls was extended, to encompass the structure of foundations, roofs, and chimneys. In addition, the power itself was expanded, so that byelaws could be made for the purposes of health, as well as those of structural stability and the prevention of fire. Other provisions were also introduced by the Public Health Act which were intended to clarify the legal confusion that had resulted when attempts had been made to enforce byelaws under the Local Government Act. Section 158 stipulated the amount of time a local authority was allowed in which to approve submitted plans; section 159 provided a new definition of a 'new building'; and sections 153 and 156 defined what was meant by 'building line'.

The passage of the Public Health Act of 1875 provided a new impetus for the production of a series of model byelaws. The statute provided little specific information as to what was actually allowed under its byelaw making provisions. In September 1877, John Lambert, the secretary of the Local Government Board, sent a letter to all urban sanitary authorities explaining the general nature and intent of the principal changes effected by the Act,(43) but this was not sufficiently detailed to assist in the production of local codes of byelaws which would
conform to its provisions. Like its predecessor, the Local Government Act Office, the Local Government Board was pressed for guidance and direction on the presentation of byelaws submitted for confirmation under the Public Health Act. (44)

The Local Government Board responded to such requests by embarking on the preparation of a model series of byelaws. For its first series, the Board selected those subjects on which local authorities most frequently made byelaws, rather than all of the subjects on which byelaws could be made under the Public Health Act. In 1877 nine sets of model byelaws were issued by the Board, the fourth, and by far the most extensive and complicated, set related to the construction of New Streets and Buildings. (45) The Board hoped that given the time and the opportunity models would be provided for the whole range of subjects on which byelaws could be made under the Act. (46)

In formulating the models the Board proceeded with extreme care. It was anxious to avoid the weaknesses that had dogged previous models, and so attempted to ensure that the new byelaws were in strict conformity with the terms and legal principles of the enactments to which they were to give effect. Another priority was the provision of rules that would be suitable for general application, while allowing for local diversity. (47) It was considered essential, if the experiment was to succeed, that the model byelaws should invite the confidence of the local authorities. In pursuance of these aims the Local Government
Board sought the assistance of qualified and independent experts. A draft of the proposed building byelaws was forwarded to the Royal Institute of British Architects for comment. The Institute itself extended the process of consultation by setting up in 1876 a committee to communicate with both the Local Government Board and provincial architectural societies on the subject of the model code. In June 1876 the Institute circularised all provincial societies in order to elicit their comments. Rapid progress was incompatible with the approach adopted by the Board, but the models eventually appeared in July 1877.

The new model byelaws for New Streets and Buildings drew on existing regulations in earlier legislation, but carefully reframed, refined and extended them. The number of clauses within the model was increased from 34 in 1858, to 99 in 1877, these were distributed in the following manner.

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<td>structure of walls etc.</td>
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The refinements made to earlier regulations included more reasonable rules for wall thicknesses. Extensions included the regulation of damp proof courses, under-floor ventilation, and a considerable increase in provisions relating to drainage, privies and water closets. The risks of legal uncertainty were reduced by the removal of the local authorities' discretionary power to waive the byelaw requirements when they saw fit.

The 1877 model byelaws for New Streets and Buildings were a considerable advance on the 1858 form of byelaws. In Harper's terms, local authorities were now provided with 'something nearer a technical handbook, rather than mere guidelines to basic principles of performance.' Within this model the regulations relating to fire and stability, inherited from the eighteenth century, had been brought up to date, and more recent regulations concerning health had been incorporated. According to Gaskell, this was a substantial achievement and a constructive culmination to the pattern of previous legislation which had gradually and experimentally established increasingly sophisticated understanding of the formulation of building control. Thus, in the model byelaws we can discern a reflection of the general move towards consolidation characterised by the Public Health Act itself.

The nine sets of model byelaws were despatched to all urban sanitary authorities by the Local Government Board in July 1877, accompanied by a covering letter. This letter emphasised the
important points that should be borne in mind when local byelaws were being prepared. Local authorities were reminded that to be in harmony with the laws of England byelaws must be certain, determinate and reasonable, and must be strictly limited by the terms of the specific enactment from which their force was derived. The Board was convinced that, if nothing else, natural justice dictated that any person who, by contravening rules which byelaws prescribed, could be rendered liable to a penalty, was entitled to demand, from those who imposed such rules, a clear statement of the course of action that must be taken or avoided.(54)

In addition to highlighting the legal principles under which local byelaws were to be formulated, the Local Government Board's letter also outlined the administrative procedure which was to be adopted by local authorities when submitting byelaws for confirmation. Under section 184 of the Public Health Act, before the Local Government Board could confirm any byelaws, proof had to be submitted that the local authority had advertised its intention to make byelaws in the local press, and that a copy of the proposed byelaws had been available for inspection by local ratepayers. Regarding the actual clauses, the Board had had printed foolscap copies of the model byelaws, which were available, on request, by any authority making or revising local codes. These printed copies were provided with ample margins. Alterations to the model, to suit special circumstances were to be annotated in the margin, thereby immediately directing the
attention of the Board to the required variations. (55) That these administrative arrangements worked satisfactorily in practice, was acknowledged in succeeding annual reports of the Local Government Board. (56) The methods adopted enabled central administrators to subject each proposed modification to careful scrutiny, from legal, sanitary, and technical points of view. (57)

When reviewing the first few years of the models' operation, the Local Government Board was satisfied that the experiment had been a success. (58) During the first two years the Board confirmed almost 500 sets of byelaws. (59) The local authorities had proved themselves generally disposed to avail themselves of the model clauses when making new byelaws, or revising existing ones. In many instances the models had been adopted without alteration. Even where local circumstances had made this impractical, the model clauses nevertheless, formed the basis of the byelaws actually submitted. (60)

Despite the enthusiastic appreciation of the benefits conveyed by the model series, there was some feeling that its potential had not been fully exploited. The necessary complexity and detail of some of the clauses, and the consequent want of some trustworthy explanation as to their precise meaning, was recognised as an obstacle to the spread of the models. (61) The professional advisors at the Local Government Board, who had themselves been responsible for the formulation of the model codes, therefore set out to provide an authoritative guide, which clearly explained
the aims and objectives of each of the clauses. What appeared in 1883, as Knight's Annotated Model Byelaws, was the fruit of the combined efforts of P. Gorden-Smith, the architect to the Board, Sir R. Thorne-Thorne, its medical officer, and W. A. Casson, the head of the byelaw branch of its legal department. (62) (Knight was the publisher.)

Knight's Annotated Model Byelaws was exactly what it claimed to be. Full explanatory notes were appended to each clause, and where necessary, diagrams were included to illustrate the meaning. In the case of byelaws regarding house drainage, a series of lithographs—demonstrating the various methods by which the regulations could be most efficiently carried out—were commissioned from a member of the Institute of Civil Engineers. (63)

The authors of the annotated model aimed to provide accurate information which was based on modern scientific and practical data. (64) In pursuance of this aim, the opportunity provided by the publication of the model was exploited, and various modifications, that accumulated local experience had shown to be necessary, had been included. These modifications had been officially sanctioned by the Local Government Board.

The practical utility and wide demand for the explanatory notes and diagrams available in the annotated model, was attested to by the fact that a second edition of the work was published in 1885,
followed by a third in 1890. Sanitary authorities and their officials made frequent applications to the publishers for additional copies, for use both in the framing of new byelaws and in the administration of existing codes. Architects and builders, being subjected to control through the byelaws, also found the annotated version useful.

On each occasion that a new edition of the annotated model byelaws was undertaken, it was revised in light of recent experience and legal decisions. Thus, we find that this quasi-legislation was infinitely more sensitive and flexible to the experience acquired in the process of administration than national or even local statutes. However, it should be borne in mind that the model byelaws were only a model, a national standard. It is impossible to find any one authority who so conscientiously updated its own local codes.

The modifications made to the model byelaws were illustrative of the many instances where the diversity of local circumstances necessitated specific advice that was not allowed for in the formal confirmation process. On such occasions conferences were invariably the means adopted by the Board's officials for settling problems that even lengthy correspondences had failed to solve. During these conferences the particular wants of a locality were examined and special modifications to the model clauses were designed. Where these were thought to be of more
general application, the modifications were incorporated in the successive editions of the annotated model.

The conferences between the Board's officials and the local authorities were found to work satisfactorily. This is one example of policy development within the Local Government Board. Increasingly detached, formalistic methods of coercion and regulation were replaced by methods relying on contact, communication, negotiation and exhortation. The Board learnt from experience that its most effective means of influencing local authorities was by regular, persistent and informal contact; heavy handed dictates from the centre ran the risk of provoking local authorities into rank non-compliance.

The confirmation, by the Local Government Board, of local codes of byelaws which included the officially sanctioned modifications, meant that the potential existed for diversity between localities. However, care should be taken, in the case of byelaws, not to over-estimate this potential. The Board held fast to the principle that no byelaw was confirmed which went beyond the limits prescribed by the statutory provision from which its force was derived. More important, as regards the uniformity of sanitary administration, were the consequences of the limitations imposed by the authorising statutes on the making of byelaws. If a local authority could not acquire byelaws to effect a desired control, an alternative was available in the form of a local act. When in 1914, a departmental committee of
the Local Government Board reviewed 65 years of building byelaw control, the use of this alternative was highlighted. The committee noted that the composition of plaster could not be regulated by byelaw under the Public Health Act. Thus, regular applications were made to parliament for special powers in order to effect its control. Although it was recognised that this was not a large matter in itself, it was representative of the many issues to which the local authorities attached sufficient importance to apply to parliament for powers in excess of those available under general legislation.\(^{(70)}\)

Thus, it became increasingly common for regulations affecting building, in any particular town, to be widely scattered in successive local acts. In practical terms this meant that anyone contemplating building had to consult, not only the building byelaws, but also any local act which contained building regulations. This situation gave rise to a considerable amount of confusion and complaint among affected parties, and in some cases it resulted in campaigns to persuade councils to produce digests of all the local laws relating to the construction of buildings. In the absence of such digests, many architects and builders found themselves, 'compelled to break the law to find out what they were doing wrong.'\(^{(71)}\)
III Local Legislation.

The frank recognition, by the Local Government Board's departmental committee, that local authorities had used local acts to extend their powers, beyond those available under byelaws, convinced committee members that any discussion of building control which left out local acts would be entirely misleading. This general truth applies equally to this particular study. Therefore, having already undertaken a review how the centre attempted to impose uniformity by means of the byelaw system, it is now necessary to consider how the same aim was pursued with regard to local legislation.

The confusion discernible in local legislation was one of the significant factors in the setting up, in 1869, of the Sanitary Commission's wideranging investigation. It was hoped that the consolidation of the sanitary law would render the acquisition of local sanitary acts unnecessary, but in advance of all embracing Public Health Act, efforts were made to impose some uniformity of local legislation.

The autonomous ability of local authorities to promote local legislation was restricted by the passage of the Municipal Corporations (Borough Funds) Act of 1872. This act provided for the expenses incurred in the promotion of local legislation to be paid for out of the rates. The desirability of such a provision has already been illustrated in the case of Sheffield,
where the desire to attain contentious powers had had to be
tempered by an assessment of the risks of possible failure.(75)
However, costs of local legislation could only be met when, in
matters falling within its jurisdiction, the sanction of the
Local Government Board had been received. Only where the Board
was satisfied that the powers applied for necessitated special
legislation, was such sanction granted.(76)

Moreover, the extension of an existing standing order of the
House of Commons enabled the Local Government Board to influence
the actual content of local legislation. The principle of
Standing Order 39 was that a copy of every private bill which in
any way affected the work of a public department should be
deposited at the office of the department concerned, so that its
provisions could be examined.(77) In 1872 this Standing Order
was expanded to include the provision that, any bill, made by or
on behalf of a local authority, within the field of interest of
the Local Government Board, had to be deposited at its
offices.(78) In each case, the Board submitted a report to the
parliamentary committee set up to consider the bill. Where any
provisions within a bill were found to be objectionable, this
fact was included in the report.(79)

The methods adopted by the Board in preparing reports on local
bills can be summarised as follows: suggesting the clarification
of ambiguous provisions; pointing out where proposed clauses were
at variance with the general law; and indicating where proposed
objects could be realised by utilisation of general legislation itself, or through byelaws made under its provisions. (80) In any cases where the power to make byelaws for sanitary purposes was included, the board recommended that such byelaws were made subject to the conditions imposed on byelaws under the Public Health Act, that is, subject to confirmation by the Board. (81)

The vesting of these responsibilities with the Board meant that for the first time a central department was directly involved in the management and direction of local legislation. Through the detailed examination of local bills, in addition to the general administration of the laws relating to public health, the Board acquired considerable experience across the whole spectrum of local government. This experience was of material assistance in enabling the administrators at the centre to offer expert and authoritative advise to both parliamentary committees and to local authorities. This distillation of experience into a cohesive policy was a powerful force in the continuing struggle for uniform sanitary administration.

Contrary to the hopes and expectation of the sanitary commissioners, the passage of the Public Health Act of 1875 did not herald a significant reduction in local legislation. The Local Government Board became increasingly conscious of the mischief that had resulted, and which was continuing to result, from the essentially uncontrolled private bill procedure. Local authorities were returning to parliament year after year, and
acquired new legislative enactments, without any check being made that the new measures were consistent with those already in force. In the absence of all but cursory parliamentary supervision, local acts containing illogical, inconsistent and contradictory provisions accumulated. The failure of parliamentary committees to screen bills for such flaws was often compounded; once a clause was enshrined in one local act, a precedent was established that other towns could and did make use of. The efforts of the Local Government Board, in highlighting the deficiencies of local bills, did not always prove effective; where bills were unopposed, the Board's reports were largely ignored by private bill committees. (82) However, it was not long before the want of effective control of private bills containing police and sanitary regulation received direct acknowledgment in Parliament.

In March 1882 a motion proposing the second reading of the Accrington Extension and Improvement Bill was opposed. The attention of the House was called to the fact that the bill, and several others like it, involved the grant of powers beyond those available under general legislation. It was the contention of the opposer that the grant of such powers should be properly controlled by Parliament in a systematic manner and that the same principles should be applied to all local authorities. It was considered important that arbitrary powers should not lightly be placed in the hands of local officers. On the whole it was felt
that in sanctioning powers in excess of general legislation local bodies had been allowed to steal a march on Parliament.\(83\)

As a consequence of the debate on the Accrington Bill, a special committee of the House of Commons was appointed. All bills promoted by local authorities, which included provisions relating to police and sanitary regulations, were to be referred to this committee. The appropriately named Police and Sanitary Regulations Committee was instructed to report to parliament its reasons for sanctioning any powers which varied general law.\(84\)

The Police and Sanitary Regulations Committee was in effect a new parliamentary instrument. It appointed as a one-off in 1882, but its practical contribution caused it to be appointed annually from 1884 onwards. The Committee was responsible for setting new standards by which those involved in the promotion of bills for local government purposes became accustomed to act. It was undoubtedly effective in introducing into local legislation a degree of control and regularisation that, hitherto, had been totally lacking. Williams has suggested that the influence it exercised over the private bill procedure was partly derived from the fact that the committee was appointed sessionally.\(85\) It thus acquired a certain continuity of membership and a uniformity of attitude, such that in a very short time it became almost a committee of experts.\(86\)
The first report of the Police and Sanitary Regulation Committee explicitly acknowledged the valuable contribution that local legislation had made to the progress of sanitary law, but it also recognised that, in the absence of proper control, anomalies and irregularities had undoubtedly received the sanction of parliament, since unopposed bills had often escaped attention. Thus, the Committee essentially saw itself as having a dual role; that of avoiding putting excessive or unnecessary powers in the hands of local authorities, and of ensuring reasonable uniformity in the content and drafting of local legislation. In an attempt to fulfill this dual role, all bills that were submitted to the committee, whether opposed or not, were subjected to the most intimate scrutiny.

Two basic principles were adopted by the Committee to ensure that all bills received systematic attention. Firstly, no local powers that were in excess of general law were to be granted, unless evidence was provided which demonstrated that strong local reasons justified such powers. Secondly, no statutory enactment was to be permitted for purposes that could be effected by byelaws. Under the second principle, uniformity would be ensured through the Local Government Board's control of the byelaw system. The application of the first principle meant that any extensions of the general law that were sanctioned could be managed in a methodical way. Uniformity was maintained by the devising of series of model clauses on various subjects which could be incorporated into any bill. Four sets of such model
clauses were appended to the Committee's first report. (88) The introduction of these 'models' highlights the continuity of purpose within legislative practice. The objective of uniformity that such models were designed to realise, was exactly the same as that which had prompted the passage of the Towns Improvement Clauses Act almost forty years earlier. The models of byelaws issued in 1858 and 1877 were intended to perform a similar function within the byelaw system.

In managing the progress of local legislation, the Police and Sanitary Regulations Committee was brought into ever closer contact with the Local Government Board. This was partly due to institutional reasons. Under a standing order of the House of Commons introduced in August 1882 the Committee was instructed to report directly to the House on the way in which it had dealt with the recommendations made by government departments in their reports on private bills. (89) However, more important, as regards the closeness of the relationship, was patent need. The ever increasing scale and complexity of bills promoted by municipal authorities placed a huge burden on the Committee, it needed all the authoritative and professional advice that the Board had to offer. The value placed by the Committee on the reports made by the Local Government Board is illustrated by the problems which resulted from the absence of similar reports from other central departments. On matters which fell within the province of the Home Office the Committee members 'sometimes felt themselves in difficulties owing to the lack of information.' (90)
During the 1884-85 session, the Local Government Board's reports were supplemented by the personal attendance at the Committee's meetings of Mr Boyce, one of its legal advisors. The Committee found this source of additional information and advice invaluable, and recommended that the practice be continued; consequently Mr Boyce attended the Committee's meeting well into the twentieth century.

The close working relationship that developed between the Police and Sanitary Regulations Committee and the Local Government Board was found to be mutually satisfactory. Even though the Committee did not always or necessarily adopt its recommendations, the Board noted that, 'it is a matter of gratification to us to find that the principles we have advocated for many years past in our reports on private bills were... distinctly recognised and acted upon by the Committee.'

As time went by the Police and Sanitary Regulations Committee found it increasingly difficult to restrict the demands of municipal authorities in the absence of up to date general legislation. The Committee thus assumed a third function; that of attempting to persuade parliament to bring public general acts up to a level of modern necessity. As early as 1884, the Committee had recommended that the time was ripe for considering the amendment and consolidation of the law relating to police and sanitary regulations. It suggested also that, to maintain uniformity in advance of their inclusion in a general measure,
restrictions should be placed on the powers granted in local acts. The need for a programme of consolidation was impressed upon the Committee by the bills that were being promoted by the largest and most thriving communities, in some cases these were practically new codes of local laws.(94) Although the Committee was in favour of general statutes, it felt it to be unreasonable to expect municipal authorities to go without extended powers merely because the government was reluctant to address the limitations of the national measures.(95) The Committee thus presented parliament with a stark choice; either the law must be strengthened for the whole community, or, the House must be prepared for a heavy demand upon its time and the attention of its members, in discussing the many matters brought before its private bill committees.(96)

It was inevitable that, if parliament could not or would not make any attempt to keep abreast of public wants in its police and sanitary legislation, that local authorities would continue to attempt to supplement the proved omissions and defects in the general law by means of private legislation.(97) The continued reluctance of the government to act in this area led the Police and Sanitary Regulations Committee to modify the first of its guiding principles. Powers beyond the limits of existing national legislation would now also be granted if 'there were general reasons so strong as to render desirable the preparation of clauses which (pending public legislation) may be granted to every community that shall think fit to apply for them.'(98) The
Committee's commitment to the modification of this principle is illustrated by the fact that it rejected a recommendation, made by the Home Office, that local authorities should be prevented from acquiring extended powers until the general legislation was amended. (99)

It should be noted that, although the Police and Sanitary Regulations Committee was willing to grant to local authorities extended powers, such grants were carefully controlled through the system of model clauses. The model clauses had proved to be generally acceptable to local authorities, and were found to work effectively in practice.

The model clauses have had the merit of introducing a considerable degree of uniformity into special legislation, they have now been adopted by a large number of municipal corporations and other local authorities, and have stood the test of experience. (100)

Like the model byelaws, such model clauses were in effect quasi-legislation, which had the advantage over actual statute law in that it could be amended easily in light of new experience. The Committee altered the clauses from time to time, in an attempt to make them as clear and efficient as possible. (101)

While keeping a tight reign on extensions to the general law, the Committee maintained the pressure for its revision. Its annual reports contained increasingly exasperated requests for government action. (102) The difficulties resulting from the government's unwillingness to act did not escape the notice of contemporary commentators. Clifford's remarks have particular
pertinence, since he was preparing the second volume of his mammoth work, *The History of Private Bill Legislation*, at the very time when government intransigence was at its height.

While Parliament, session after session, disregards the recommendations of its committees to pass public measures, and at the same time, through the same committees, prevents private legislation of admitted necessity, it really inflicts serious injury on those 'rapidly growing communities' whose wants are every year pressed upon Parliament.\(^{(103)}\)

The pressure exerted on the government eventually bore fruit. In its annual report for 1890, the Police and Sanitary Regulations Committee was gratified to note that many of its model clauses had been incorporated in a number of recent general acts and proposed bills. For the purposes of this study, the most significant of these acts was the Public Health Acts Amendment Act of 1890.\(^{(104)}\)
IV The Public Health Acts Amendment Act 1890.

Through their dealings with byelaws, and with local bills, the Local Government Board and the Police and Sanitary Regulations Committee accumulated extensive knowledge of both the limitations imposed by general statutes and of the types of control that were being requested by local authorities. The modifications that were made to the Public Health Act of 1875, by the Public Health Acts Amendment Act of 1890, reflected the experience that had accumulated in the intervening years.

Concentrating, as we are, on the development of building byelaws, the modifications made to section 157 of the former Act are of particular concern. This section continued to be the principal byelaw making provision in force. However, additional powers were grafted on to it by section 23 of the amending Act. The fact that the range of matters on which building byelaws could be made was extended, indicates that the byelaw continued to be viewed as an appropriate vehicle of regulation in this particular field of administration. The new areas in which local authorities were now authorised to make byelaws included the following: the provision of a secondary means of access for refuse removal; the specification of minimum room heights; the control of hearths and staircases; and the provision of sufficient water for flushing water closets and for cleaning drains.(105)
The demand which existed for such extensions can be illustrated by just one example. Even before the Local Government Board had issued its model series of byelaws in 1877, it had received many applications from local authorities to make a byelaw which specified the minimum height of rooms intended for human habitation. The third part of section 157, that relating to ventilation, had been cited as the authorising power. Although the sanitary value of such a regulation was admitted, serious doubts about its legality were entertained, and accordingly the opinion of the Law Officers of the Crown was sought. The Law Officers ruled, 'that an urban sanitary authority has no general power under the 157th section of the Public Health Act of 1875 to make byelaws regulating the height of rooms for the purposes thereby of securing improved ventilation.' Thus, it was only when the 1890 Act reached the statute book that local authorities, who required such a power, were provided with an alternative to the lengthy and costly private bill procedure.

It is significant that other parts of section 23 broached previously sacrosanct principles of the byelaw system. Under the second part of the section, byelaws for drainage and sanitation could be made to affect buildings constructed before 1875, that is, before the authorising statute came into operation. Thus, a degree of retrospective application was introduced. However, this was not overly stringent since no plans or sections had to be submitted, as was the case with new buildings. Moreover, byelaws could not actually require the installation of drains in
old buildings, they could only prescribe how such drains should be constructed when it had been found necessary to put them in. (108) In addition, the fourth part of section 23 made byelaws applicable to some building alterations. Experience had shown that cases arose in which, after a building had been constructed in conformity with the byelaws, alterations had been made which had the effect of nullifying their requirements. Sanitary authorities had been unable to deal with this matter before the passage of the 1890 Act, since, under the original statute, byelaws could not regulate any alteration which did not amount to the construction of a new building. (109) Thus, this part of section 23 provided for the making of byelaws to prevent buildings, that had been erected in accordance with the byelaws, form being altered in such a way, that if at first so constructed would have been illegal.

Successive editions of *Knight's Model Byelaws* contained suggestions and advice on how to frame byelaws which were authorised under the provisions of the 1890 Public Health Acts Amendment Act. In the case of the retrospective drainage byelaws, a new series of model byelaws, IVb, was introduced. (110)

It is interesting to note that the trend toward consolidation of building controls in the byelaws was not absolute. The fitness of a site for building had been previously dealt with under clause nine of the model byelaws. However, for a reason that is not apparent, it was thought necessary to deal with this matter
by positive enactment. Consequently, section 25 of the 1890 Act made it unlawful to erect a new building on ground which had been filled up with foecal, animal or vegetable matter, or upon which any such matter had been deposited. Thus, builders and architects still found themselves inconvenienced by the fact that they were obliged to consult general statutes, in addition to the byelaws, when a building enterprise was being planned.

It is significant that the 1890 Public Health Act was not obligatory, though it was available, by adoption, on application by any urban sanitary authority. Thus, the controls enshrined in the new Act, like the continuous revisions made to the model byelaws, were more a reflection of contemporary theory in the field of building regulation, than, necessarily, a yardstick of contemporary practice. The alterations that were made to national statutes and model byelaws, represented the aggregate experience of local authorities pressing for new controls. It does not necessarily follow that each individual town was equally, or uniformly, endowed with such powers of local administration. The following chapter will illustrate this point by reference to a particular town, but the general point can be made by considering the cajoling efforts of the Local Government Board. In its circular letter explaining the provisions of the new act, the Board trusted,

that Urban Sanitary Authorities will carefully consider whether they should avail themselves of the powers of adoption conferred by the Act, and that both the Sanitary Authority and its officers will use every effort to carry out the provisions put in force in their district by means of such adoption.(111)
One final point should be made about the 1890 Public Health Acts Amendment Act. By adopting Section III of the Act rural sanitary authorities could make byelaws relating to new streets and buildings. The application, in rural areas, of controls designed to meet the needs of densely populated urban areas engendered considerable controversy during the last decade of the nineteenth century. Passionate and fierce debate surrounded, not only rural, but all building byelaws. The consequences of this debate will be analysed in chapter Seven.
It is one of the central arguments of this study that, as MacDonagh's model stipulates, the static concept of administration is replaced by a dynamic view of events. However, it could be argued that central government merely adopted a pragmatic approach, patching up general statutes when experience had shown them to be out of step with the prevailing conditions. Amending statutes were thus seen in absolute terms as obviating the need for local legislation. The instruction that was given by parliament to the Police and Sanitary Regulation Committee, 'not to sanction, in any Bill referred to them, any clauses relating to matters which are the subject of provisions in the...Public Health Acts Amendment Act 1890'(112) seems to indicate that there was little awareness of the dynamic way in which legislation accumulated. This appears to support the view that there was no progression in the attitude of central government.

However, it is suggested here that, although it was not directly acknowledged, central government had created an institutional framework that was underpinned by a belief in the dynamic accumulation of legislation. The Local Government Board and the Police and Sanitary Regulations Committee were charged with the responsibility of instilling a degree of uniformity into sanitary administration. In pursuing a common aim, the central government department and the parliamentary committee became part of an institutional framework, which channelled the experience of administration, acquired at the local level, to the centre. New
statutory needs were thus identified and defined, and eventually became enshrined in national legislation.

This chapter has demonstrated the vital role played by local legislation in the formulation of national measures. The national 'sanitary' acts, passed between 1848 and 1890, were, in effect, collections of the most frequently recurring local act provisions. However, since individual clauses had originally been designed to meet specific requirements rather than general needs, they were not always universally applicable. The passage of amending acts, containing groups of 'model' clauses, resulted in a legislative patchwork. Local authorities' control was restricted to particular topics for particular purposes. The process by which national legislation was accumulated was not governed by any cohesive philosophy, consequently there were many gaps in its coverage, and many of the regulations relating to similar subjects did not fit together. A similar absence of philosophy can be detected in the modifications made to the model byelaws of the Local Government Board; this was true to such an extent that the Builder called for, albeit unsuccessfully, a complete overhaul of the model building byelaws, rather than 'tinkering emendations.' (113) The practical difficulties that emerged when local authorities attempted to put the 'legislative patchwork' into effect, and the consequences thereof, will be the central concern of Chapter Seven.
FOOTNOTES


(4) RSC Second Report, 55.


(6) T. Taylor, The Local Government Act 1858 and the Acts Incorporated therewith; together with the Public Health Act 1858, (1858) xiv-nv.


(11) ibid. 34.

(12) Gutchen, 'Local Improvement', 89.

(13) RSC Second Report, M of E, Q. 1414.

(14) ibid. Q. 1107.


(16) RSC Second Report, M of E, Q. 2375.

(17) Gutchen, 'Local Improvement', 89.
RSC Second Report, M of E, Q. 2345.

Commission to Inquire into the Causes which have led to or aggravated the late outbreak of Cholera in the towns of Newcastle-upon-Tyne, Gateshead and Tynemouth, M of E, P.P. 1854, XXXV, Q. 7258.


RSC Second Report, M of E, Q. 206, T. Taylor.


ibid.


Wohl, Endangered Lives, 159.


Redlich and Hirst, Local Government, 157.

RSC Second Report, 36.

ibid. 71.


Redlich and Hirst, Local Government, 159.

J. S. Harris, British Government Inspection: The Local Services and the Central Departments, (1955) 47.

38 & 39 Vic. c.55.

RSC Second Report, 53.

ibid. 52.

ibid. 53.


(40) RSC Second Report, M of E, Q. 2072.

(41) Second ARLGB, P.P. 1873 XXIX, lli.

(42) Fifth ARLGB, P.P. 1876 XXXI, lvi.

(43) ibid. 56-73.

(44) Gaskell, Building Control, 43.

(45) Series I Cleansing of Footways etc.
     Series II Nuisances: snow, filth, dust, ashes etc.
     Series III Common Lodging Houses
     Series IV New Streets and Buildings
     Series V Markets
     Series VI Slaughter Houses
     Series VII Hackney Carriages
     Series VIII Public Bathing
     Series IX Baths and Washhouses
     Seventh ARLGB, P.P. 1878 XXXVII, Part I, xcix.


(47) ibid. xcviii.

(48) The British Architect and Northern Engineer, 22 September 1876, 184.


(51) Gaskell, Building Control, 48.


(54) ibid. 63.

(55) ibid. 65.

(56) For example, Sixteenth ARLGB, P.P. 1887 XXXVI, cxvi; Eighteenth ARLGB, P.P. 1889 XXXV, cxlv.
(57) Sixteenth ARLGB, P.P. 1887 XXXVI, cxvi.
(58) Tenth ARLGB, P.P. 1881 XLVI, cxv-cxvi.
(59) Eighth ARLGB, P.P. 1878-9 XXVIII, cxxv; Ninth ARLGB, P.P. 1880 XXVI, cxl.
(60) Eighth ARLGB, P.P. 1878-9 XXVIII, cxxix.
(61) Knight's Annotated Model Byelaws of the Local Government Board, (hereafter KMB) (1st edn. 1883) iii.
(62) KMB, (7th edn. 1905) v.
(63) KMB, (1st edn. 1883) iv.
(64) ibid.
(65) KMB, (3rd edn. 1890) iii.
(66) ibid.
(68) ibid. 9.
(69) Eleventh ARLGB, P.P. 1882 XXX, Part I, cxxvii.
(70) Local Government Board Departmental Committee on Building Byelaws, P.P. 1918, VII (hereafter LGB, DC on Building Byelaws) Report, 7.
(71) The British Architect and Northern Engineer, 25 February 1876, 96.
(72) LGB, DC on Building Byelaws, Report, 4.
(73) RSC Second Report, 56.
(74) 35 & 36 Vic. c.91.
(75) Chapter Four, 183-84.
(76) Bellamy, 'Central-Local Relations', 2-3.
(78) ibid. 55.
(79) Second ARLGB, P.P. 1873 XXIX, lxi.
(80) Sixth ARLGB, P.P. 1877 XXXVII, lxxii.
(81) Fourth ARLGB, P.P. 1875 XXXI, xlvii.
(83) ibid. 212.
(85) Williams, Private Bill Procedure, vol. 1, 211.
(86) ibid. 220.
(87) Special Report of the Police and Sanitary Regulations Committee (hereafter PSR) 1882 XII, 347.
(88) ibid. appendix.
(90) PSR, P.P. 1884 XV, 568.
(92) Fourteenth ARLGB, P.P. 1884-5 XXXII, xciii.
(93) PSR, P.P. 1884 XV, 568.
(94) PSR, P.P. 1884-85 X, 240.
(95) PSR, P.P. 1886 XI, 252.
(96) PSR, P.P. 1884-85 X, 240.
(98) PSR, P.P. 1884-85 X, 240.
(99) PSR, P.P. 1886 XI, 252.
(100) PSR, P.P. 1887 XI, 227.
(101) ibid.; PSR, P.P. 1888 XV, 3.
(102) PSR, P.P. 1884 XV, 568; P.P. 1884-85 X, 240; P.P. 1886 XI, 252; and P.P. 1887 XI, 228.
(104) 53 & 54 Vic. c.59.
(105) ibid. clause 23 (1).
(106) KMB, (1st edn. 1883) 90.
(107) Tenth ARLGB, P.P. 1881 XLVI, cxvi.
(109) Twentieth ARLGB, P.P. 1890-91 XXXIII, 163.
(111) Twentieth ARLGB, P.P. 1890-91 XXXIII, 168-9.
(112) PSR, P.P. 1890-91 XIII, 842.
(113) Builder, 12 February 1887, 243.
CHAPTER SIX: BUILDING REGULATION IN SHEFFIELD 1864-90

This chapter considers developments relating to building regulations in Sheffield between 1864, when the town's first series of building byelaws was obtained, and 1890, the year after these byelaws were revised. The time period covered in this chapter derives its significance from the fact that it encompasses the processes of both implementation and formulation of the regulations.

The aim of this chapter is to undertake a detailed investigation into what Burnett has termed 'the processes of administration of regulations.' Burnett defines these as, the organisation, the personnel, and the machinery of regulation; the inspectorial and legal mechanisms of enforcement; and the evasions of, and penalties for, transgression.(1) The intention is to present a meaningful assessment of the efficiency, or otherwise, of the implementation of building regulations in Sheffield between 1864 and 1890. In order to pursue the main aim of this study, namely the construction of a model of local government growth, this assessment will also entail consideration of the way in which regulations relating to building were expanded and refined during the period. The investigation, of both the processes of implementation and of formulation, reveals a cycle of administration and legislation akin to that observed by MacDonagh in the field of emigrant protection.(2)
However, it should be noted at the outset that the revision of the building byelaws was not the sole area of legislative development during the period. Sheffield's town council promoted local improvement bills on no less than four occasions between 1870 and 1890. These bills contained provisions relating to all aspects of local government, and invariably included clauses which were intended to regulate some aspects of building.

The activities of the local authority with regard to its byelaws, and in relation to private legislation, brought it into direct communication with the two arms of central control in the field of sanitary administration; namely, the Local Government Board and the Police and Sanitary Regulations Committee of the House of Commons. The involvement of officials employed by Sheffield town council with this department of central government, and with this parliamentary committee, illustrates the channels through which local experience was transmitted to the centre. The ensuing detailed analysis will reveal the relationships which developed between this specific locality and the centre, and will demonstrate exactly how the centre, having defined uniform standards of sanitary administration, attempted to impose these nationally.

This chapter is divided into three main sections.

Section I will examine the regulative system established in 1864, and will analyse the way in which it was intended to operate.
Section II will consider how the regulative system actually operated in practice. Explanations will be presented to account for the gaps which inevitably emerged between theory and practice.

In Section III the pressures which developed for the revision and for the expansion of building regulations will be analysed. Those factors which determined the choice of proceeding via the byelaw system or through private legislation will be discussed. Where possible direct connections will be made between implementation and the process of formulation. However, since, as MacDonagh has pointed out, the correlation between social problem and administrative remedy was seldom exact, other factors which influenced the timing and content of successive regulations will also be considered. These other factors include the influence exerted by the organs of central government during the formulative stages of new regulations.
The Local Government Act of 1858 was adopted by Sheffield town council at its meeting on 6 July 1864.\(^5\) It was resolved soon after that a committee of 15 members be appointed to consider and to take the necessary steps for putting into force in Sheffield the provisions of the Act.\(^6\) This Committee was instructed to report to the council as to the necessary administrative arrangements. The ensuing report of the Local Government Act Committee was presented to the council at a special meeting at the beginning of September.\(^7\) Most of its 24 recommendations were adopted by the council.

For the purposes of this study, the most important recommendations were as follows. Two new standing committees of the council, Highway and Improvement, were appointed from September 1864,\(^8\) and had allocated to them responsibility for the appropriate sections of the Local Government and Public Health Acts. Section 34 of the Local Government Act, which empowered a local authority to make building byelaws, was placed within the remit of the Highway Committee. This new Committee was also endowed with the responsibility of administering all the general legislation relating to highways, and other powers relating to roads, streets, highways, drains and sewers, and the cleansing and watering of thoroughfares.
Additional implications of Sheffield's adoption of the Local Government Act included the sanctioning of the existing committees of the council. The Watch, Health and Finance Committees all became committees of the Local Board, and were vested with the additional powers contained within the Local Government Act and the Public Health Act, and of acts incorporated therein. Each committee was authorised to prepare appropriate byelaws.

Several of the Local Government Act Committee's recommendations related to the appointment of executive officers; notably, a borough surveyor, and sundry assistants, clerks and servants for the Highway Department. However, it is questionable as to whether the full administrative implications of the new legislation were appreciated; though perhaps it would be more surprising to discover that they were! The fundamental plank of the arguments presented below is that the implications only became apparent as experience accumulated. Despite the fact that the Local Government Act allowed for the appointment of executive officers, these were not of the type implied by MacDonagh's model; that is men specifically charged with the responsibility of enforcing the regulations. This point can be well illustrated by reference to the appointment of the borough surveyor.

The Local Government Act Committee recommended that an advertisement be placed for a full time borough surveyor, at a
salary of £500 per year, plus the contemporary equivalent of a company car. However, this recommendation was ignored on almost every count. Instead of advertising, the position was offered to S. F. Holmes, who up to that point had been the surveyor to the Sheffield Board of Highways. Because Holmes wanted to retain his private practice, the position was made part time, and a reduced salary of £300 was offered and accepted. Moreover, the recommendation that assistants, 'requisite for carrying on the business of the committee' be appointed was not immediately acted upon. It is also significant that the conscious decision was taken not to appoint a medical officer of health.

All this lends credence to MacDonagh's assertion that the original statutes paid little or no attention to the actual enforcement of penalties. No one person was vested with the sole responsibility of ensuring that the detailed clauses of the building regulations were carried into effect. The responsibility fell within the remit of the borough surveyor, but a myriad of other duties precluded his absolute attention in this area.

One of the first actions of the newly created Highway Committee was the appointment of a sub-committee to draft a series of building byelaws. The sub-committee was assisted in its deliberations by copies of the Local Government Act Office's form
of byelaws. The resulting draft byelaws were approved by the Highway Committee at the end of September, and were ratified by the council at its October meeting. In accordance with the procedure laid down in the Local Government Act, the draft byelaws were submitted for confirmation to the Local Government Act Office. The byelaws were not immediately confirmed, since there was some concern that several clauses would interfere illegally with property constructed before the Local Government Act came into effect in the area. Moreover, it was suggested that another of the clauses be adjusted, to take in modifications to the clause introduced in two recent cases. With these comments appended, the draft byelaws were returned to Sheffield.

The byelaws were resubmitted on 11 November, having been amended in accordance with the Office's suggestions. Since the byelaws were now considered free from objection, they were duly confirmed.

The correspondence which took place between the Local Government Act Office and Sheffield council, on the subject of the 1864 byelaws, was brief and, compared with future developments, fairly uneventful. However, it does provide an insight into the way in which business between local and central government was conducted. Far from merely rubber stamping, the central officials subjected submitted byelaws to detailed examination, directing their attention to any clause which appeared ambiguous,
or of doubtful legality. It is also significant that the Office employed the use of precedents. This provides an actual illustration of the way in which experience of regulating was transmitted between local authorities, via the central authority.

The building byelaws which came into effect on 1 December 1864, were very closely based on the form of byelaws. However, there were some minor departures from the model on points of detail. The model clause relating to the ventilation of house drains was omitted, because it was locally believed that this would cause a nuisance, and the matter was better left to the discretion of the surveyor. Several clauses were adjusted, so as to be consistent with local building practices; thus, party walls were not required to go through the roof, and the distance between timber and the inside face of flues was reduced, from nine inches to four-and-a-half inches.

It is significant that building byelaws were not the only byelaws adopted by Sheffield's council. In early 1865 draft byelaws for regulating slaughter houses and hackney carriages were submitted to the Local Government Act Office for confirmation. These were followed, in July 1866, by another two series of byelaws, relating to the prevention of nuisance from snow, filth etcetera, and the cleansing of footways. These additional local regulations, which were also based on the Local Government Act Office's forms, though beyond the parameters of this study, would no doubt prove to be productive areas of complementary research.
The day after the building byelaws came into operation the Highway Committee appointed a sub-committee to process deposited plans. (33) The timing of the appointment renders inappropriate, any charges of over preparation. Though it should be noted that, in practice, the sub-committee was assisted in its task by the expert advice of the borough surveyor. (34) The sub-committee was appointed annually in November, like its parent the Highway Committee. Despite the fact that technically the role of the sub-committee was limited to the approval or rejection of deposited plans, experience determined that its members became involved more extensively in matters associated with the byelaws. (35)

The attempt to discover exactly how the building byelaws were supposed to work in practice has been valuably assisted by a publication, produced by the borough surveyor in January 1865. (36) The aim of this publication, appropriately entitled, Particulars of Information, was to facilitate the carrying out of the byelaws, by explaining, in detail, what was required by the regulations. Such information was required since the council exercised considerable discretionary control, with many matters being 'subject to the approval by the council.' For instance, byelaw V stated merely that the mode and construction of every new street, and the materials to be employed, were subject to council approval. (37) The corresponding section of Particular of Information provided interested parties with more substantive direction. Detailed instructions were included on the.
constituents of the successive layers required in street surfacing; a formula, based on the width of the street, was provided for determining the required curvature; a recipe for macadam was recited; and the necessary precautions to be taken when laying out footways were delineated.(38)

Particulars of Information, contains a caveat which emphasises the fact that the particulars were merely an explanation of the regulations, rather than regulations themselves. However, it is suggested that this publication was an example of quasi legislation, and in effect, performed a similar function on a local scale to that performed later, nationally, by Knight's Model Byelaws.(39)

Particulars of Information is also a useful document since it provides a detailed account of how the administrative system was supposed to operate. The system was based on the submission of a series of notices; these kept the sub-committee informed about individual building projects. The first notice had to be submitted in conjunction with the plans deposited for approval by the sub-committee. This notice had to contain detailed information, under twenty two specified heads, about the intended building;(40) its purpose was to provide the borough surveyor, in his role of advisor to the plans subcommittee, with sufficient information to enable him to decide whether or not the plans conformed with the byelaws, and to assess the building work as it progressed. Additional notices were required on completion of
crucial stages of construction. It was, for example, vital that foundations and drains were inspected before being covered up. Mistakes, if not rectified at this stage, were not only costly and complicated to rectify later on, but were also potentially lethal health risks. In the event of any irregularities being detected in the course of construction, there was an additional notice to be submitted when such defective work was amended. The final notice informed the committee that the house was complete, and was ready to be certified as fit for human habitation. It was an offence to allow a house to be occupied without this certificate. Blank copies of all these notices were available from the borough surveyor’s office, and advice on how they were to be completed was to be found in _Particulars of Information._(41)

Thus the foundations of a system of regulation were laid, and through _Particulars of Information_ and the printed notices, rationalisation and standardisation were established as fundamental administrative principles.

It is however essential to note that there was a gaping hole in this system of regulation. Its effective working ultimately depended on the builder complying with his legal obligation to submit the series of notices. However, there was, inevitably, a financial incentive for builders to attempt to evade their legal obligations. Thus, for the system to work effectively, responses to deposited notices had to be supplemented by casual inspection.
The penalties for contravening the building byelaws were laid out in byelaw XXXI. If notices were not deposited or if work was not proceeded with in accordance with the regulations, the maximum penalty was a fine of five pounds, plus an additional 40 shillings for each and every day that the work was allowed to remain, contrary to the provisions of the byelaws. Prosecutions under the byelaws were heard before the local magistrates. It might be assumed that the number of successful prosecutions would prove to be a barometer of how firmly regulations were being enforced. However, this number is not an unequivocal index of performance. The potentially powerful deterrent effect of a successful prosecution, though difficult to quantify, is not disputed. The problem is that the number of prosecutions does not say very much about the system of regulation. This is because the decision to prosecute was only taken in the last resort, and represented a failure of the system of control. In addition, the absence of prosecutions is open to diametrically opposed interpretations; for instance, it could indicate that everyone was behaving in an exemplary fashion, conforming willingly to all of the demands of the regulations, conversely, an absence of prosecutions could mean incompetent implementation and a state of utter lawlessness.

To illustrate the point, it is useful to consider the way in which an infringement of the regulations was dealt with. When
any contravention of the regulations was first identified, it would be suggested to the builder that the work should be amended. If the infringement was not rectified, an official notice would be sent requiring the builder to comply with the byelaws. It was only after the builder’s repeated refusal to alter his work that proceedings would be first threatened, and eventually instigated. It should be noted that at each stage up to actual prosecution, there was a chance that through discussion, persuasion and conciliation the builder would agree to comply with the regulations. Thus, the effective operation of the regulative system can only be partially understood by reference to the number of prosecutions.
II: The Regulative System in Practice.

Having established the basic design of the administrative system it is now possible to assess whether or not the practice lived up to the theory.

The investigation into the workings of the byelaw system has highlighted several areas where relevant evidence has failed to survive; most notably the plans, and the tangible products of the system of regulation, the houses. Only a small minority of the plans deposited in conjunction with the building byelaws are extant, and the majority of these are of individual or specialised buildings such as schools, chapels and manufactories, rather than domestic buildings. (43) In addition, the houses built between 1864 and 1890 have been subjected to the ravages of war, time, social policy, and the passionate craze for home improvement. However, it would be a mistake to believe that the regulative system can only be understood by reference to the plans and the houses that were actually constructed. The examination of the processes of regulation is a vital part of the analysis, since this provides insights into the intentions of the regulators, and thus establishes a standard against which performance can be judged. Thus, although in the absence of the plans and houses it is impossible to make unequivocal statements as to the effectiveness of the byelaw system, the extent to which the system, as it developed, was capable of influencing events can be established.
The first point of contact between the builder and the authority issuing the regulations was the plans sub-committee. The members of this committee were vested with the power to approve or reject deposited building plans. In the absence of more extensive biographical information, it is not easy to establish how well sub-committee members performed their role. However, a few tentative suggestions can be made, based on the performance indicators of profession, length of service, and continuity of service.

At first sight it may appear that experience or knowledge of the architectural and building professions might have been a useful attribute of a plans sub-committee member. However, active participation within these fields could render the council liable to conflicts of interest. Springett has suggested that the influence of architects and builders on Huddersfield town council limited the scope and restrictiveness of the building regulations adopted for the town in 1872. It does not appear that Sheffield architects and builders got themselves into similar positions of influence. Indeed, during the period 1864 to 1890 only nine council members declared an interest in or association with the construction industry; four builders, one builder/architect, one architect/surveyor, two plumbers, and one painter and decorator. Of these nine, only four were ever members of the Highway Committee, and only two ever served on the plans sub-committee.
However, architects and builders were not the only ones professionally or commercially interested in additional costs imposed by building regulations. It must be remembered that many professional groups, and other petty capitalists, had money invested in the rented dwelling house market, and hence had an interest in regulations which governed construction. The strict imposition of building regulations could, by increasing costs, dramatically reduce the potential return on investments; since rents were inelastic due to the limited means of the tenants. Thus, it is impossible to make unequivocal statements regarding the influence of vested interests on the plans sub-committee. Many commercial interests could be disguised by the ubiquitous titles of 'merchant' and 'gentleman'.

No single profession can be said to have dominated the sub-committee during the period, and the range of professions was considerable; from a veterinary surgeon to a musical instrument dealer, and from a printer and stationer to draper. Local trades were not surprisingly represented; three steel manufacturers, a spade and shovel manufacture, an electroplater and a metal manufacturer. The professions were represented by three solicitors and two accountants. Six 'gentlemen' also served on the sub-committee between 1864 and 1890.

It is impossible to infer from occupational information how well the sub-committee operated. It could be suggested that the three solicitors were, by training and experience, conversant with the
terms, if not the technical requirements of the regulations, though even this would not necessarily be the case.

However, it should be noted that technical experience was not an essential requirement of a plans sub-committee member, since the borough surveyor was invariably on hand to proffer expert advice. Although the earliest official job description found for the office of borough surveyor is dated 1888,(47) it is apparent that even before this time the incumbent acted as advisor to the sub-committee. All plans and notices in connection with the byelaws had to be deposited at the borough surveyor’s office, and he no doubt recommended which should be approved and which should not. Sheffield’s first borough surveyor, S. F. Holmes, was the author of Particulars of Information, which was probably a useful guide for plans sub-committee members since it set out in detail the requirement of the byelaws. The surveyor was available when required by the sub-committee to confer with architects and builders when problems arose in the course of construction,(48) or to liaise with other council officials on policy matters affecting more than one committee.(49) The borough surveyor was also apparently responsible for bringing evidence of contraventions of the byelaws before the sub-committee, and for instigating proceedings, when so authorised.(50)

Other accessible performance indicators are, the length and continuity of plans sub-committee membership. It has to be admitted that these are somewhat crude indicators since they are
based on the assumption that expertise was accumulated in direct proportion to years of service. However, they are endowed with some significance by virtue of the fact that membership was voluntary. It is unlikely that individuals would devote time and energy to committee work for which they had little or no interest or enthusiasm.

Over the period 1864 to 1890 the number serving on the plans sub-committee ranged from three to eight, though most of the time it had five or six members. A total of 31 councillors and aldermen served on the sub-committee during these 26 years; seven served for only one year; thirteen members accumulated between two and five years service; eight were sub-committee members for between six and ten years; and three served for more than eleven years. There was a considerable degree of continuity of membership of the plans sub-committee from year to year. On no less than five occasions the same council members were reappointed, this resulted in no change at all in the membership of the sub-committee between November 1883 and November 1887.(51) On five occasions there was only one change in the make up of the new sub-committee.(52) There was only one occasion when less than half of the existing members were re-appointed for the following year,(53) but even then two of the three new appointees had served on the sub-committee previously.(54)

However, the significance of the continuity of membership, thus established, does not mean very much without supporting evidence
that those on the plans sub-committee actually attended meetings. Attendance statistics are only available for the period from June 1884. During the council year running from November 1884 to November 1885 there were 23 plans sub-committee meetings. Two of the five members (55) attended every single meeting, the third and fourth members (56) attended seven and four meetings respectively, and the fifth (57) did not attend any. Thus, there were 57 actual attendances out of the total possible of 115; average attendance was therefore approximately 50 per cent. Between 1884 and 1888 average attendance at plans sub-committee meetings hovered around this 50 per cent mark.(58) Average attendance increased during the year 1888-89 to 80 per cent, perhaps due to the heightened activity surrounding the revision of the building byelaws.(59)

The average statistics conceal individual performances, as has been demonstrated by the breakdown for the year 1884-85. Over the period 1884 to 1889 the three most regular members attended respectively 95, 75, and 49 per cent of plans sub-committee meetings.(60)

The statistics add weight to the argument that there was continuity of membership, and, it is suggested, demonstrate a degree of interest and enthusiasm on the part of sub-committee members. Whilst not implying that this partial evidence illustrates the effectiveness of the sub-committee as an administrative authority, it does appear to indicate the
accumulation of useful experience in the area of building byelaw administration.

The attempt to assess the effectiveness of the plans sub-committee as an administrative body is hampered by a lack of detailed evidence, especially for the period before 1884. There are no continuous manuscript minutes of the plans sub-committee before June 1884. However, the printed minutes of the council do include some details of the plans sub-committee's activities. Although much of the minutia is excluded, information relating to a number of areas relevant to this study is available. This information provides insights into the conduct of the plan sub-committee before more detailed evidence becomes available after 1884.

The brief of the plans sub-committee when first appointed was merely to examine the plans deposited, and to decide whether to approve or to reject them. However, it is clear that it quickly acquired a much broader role. One aspect of this broader role was the exercise a quasi-judicial function. The sub-committee often invited builders and architects to appear before it to offer explanations for their conduct; on occasions the, in effect, defendants, brought a solicitor with them to argue their case. The sub-committee also used the threat of proceedings, and the threat of using the council's power to pull down defective work, in an attempt to encourage conformity with the byelaws. Once the wishes of the sub-
committee had been complied with these threats were usually withdrawn.(65)

The details of the few dozen cases dealt with under the building byelaws that are recorded in the printed Minutes of the Council provide glimpses of the way in which the plans sub-committee conducted business. The information suggests that it employed a whole range of more sophisticated techniques than those strictly laid out in the regulations. However, there is insufficient evidence to indicate whether the members of the sub-committee employed persuasion, cajoling and threats consistently enough to materially increase the deterrent effect of the regulations.

One partial indicator of the plans sub-committee's performance is the number of successful prosecutions. Initially it appears that the sub-committee attempted to be faithful to its public announcement that the building byelaws would be strictly enforced.(66) During the first year of their operation the Highway Committee authorised 18 prosecutions for offences under the byelaws and in the same period five convictions were obtained.(67) However, this flurry of legal activity tails off dramatically. Between January 1866 and June 1881 there is no record in the printed Minutes of the Council of any successful conviction; and between November 1873 and February 1881 there are only four recommended prosecutions.(68)
As indicated above, the absence of prosecutions could suggest willing and absolute compliance with the provisions of the byelaws. However, it is improbable that any such new regulations could have become so well established in such a relatively short period. The detailed analysis of the organisation of the Highway Department which follows, totally undermines the notion that the building byelaws were being conscientiously enforced during the period before 1884. The fact that little control was exercised over the officials employed in the Highway Department implies at least the partial failure of the plans sub-committee to fulfil its role within the regulative system.

The decisive factor that breathed life into MacDonagh's model of government growth was the appointment of officers who were professionally charged with the responsibility of ensuring that the regulations were put into effect. At first sight the appointment of the borough surveyor appears to indicate the existence of this essential vital force, which was capable of sustaining momentum within this specific area of local government growth. However, the foundation of the argument, introduced above and developed below, is that, although the borough surveyor was involved in the administration of the building byelaws, he was in practice so overburdened with other responsibilities that he did not have the time to devote to
ensuring that the detailed clauses of the building byelaws were carried into effect.

It soon became apparent that one part-time official could not cope satisfactorily with the expectations placed upon him. At the July 1865 meeting of the council, a motion regarding the borough surveyor and his emolument was placed upon the agenda, but the meeting was adjourned before the matter was debated. (72) The same subject was discussed by the Highway Committee during August; the recommendation which emerged suggested the appointment of two full-time assistant borough surveyors, in addition to retaining the part-time services of S. F. Holmes. (73) The whole matter was fully discussed by the council at its September meeting. (74)

The majority opinion, expressed by the chairman of the Highway Committee, acknowledged that Holmes had performed his duties well, but recognised that in a borough of 85 superficial square miles it was physically impossible for any one man to do the job alone. (75) It was generally accepted that the council were not prepared to pay an annual sum of £800-1000 to acquire the services of a similarly well qualified man, on a full-time basis; thus, an increase of Holmes' salary from £300 to £400, and the appointment of two assistants, was regarded as a satisfactory alternative. (76) Two assistant surveyors were duly appointed at the Highway Committee's next meeting. (77)
The role that the new appointees were supposed to fulfil, beyond assisting the borough surveyor, is not very clear, since the jobs were not actually defined. However, it does appear that the Highway Committee was well satisfied with their performance. Fifteen months after the appointments were made, both assistants got an increase in salary of £15 per annum, and the Committee's approbation of their conduct and attention to business was recorded in the minutes. At the same time it was recognised that extra assistance was required in the Borough Surveyor's Office and consequently a pupil was taken on as an apprentice.

However, this apparent air of satisfaction does not last very long. At the end of 1871 the following official warning appears in the Highway Committee's minutes:

No Assistant Surveyor, apprentice, clerk or officer in the Highway Office shall transact any business of the Local Board after office hours for his own profit, nor shall any such person receive any fees, gifts, or perquisites from contractors or other persons.

Additionally, around the same time, one of the assistant surveyors, Avery Flecture, was given notice to quit, was then unaccountably reappointed, only to be dismissed from his office a month later for gross misconduct and neglect of duty. Although there is no evidence which connects the Highway Committee's warning, and the dismissal of Flecture, it is suggested that both were symptomatic of growing organisational problems within the Borough Surveyors Office; problems which were
about to become compounded by the retirement of Holmes, and the appointment of an inadequate replacement.

Holmes' letter of resignation was received by the council in November 1873. The council was reluctant to release Holmes, and appointed a special committee to investigate the possibility of retaining his services, whilst getting some assistance for him. The committee was successful in its endeavors since Holmes agreed to accept the position of consulting surveyor to the council; a position he occupied until his total retirement in December 1875.

Meanwhile, advertisements for the position of borough surveyor were placed in the local newspapers, and the trade journals the Builder, and the Engineer. The salary offered was only £500, an attempt to increase this to £600 having been defeated. Even this higher figure was miserly in comparison to the 1865 estimate that no competent surveyor would accept the office for less than £1,000 to £1,200. Notwithstanding the low level of remuneration, 46 candidates applied for the position, and six of these were invited for interview. P. B. Coghlan, from Margate, was the successful applicant. He was appointed as the full time, surveyor, architect and engineer to the borough of Sheffield, at a salary of £500, with effect from 25 March 1874.
Soon after the appointment of Coghlan there were rumblings on the council which suggested mismanagement of the Highway Committee, and the squandering of funds within the department. Moves to appoint a special committee of the council, to investigate and report on matters connected with the Highway Department, were not at first successful; but such a committee was appointed in October 1877. However, this committee was disbanded, and a move to dismiss the borough surveyor and one of his assistants was postponed, on the understanding that the Highway Committee appointed in November 1877 undertake an investigation into the efficiency of the staff employed within the Highway Department. The results of this investigation were to be reported to the full council.

It is apparent that those council members who had been most persistent in their attempts to see the Highway Committee investigated, were not prepared to risk a cover up. Four members of the disbanded special committee got themselves appointed to the Highway Committee, and formed themselves into a sub-committee to prepare a report for the council on matters relating to the Highway Department.

The ensuing report was a complete indictment of the organisation and running of the Highway Department. The sub-committee's investigations revealed that staff members had been appointed without the sanction of the Highway Committee or the council, their wages being paid through the workmen's weekly sheets.
Thus, though officially staff costs were only £875, they had in fact escalated to £1,243 4s, compared with the annual total of £715 that Coghlan had inherited in 1874. In addition, it was found difficult to define the duties of the various officers employed, since nearly all of them professed to be doing the work of some other officer. Most of the officers kept no record of their activities, and the borough surveyor never even looked at the records that were kept by two of his assistants. The investigating sub-committee not detect any system or organisation in the office. The catalogue of incompetence included the failure to check the materials going in and out of the depot. No record was kept of the work done in the streets, by whom it was done, and at what cost. There was no quality control of the work being done by contractors; and even though one official had informed Coghlan that work progressing on West Street and Sheffield Moor was not satisfactory, it had still been paid for on the certificate of the borough surveyor.

The investigating sub-committee discovered that the problems in the Department stemmed from a feud that existed between the borough surveyor and one of his assistants W. Stovin, which dated back to May 1875. It was concluded that,

> It is evident from the feeling existing between the Borough Surveyor and Mr Stovin, that it is impossible for them to work amicably together, and that the sub-committee are of the opinion that the public service has already suffered from their differences.

The only solution that was considered appropriate was the
dismissal of both Coghlan and Stovin; this recommendation was sanctioned by the council. (101)

Up to this point it has been necessary to consider the staff employed in the Borough Surveyor's Office as a whole, since, initially, it is not clear to whom the responsibility for building byelaws was allocated. However, the report of the investigating sub-committee throws some light on this matter. Cyril Allies was engaged by the Highway Department in December 1875, through his appointment was never sanctioned by the Highway Committee. He was at first employed to trace surveys, and afterwards acted as a clerk of works on a sewer project. In May 1876 he replaced Stovin as building inspector. (102) How long Stovin had been doing the job was not recorded.

The sub-committee was not inspired with great confidence as to the value of Allies' services,

Mr Cyril Allies professes to be the examiner of building in the course of erection..., he keeps no record of the buildings in the course of erection, or of his visits to them, but professes to keep them all in his memory. (103)

An impression of the amount of detailed information which would have had to have been stored in Allies' memory can be gained by reference to the statistics for the year ending September 1876; 495 building plans, containing 1953 dwelling houses and 188 other buildings, and 24 street plans were approved during the year. (104) These plans had to be checked for compliance or otherwise with the byelaws, and the sites had to be visited to
confirm their accuracy. Then a recommendation on the suitability of the plans had to be given to the sub-committee. In addition, over one thousand houses were certified during the year as fit for human habitation,(105) implying that over four thousand notices requiring attention, should have been deposited during their construction. However, given the degree of interest shown in such notices, it is doubtful whether the full complement was ever submitted.

The new borough surveyor, appointed to replace Coghlan, immediately undertook an examination of the duties of his staff. The results of this survey explicitly allocated responsibilities within the department. Specific functions were now defined, as opposed to merely being implied by the regulations. Allies retained his position as building inspector, but was provided with what amounted to a job description. Thus,

Mr Cyril Allies',... duties are to receive all plans of buildings, inspect the same before passing by the committee, afterwards inspect the work while going on and for certificate at completion, keep the register of building plans, prepare all notices in connection with private drainage etc.(106)

Although this job definition can be regarded as a step in the right direction, it was only a small step. Still the vital connection between the responsibility and the scale of the task had not been made. It seems that either the regulations were assumed to be endowed with some mystic powers of self administration, or that the subject of building regulation was not given sufficiently serious consideration. The adequacy of staff in other areas of the department was considered, thus the
failure to recommend an increase of building inspection personnel, implies that the existing staff, of one, was considered adequate.

There is not much suggestion of a dramatic improvement in Allies' performance of his duties. There is no indication that building statistics were collected or that reports were made. In fact there is no sign that the enforcement of building regulations improves until after the resignation of Allies and the appointment of his successor. However, the crucial point to be noted is that for the first time the distinctiveness of building inspection was explicitly acknowledged; such that upon Allies' resignation, in 1883, the job advert for the vacant position specifies a 'building inspector'. The job had become defined in the practice of the regulations and was now beginning to emerge as a specific profession, and not just one of the many tasks which fell within the remit of the borough surveyor.

This review of the personnel employed by the Highway Department does not inspire the confidence that the job of implementing the building byelaws was being done effectively. The disarray discernible within the Highway department was considerable, but this fact is perhaps not surprising. Committees were appointing officers to ill-defined positions, with very little idea of necessary or suitable qualifications; indeed official qualifications in administration were virtually nonexistent.
Organisational, management and technical skills could only be acquired by experience. Thus, it is not therefore surprising that in adopting novel regulations the town council appeared to have no conception of their administrative implications, and even if they had had such a conception, difficulties in enforcement would still have had arisen, as a consequence of the experimental nature of the regulations.

When these factors are taken into consideration, it is not very surprising that the staff of the Highway Department, including the building inspector, lacked efficiency.

Close consideration of the evidence relating to the actual implementation of the building byelaws confirms the plans sub-committee's explicit acknowledgment that great laxity had been shown in the observance of the byelaws relating to new streets and buildings. For instance, a report by the chief sanitary inspector, to the Health Committee, on the sanitary condition of a newly constructed street, was referred to the Highway Committee in May 1873. This report revealed that 16 of the 28 new dwelling houses were occupied, though some were not completed, and the only water supply was a half-inch branch, with some of the houses being as far as 120 yards distant. Despite the fact that the deposited plan of the street and buildings showed a main drain, no such drain had ever been constructed. The Highway Committee responded to this report by sending a sub-committee to view the street and to report back. It was found that the main
drain had in fact been constructed, but none of the house drains had been connected to it. (109) It was not made clear whether or not these houses had been certified as fit for human habitation, but a policy decision was taken that in the future no certificate would be granted unless and until the house and main drains were connected. (110)

There was, however, not much evidence that this recommendation was fully implemented. Another report by the chief sanitary inspector, this time on the condition of Heeley, exposed yet more examples of defective sanitary arrangements; main sewers which stopped short, resulting in sewage finding its way into Meersbrook and the River Sheaf; defective house drains and joints had leaked and, in the absence of paving or asphalting, the soil had become contaminated and offensive. The chief sanitary inspector doubted whether plans of this particularly offensive development had ever been approved by the Highway Committee, and could not escape the conclusion that such an eventuality should have been checked at a much earlier stage. (111)

These two examples have been cited at length since they illustrate an important consequence that stemmed from the nature of the building byelaws, viz, that they only applied to new buildings. (112) Though intended to promote the construction of healthier houses, the technical nature of the regulations brought them within the province of the borough surveyor, rather than the medical officer of health. Consequently, any health problems
which resulted from faulty or negligent building, that was not detected during the course of construction, fell within the remit of the medical officer and the Health Committee. Thus, a gap existed between administrative responsibility and the evaluation of work actually done. Given the intrinsic rivalry which existed between committees, and between the professionals involved,(113) implied criticism from other departments was unlikely to have as valuable educative effect as recognising, and learning, from ones own mistakes. Hence, the administration of the building regulations, and the identification of their shortcomings, were perhaps not as intimately connected as was the case with emigrant protection.

The above examples are also cited as illustrative of the failure to enforce the building byelaws in Sheffield. However, it must be acknowledged that the regulations themselves had inherent shortcomings which limited their effectiveness, even when enthusiastically implemented. This was a feature common to all local codes based on the Local Government Act Office's 'form' of byelaws.(114) A recurrent problem was the dubious legality of some of the byelaws. When litigation was attempted many of the clauses were found to be utterly unauthorised by the powers under which they were avowedly made.(115)

However, of equal importance were the limitations of the powers themselves. It was very soon realised that to build in accordance with the regulations was no guarantee of healthy
dwellings. There were no regulations governing the fitness of the site for building. It was a common practice to build, even superior houses, on rubbish that was little better than dung. (116) Open spaces were often used for the dumping of nightsoil, even though it was recognised that, in the near future, the land would be used for building. (117) Nor were there any provisions in Sheffield's 1864 building byelaws determining the quality of building materials to be used. The consequences of this deficiency were vividly illustrated by the medical officer of health in his annual report of 1876. New houses often had a 'tainted atmosphere arising from reeking bricks and plaster', (118) and also from the mortar, which was usually concocted from the most unspeakable materials. (119) Tenants of new houses often had to endure,

smoky chimneys, choked drains, rats beneath floors and above ceilings; frogs in the cellar and the pantry, toadstools and fungi in the kitchen cupboard; and doors and windows that swell so in wet weather that they refuse their office, and which so wonderfully shrink in the dry cutting winds that they never tire of chattering their doleful complaints; with walls, ceilings, and roofs distilling gigantic tears. (120)

Given the limitations of the powers at its disposal, and even making allowances for the imperfect staff, it is clear that the Highway Department was very much hampered by the want of sufficiently extensive powers. The recognition of the shortcomings of the building byelaws sustained the impetus for re-regulation that is discussed in the third section of this chapter.
However, it would be wrong to ignore the progress that had been made during the 1870s. The Public Health Act of 1872 gave great impetus to the work of sanitary improvement in Sheffield. It occasioned the appointment of the borough's first Medical Officer of Health, and resulted in the reorganisation of the Health Department. By October 1870 the town's water supply had been rendered constant, and during the decade the supply was extended to all parts of the borough. A large number of the existing privies had been roofed over, and many accumulations of filth had been removed. The scavenging of the borough was undertaken by the council as the Sanitary Authority, and many of the worst examples of houses were pulled down, as some of the main streets were widened. Although little had been done about the problem of sewage disposal, and despite the fact that the sanitary staff was still small in comparison with the various matters requiring attention, the average death rate for the period 1870 to 1878 was lower than the mean for the previous nine years; 26.2 as opposed to 27.6.

There are also signs that the 1880s was a decade of considerable progress in the practice of sanitary administration in Sheffield. In December 1882, the Highway Committee employed the services of a civil engineer, from Bradford, to work in conjunction with the borough surveyor, on the preparation of a sewerage scheme for the whole town. The local authority made an application to the Local Government Board for the sanction of a loan for £150,000 to cover the expenses of the sewerage work. The project was
just about completed by the end of 1887. The progress being made in Sheffield was confirmed by one of the Local Government Board's medical officers. His report, of 1889, commented on the stricter supervision, exercised by the local authority, in the cleansing of streets and the removal of rubbish. It also testified that, due to the more diligent application of the building byelaws, the erection of houses without through ventilation, that is back-to-back houses, had been discontinued. It was also during the 1880s that the council managed to overcome what had been a serious obstacle to sanitary improvement, namely, the lack of a cheap and plentiful supply of water. The water company's monopoly in the town had prevented the council from attempting to pursue a whole-hearted policy of water-closeting, on the grounds of expense. However, with the purchase of the water interest, in 1887, the subject assumed an entirely different aspect. The testament to improved sanitary administration was a sharp fall in the average death rate, between the periods 1870-78 and 1879-87, from 26.2 to 21.8, the decline being more or less uniform throughout the subdistricts of the town.

If a closer look is taken at the particular area of building regulation, signs of progress can be identified. The plans sub-committee's November 1881 admission that the building byelaws were being widely ignored, was accompanied by a statement which illustrated its desire for improvement. The borough surveyor was
instructed to address a circular to architects and builders, informing them that in future the sub-committee would take proceedings against all persons failing to observe the byelaws, and an advertisement to that effect was to be placed in the Sheffield daily newspapers. (130)

If this policy was pursued with determination, a significant increase in the number of prosecutions might be expected. No such increase can be discerned. (131) Nevertheless, what can be unequivocally established, was that the art of building inspection in Sheffield, crossed a threshold during the 1880s.

In October 1882, Allies resigned from his position as building inspector. Although it has been argued that building inspection was now recognised as a distinct profession, (132) this recognition was in its very early stages. It is significant that the advertisement for a replacement was placed only in local newspapers and not in any of the trade journals. (133) The salary offered, at £130 per annum, was only slightly above that of assistants to the borough surveyor, though it did have annual increments of £10, up to a maximum of £160, built into it. Moreover, despite the fact that the position of building inspector was being advertised, the successful candidate was also expected to act as an architectural assistant in the borough surveyor's department. (134) This is another illustration that the vital connection between responsibility and the scale of the task had still not been made.
It is clear however, that the additional requirement of architectural skills was advantageous, since there were not as yet any recognised qualifications for building inspectors. With hindsight, it is apparent that the council made a very fortuitous appointment. Though only 21 years of age, William Carter Fenton was a well educated and experienced young man. He had been educated at Sheffield Royal Grammar School, and thereafter articled to a leading firm of local architects and surveyors, Messrs Innocent and Brown. Fenton became a member of the Association of Municipal and Sanitary Engineers and Surveyors, by passing its first voluntary examinations in April 1886.

The appointment of Fenton resulted in the establishment of, what amounted to, a department of building inspection. He initiated an annual report of business conducted, which contained much more complete statistics of the work done by the building inspector, than had previously been provided. A summary of these statistics is provided below.
### Index of work performed by the building inspector 1883-90

<table>
<thead>
<tr>
<th>Year</th>
<th>1883</th>
<th>1884</th>
<th>1885</th>
<th>1886</th>
<th>1887</th>
<th>1888</th>
<th>1889</th>
<th>1890</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plans approved</td>
<td>340</td>
<td>271</td>
<td>267</td>
<td>300</td>
<td>286</td>
<td>313</td>
<td>427</td>
<td>577</td>
</tr>
<tr>
<td>Plans Deposited</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>322</td>
<td>579</td>
<td>877</td>
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<tr>
<td>Houses on approved plans</td>
<td>1123</td>
<td>895</td>
<td>944</td>
<td>1261</td>
<td>928</td>
<td>1098</td>
<td>1413</td>
<td>957</td>
</tr>
<tr>
<td>Other buildings</td>
<td>102</td>
<td>137</td>
<td>127</td>
<td>162</td>
<td>139</td>
<td>120</td>
<td>309</td>
<td>449</td>
</tr>
<tr>
<td>Houses certified</td>
<td>920</td>
<td>846</td>
<td>786</td>
<td>725</td>
<td>928</td>
<td>806</td>
<td>830</td>
<td>903</td>
</tr>
<tr>
<td>Number of visits by inspector</td>
<td>2527</td>
<td>5016</td>
<td>3814</td>
<td>2825</td>
<td>3486</td>
<td>3529</td>
<td>4688</td>
<td></td>
</tr>
<tr>
<td>Days spent visiting</td>
<td>138</td>
<td>267</td>
<td>207</td>
<td>172</td>
<td>214</td>
<td>194</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Average visits per day</td>
<td>18</td>
<td>19</td>
<td>18</td>
<td>16</td>
<td>16</td>
<td>18</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(137)
This table illustrates the fact that during the first year of his appointment Fenton was unable to devote his full attention to the job of building inspection. His architectural responsibilities included, the preparation of plans for, and the supervision of the construction of, the town's new mortuary and jury rooms.(138) Thereafter, it appears that he was able to allocate more of his time to building bylaw matters.

In addition to this more plentiful supply of statistics, the increasingly detailed minutes of the plans sub-committee allow a more profound analysis of the workings of the system of regulation. This analysis confirms suggestion, made above,(139) that the plans sub-committee exercised a much broader role than
mere approval or rejection of deposited plans, and that the system was sufficiently flexible to allow for negotiation and compromise, such that the prosecution of offenders was a last resort. It is apparent that within this system Fenton played a key role. The following review of a selection of cases, illustrates the point.

During July 1886 Fenton reported to the sub-committee the case of a builder who had allowed four houses to be occupied before they had been certified as fit for human habitation. No notice of completion of the houses had been deposited. It was ordered that a letter be sent to the builder instructing him to appear before the next meeting of the sub-committee. At the next meeting a letter from the builder was presented by Fenton, this contained an apology for non-compliance with the byelaws. The sub-committee ordered that another letter be sent to the builder censuring him for neglect, and warning that proceedings would ensue if any further complaint was brought against him. It was a common practice of the sub-committee to use a letter of censure, and the threat of prosecution, in lieu of actual proceedings. It is also apparent that the sub-committee was more than willing to prosecute those that re-offended, but was prepared to rescind an order for prosecution, if the party agreed to comply with the byelaws.

Where the misdemeanours were insignificant, or where no injurious effect resulted from a failure to comply with the byelaws, the
sub-committee was prepared to overlook the matter,(145) but where there was a risk that injury might arise, the modification of the offending work was insisted upon.(146) However, where possible the sub-committee was quite prepared to come to an arrangement. For instance, one builder constructed a house with a passageway that was too narrow to allow the scavengers access. Fenton was instructed to write to the builder insisting that the passageway be altered so that it conformed with the deposited plan.(147) The builder appeared before the next meeting of the sub-committee to argue his case, and it was decided that the builder would consult Fenton.(148) Fenton reported back that since it was impossible to alter the passage satisfactorily, the builder had volunteered to make two special wheelbarrows for the use of the Health Department when collecting refuse or nightsoil. It was agreed that if this arrangement was satisfactory to the chief sanitary inspector, the house would be certified.(149) The minutes of the sub-committee contain details of other similar agreements.(150)

An illustration of Fenton's thoroughness and tenacity can be gained from the following case where an attempt was made to mislead the plans sub-committee. Fenton had refused to certify a house on the grounds that insufficient open space had been provided around it.(151) The builder informed the sub-committee that he had acquired the necessary additional land from an adjoining owner. But upon checking with the supposed vendor, and
by personally inspecting the site, Fenton had discovered that in fact no more land had been provided.(152)

Notwithstanding the apparent success of the processes of negotiation and reconciliation, there were inevitably cases where prosecutions had to be pursued. Between the appointment of Fenton and the beginning of 1890, proceedings were ordered in 36 cases. The details of 20 successful prosecutions are recorded in the council's minutes; in six further cases the proceedings were rescinded, and two cases were withdrawn on the payment of costs, another case was dismissed in court. The fate of the remaining seven cases remains unclear.(153)

It cannot have been an easy job for Fenton to perform conscientiously. The work load was a heavy one. An additional building inspector was not appointed until February 1889.(154) The decision to appoint a second building inspector appears to have resulted from the transfer, in January 1889, of the responsibility for drain inspection from the Sewerage to the Highway Committee, and specifically to the building inspector.(155) This transfer of responsibility can be regarded as an attempt to rationalise the exercise of power within and between the different committees. Since the building inspector was already responsible for inspecting house drains before they were covered up, it was a logical extension of his duties to require him to supervise the complete length of the drain between the building and the sewer. However, since administrative reform
did not necessarily progress on logical lines, there is a limit to the extent this argument can be pressed.
Having reviewed the system of regulation as it operated in practice, it is now the intention of analysing those pressures, both within and outside the borough, for the refinement or expansion of powers relating to building.

Despite the fact that Sheffield had acquired extensive powers relating to local government and sanitary administration, it is clear that the acquisition of a local improvement act was still a cherished ambition. The only local act that the town had ever had was repealed at the time the Local Government Act was adopted. Only six years after the adoption of the Local Government Act the desirability of applying to Parliament for an improvement act was debated in the council.

The resulting Bill contained 319 clauses, which were distributed among 24 sections, and which related to a myriad of local government affairs, ranging from the conduct of council members to the upkeep of public clocks, and from the maintenance of the sewers to the keeping of disorderly houses. Included in the Bill were 36 clauses relating directly to new streets and buildings, and three clauses which contained the enabling power to make byelaws. The official notice of the Bill's promotion, prepared by the corporation's parliamentary agents, indicated that the intention was to dispense with general legislation altogether, the necessary provisions relating to
municipal government being codified, expanded, and enacted in the
corporate measure. (162)

It could be suggested that the promotion of the 1870 Bill was yet
another attempt to fulfill the desires that were frustrated in
1846, 1851 and 1858; the possession of a local act being symbolic
of the civic dignity and independence of a town. (163) However,
rather than merely pursuing blindly an idealistic desire for
local self government, it is also quite probable that Sheffield
was experiencing the very problems being investigated,
contemporaneously, by the Royal Sanitary Commission.

By the time Sheffield adopted the Local Government Act in 1864,
it was already the subject of two amending acts; and the Public
Health Act of 1848 had been supplemented by additional Public
Health Acts in 1849 and 1852. These new measures had been,
either partially or completely, incorporated into the original
statutes. The arguments debated in the national forum, (164) echo
those heard locally,

> It is highly inconvenient to the borough that there should
be in force therein a variety of provisions affecting the
improvement and government of the borough, and the health
and the comfort of the inhabitants thereof, comprised in
different Acts, not uniform in language, and sometimes
conflicting in effect. (165)

It is also clear that Sheffield was encouraged in its attempt by
the fact that Wolverhampton had recently acquired a local act of
the type desired. (166) After consultation with the official
responsible for framing this measure, and after discussion with
the council's parliamentary agents, the Sheffield Improvement Bill of 1871 was based on the Wolverhampton model. (167) This demonstrates how clauses, originally designed to meet specific local needs, found their way into additional local legislation.

The Bill received a very hostile reception, with fourteen petitions being lodged against it. (168) The corporation entertained the strong conviction that the hostility was engendered by the powerful gas and water companies, since the passage of the Bill would have meant the municipalisation of these utilities. Whilst the petitions against the Bill were being discussed, a representative of the corporation commented, 'Sir, here are the Gas and Water Companies looking through a great many different windows at us.' (169) After analysing the signatures on the ratepayers' petition, it was suggested that nine-tenths were connected with one or other of these two monopolies. (170)

The other main plank of the opposition's argument was that by paying the costs of promoting the Bill, the corporation were applying the borough rates to illegal purposes. (171) In order to prevent the corporation from funding the costs of promotion from the rates an injunction was taken out in the Court of Chancery. It is significant that the injunction was sponsored by the directors of the Water Company. (172) The existence of the injunction meant that some individual members of the council had
had to accept personal liability, in order for the Bill to proceed. (173)

This put the council in a difficult position, it was becoming clear that the Bill was not going to be passed in its original state, too many powerful interests had been aroused, nevertheless, it was vital that a bill be acquired if the expenses were to be paid out of the rates. (174) Initially it was decided to delete the clauses relating to the purchase of the gas and water companies, in the hope that this would mollify the opposition. (175) It did not. Ultimately, every clause to which any of the fourteen petitions had objected, was deleted from the Bill. (176) Thus, of the 319 clauses contain in the original Bill, only 48 remained in the final draft; none of these related to streets and building. However, the opposing interests were tenacious and determined, although some of the petitioners withdrew, (177) most remained, forcing the Bill to come before the House of Commons as an opposed measure. Notwithstanding the opposition, the emasculated measure was read for a third time on 13 June 1871, and was passed. (178)

It is significant that Sheffield's difficulties in promoting its 1871 Act were instrumental in passage of a piece of general legislation, the Municipal Corporation (Borough Funds) Act. (179) This Act allowed for the expenses of the promotion of local legislation to be met out of the rates. (180)
The passage of the 1872 Public Health Act, though an addition to the pile of legislation already accumulated, broke new ground in several important areas. The appointment of a medical officer of health was made imperative, in each of the newly created urban and rural sanitary authorities. The task of revising, codifying and extending the existing legislation was performed by the Public Health Act of 1875. As has been indicated, the hope was entertained that the passage of this Act would obviate the necessity for additional local legislation, the experience of Sheffield demonstrates that such hopes were not realised.

In April 1877, the council took the decision to promote a local improvement act. Although it was unsuccessful, the attempt highlighted the progress the council had made in its conduct of business. In 1871 it was suggested that the improvement bill was got up in a hurry and that the wishes of the rate payers had been largely ignored. The Improvement Bill Committee had refuted these suggestions but was open to such charges since the proposed bill had been acquired 'off the shelf', rather than being specifically designed to meet the needs of the town. Much more care was taken by the council in 1878. The Parliamentary Powers Committee was appointed to consult with the standing committees of the council, to elicit what additional powers were considered desirable. A letter was circulated among the committees to establish actual requirements. The experience of other towns was not ignored since the Parliamentary Powers Committee carefully perused recent improvement acts,
especially those of Manchester, Huddersfield and Halifax, and a number of suggestions were taken therefrom. (188)

The financial problems that had plagued the promotion of the 1871 Bill had been solved by the passage of the Municipal Corporations (Borough Funds) Act, but the Parliamentary Powers Committee still proceeded with extreme caution. It was most anxious to avoid unnecessary application to Parliament, and only recommended powers where there appeared to be both a strong reason for the demand, and also a fair probability that the powers would be granted. The Committee even went so far as to desist from recommending powers, which although in some respects desirable, would be likely to arouse strong and reasonable opposition. The model byelaws, recently published by the Local Government Board, were regarded as an alternative channel through which increased powers could be attained. (189)

Thus, it was felt that the powers applied for in the Sheffield Improvement Bill of 1878 could only be attained through the private bill procedure.

The first of a number of special council meetings, as specified by the terms of the Borough Funds Act, was duly held; and a meeting of owners and ratepayers was arranged. (190) At the public meeting it was resolved that the consent of the owners and ratepayers be given to the promotion of the Bill. (191) However, the process was interrupted when a poll of ratepayers was
demanded; not by opponents of sanitary improvement, but because of opposition to the particular clauses of the Bill which would have given the council the power to disturb the sanctity of St Peter's churchyard. The poll was duly taken and the resolution passed at the meeting was overturned, by 15,390 votes to 11,770. The Bill was therefore withdrawn. Again the heightened publicity surrounding the promotion of a local bill had contributed to its defeat. This supports MacDonagh's contention that the closer the subject engaged the attention of public opinion, the more likely it was to be frustrated or diverted.

The council was successful in promoting a local act in 1883, but its contents are only of passing relevance to this study, since its chief object was financial. However, a few clauses did relate to building. In particular, section 87 of Sheffield Corporation Act 1883 required that public building were certified as having sufficient means of ingress and egress in emergencies. The responsibility for issuing these certificates devolved upon the building inspector.

One of the aims of this section is to analyse the relationship which developed between local and central government. However, there was only limited contact between central and local government on the subject of the three legislative attempts already referred to. The 1871 Bill predated the expansion of Standing Order 39 of the House of Commons, which directed that a
copy of any bill promoted by a local authority, within the field of interest of the Local Government Board, had to be deposited at its offices. The 1878 Bill was referred to the Local Government Board, and a report was prepared for the select committee on the Bill. The process was not however completed since the Bill was withdrawn. The 1883 Bill, containing as it did clauses relating to sanitary matters, should have been referred to the Police and Sanitary Regulation Committee; but the Committee, though initiated in 1882, did not sit in 1883, only being appointed annually from 1884.

However, Sheffield corporation's next attempt to promote a local act was subjected to the full array of central government supervisory controls described in Chapter Five. The Sheffield Corporation Bill of 1890 was referred, under the operation of Standing Order 39, to the Local Government Board and to the Home Office. Reports on the Bill from both of these departments were forwarded to the Police and Sanitary Regulations Committee, which considered the measure during four sessions between 9 and 14 July 1890. The views of the central authorities on specific clauses of the Bill, and details of the matters arising, will be considered below.

The Sheffield Corporation Bill of 1890 was framed on the suggestions of the standing committees of the council. Its original 114 clauses were distributed among 12 sections. Section VIII contained clauses relating to new streets and
Section II of the Bill was intended to enable the council to reorganise the various wards of the borough. This proposal engendered serious opposition. The council, anxious to get other parts of the Bill passed, and no doubt influenced by previous experience, consequently abandoned the contentious part of the Bill. The exclusion of the clauses relating to the consolidation of the township removed any serious objection to the Bill, which thus became, after some alterations in committee, the Sheffield Corporation Act of 1890.

The remaining part of this section will consider, in detail, the proposed and actual changes to, and extensions of, Sheffield's building regulations during the period 1864 to 1890. This will involve the analysis of the specific clauses relating to new streets and buildings which were contained in the local improvement bills. It will also include consideration of the new series of building byelaws that was acquired for the town in 1889, after a protracted period of debate and discussion.

The basis of MacDonagh's model of government growth is that deficiencies in the regulations, and gaps in coverage, were identified by those officers who attempted to implement them. The following analysis will attempt to establish the correlation between the problems of implementation, discussed above, and the legislative remedies that were proposed. However, it is impossible to discuss the process of re-regulation merely in
terms of the experience of implementation. It is clear that many other factors played a decisive role in both the timing and the character of the suggested changes to the regulations. The following investigation covers a sufficiently long period of continuous development, with the degree of detail necessary, to understand the most intimate causes and connections, and allows the cumulative effects of the variety of factors to be identified.

The first alteration to the building byelaws, acquired in 1864, comes in August 1870. The alteration only affected one of the byelaws, XXXI, that stating that it was an offence to start a building enterprise without first depositing the requisite plans and notices with the local authority. The replacement clause was very similar, but it had two significant additions. Firstly, the clause was expanded, to make it also an offence to deviate from an approved plan, unless the deviation was approved by the council; and secondly, the council reserved the right of deciding what to do about any work done contrary to the byelaws, (that is, have it removed, altered, pulled down) until after an opportunity had been given to the 'offender' to explain any omission or deviation.(205) Byelaw XXXI, as altered, was confirmed by the Local Government Act Office in October 1870.(206)

No trace of any debate surrounding the alteration of byelaw XXXI can be found in either the minutes of the council, or those of the Highway Committee, thus an explanation of the alteration has
to be implied. There is no indication that the change was a response to any similar alteration in either the Local Government Act Office's 'form' of byelaws, or any other town's local code. It is therefore reasonable to imply that this specific change in the regulations resulted directly from problems experienced when attempts were made to implement this clause.

In the original clause XXXI, there was nothing to stop an individual submitting a plan for approval and then proceeding to build something entirely different. The council were powerless to take any corrective action so long as nothing in the actual construction contravened any of the other byelaw provisions. The difficulties that would be encountered when attempts were made to enforce such a clause are obvious. Between 1865 and 1870 there were eleven recommended prosecutions for failure to build in accordance with deposited plans. There is no record in the printed Minutes of the Council that any of these prosecutions were successful. Information regarding prosecutions during the 1870s is sketchy, but convictions under this offence were definitely obtained in the 1880s.(207)

The second addition to byelaw XXXI gave those individuals who were suspected of having contravened the byelaws an opportunity of explaining their actions. It is perhaps not going too far to suggest that the amendment was introduced to enable the sub-committee to be more flexible in its dealings with those who transgressed. Enforcing the letter of the law would have meant
resorting to the rather cumbersome power of demolishing offending work, even in trivial cases. It is suggested here that the amendment is a concrete recognition of the sub-committee's willingness to allow for negotiation and compromise, within the system of regulation.

The Sheffield Improvement Bill of 1871 included a large number of clauses which related to all aspects of building. However, this cannot be taken as evidence of the need for new, expanded, or refined powers; that is, needs identified in the administration of existing controls. This is because no less than 21 of the existing 32 byelaws were made the subject of a specific clause in the proposed bill. (208) There were some proposed advances, (209) but it is impossible to say whether the recognition of the necessity for such powers was the fruit of locally acquired experience. This is because the Bill was closely modelled on that of Wolverhampton. (210)

It is interesting to speculate on what the effects of the passage of the 1871 Bill, in its original state, would have been. What is certain is that life would have been more complicated for both those regulating and those being regulated. This is because, in addition to those aspects of building which were subject to specific enactment, the Bill also sanctioned the continued existence of building byelaws. Clause 92 of the Bill empowered the corporation to make building byelaws under the same four heads as laid out in section 34 of the Local Government Act of
1858. (That is streets, walls, ventilation and drainage.) However, the clauses relating to building were petitioned against, all were therefore abandoned in the attempt to get the 1871 Bill onto the statute book.

In the debate surrounding the council's next legislative attempt, in 1877, the existence of a self-generating administrative momentum is for the first time explicitly acknowledged. Its existence is discernible in the text of a letter, circulated by the Parliamentary Powers Committee, to the standing committees of the council.

The Parliamentary Powers Committee begs respectfully to ask whether in the execution of duties devolving upon you there are any matters or occasions in regard to which you have felt impeded by a want of Legal Powers or authority, such as you may know to be possessed by other corporations, or such as it might not be unlikely for Parliament to grant, or if there be any points respecting your department of the public service of the town or otherwise as to which it appears to you that advantage would accrue by further reasonable power being sought from Parliament. (211)

As can be seen, the operation of the self-generating administrative momentum did not preclude the 'borrowing' of clauses from other local improvement acts. Indeed, it was advantageous if a precedent existed, since this increased the likelihood of Parliament granting the power.

The letter from the Parliamentary Powers Committee was considered by the Highway Committee in May 1877, and the matter was referred to the plans sub-committee. (212) Only five clauses were suggested; thus, the existing system of control was being patched, rather than being completely overhauled, as was intended.
in 1871. This can be interpreted as a local parallel of the
national acceptance of the byelaw as an appropriate vehicle for
regulating the construction of building. (213) The Parliamentary
Powers Committee had requested that the Local Government Board's
model byelaws be considered with a view to increasing powers
through this channel. (214) The Highway Committee had perused the
Board's model building byelaws, (215) thus, the powers it proposed
were such that, it was felt, could only be obtained through local
legislation.

It follows that the five clauses proposed by the Highway
Committee do not constitute an accurate reflection of the
weaknesses of the current code of regulations. Moreover, given
the arguments presented above regarding the lack of efficiency in
the Highway Department, it is unlikely that the current code was
ever fully tested.

Four of the clauses forwarded to the Parliamentary Powers
Committee, by the Highway Committee, were based on precedents in
existing local acts. (216) One of the clauses was struck out by
the Parliamentary Powers Committee, since it was considered that
the power was already exercisable under the existing
regulations. (217) The remaining four clauses were included in
the Bill which was deposited in Parliament, and which, by the
operation of Standing Order 39, was forwarded to the Local
Government Board.
The officers of the Board were not overly impressed by the clauses relating to streets and buildings, being of the opinion that the proposed powers already existed in general legislation. They entertained the additional concern that the intention of several of the clauses was to remove some of the legitimate protections of owners and builders that were contained in the general statutes. It can never be known whether the Local Government Board would have pursued its objection, since the Bill never got to the committee stage. However, its intervention indicates that attempts were being made to tighten the grip of the centre on local legislation.

At the next attempt at legislation, in 1883, the Highway Committee revived those clauses suggested in 1878, and added several more. The suggestion of the clauses implies the pressing need for new powers to control building, but, for some reason which is not apparent, the proposed clauses were never included in the draft Bill.

The next attempt to modify the controls relating to building was the long running saga of the revision of the byelaws. Between May 1885 and December 1889, Sheffield's council and the Local Government Board were in continuous and frequent communication on the subject. Five successive drafts of the revised byelaws were submitted, to the Board between July 1886 and July 1889. The length and detail of the correspondence offers valuable insights into the process of formulating regulations. It also
highlights the relationships which developed during the process, both between local and central government and between the council and local interest groups.

Before the process of revision got established, there were several false starts. The Highway Committee had considered the Local Government Board's model building byelaws, soon after publication, but discussion of the matter had been postponed until after matter of the Improvement Bill had been disposed of. (222) Again, in 1879, the Committee looked at the model code, with a view to adopting all or some of the new model clauses. (223) But again, interest faded and nothing came of the matter.

However, in 1885 a process of formulation was initiated which ultimately resulted in the adoption of a new series of building byelaws in 1889; perhaps the appointment, in 1883, of a 'professional' building inspector sustained the pressure for reform. In May 1885 the Highway Committee appointed a sub-committee to consider the building byelaws, and to report whether any alteration was necessary. (224) By this time the existing regulations had been in operation for over twenty years, and the model series of byelaws had undergone considerable revision. (225) The sub-committee concluded that re-regulation was necessary, and prepared a draft code of building byelaws, which was submitted to the Local Government Board for confirmation. (226)
The draft code submitted to the Board was based on the model series of byelaws produced in 1877, but included some of the modifications introduced in the 1883 edition of Knight's Model Byelaws. (227) The code differed from the model series in that the local authority proposed to retain a considerable degree of discretionary power. (228) This was particularly objected to by the officers of the Board, since such power resulted in legal uncertainty. (229) P. Gorden-Smith of the Architectural Department was also concerned that several important model clauses had been omitted. (230) Some alterations that had been made to model clauses were accepted, (231) but others were strenuously resisted. (232) The officers of the Board were of the opinion that the contentious issues could most conveniently be dealt with at a conference with the representative of the council. This is a specific example of the trend towards less detached and formalistic methods of coercion and regulation adopted by the Local Government Board. (233)

The conference consisted of two lengthy interviews between P. Gorden-Smith and R. G. Thorne-Thorne, of the Board, and three members of the plans sub-committee and, significantly, the building inspector, Fenton. (234) The details of many clauses were discussed, and the council representatives agreed to insert some clauses, and to modify others, on the advice of the Board. (235) The major bone of contention remaining surrounded model clause 54, regarding the provision of open space behind buildings, particularly in relation to the erection of new
dwellings, on old sites, in the most congested parts of towns. It is apparent that Sheffield was not the only town which envisaged encountering problems in the application of this clause. In their report on the conference, the Board's own officials mentioned the fact that Derby's byelaws were standing over for the present because of the difficulties experienced when attempts were made to meet local requirements. (236)

The second draft of the byelaws was submitted to the Board in September 1887. (237) It had been altered in line with some of the suggestions made by Gorden-Smith and Thorne-Thorne at the conference, but still the problem of model clause 54 remained. Further communication, between the Board and the council, was entered into, and plans of problematic sites were forwarded, to illustrate the council's difficulties. (238) The Board requested a further conference, (239) which only the building inspector attended. As a result of this second conference, the Board's officials entertained the expectation that Sheffield would be satisfied with a clause, dealing with corner sites, based on the Toxteth Park proviso. (240)

The draft, altered in accordance with this precedent, was deposited, for the third time, in February 1888. (241) Since the space clause conformed with the principles sanctioned in other cases by the Board, it was duly agreed to. (242) There was only one further area of concern; the council desired to modify model clause 57 to require the construction, in every habitable room, a
window, the top of which should be a minimum of 7 feet 6 inches from the floor. To avoid any further difficulties, it was suggested that the local authority should not rescind byelaw XIV of their existing series. (243)

At the beginning of March 1888, the Highway Committee considered the draft byelaws that had received the provisional approval of the Local Government Board. (244) It was resolved that copies of the same be printed for each member of the council, and that a recommendation be made that the existing byelaws be rescinded, and the new ones adopted. Steps were initiated to comply with the formal requirement for the sanctioning of byelaws, under section 184 of the Public Health Act 1875.

Thus, Sheffield's corporation was on the brink of revising its byelaws when the local society of architects and surveyors became involved in proceedings. This involvement was symptomatic of a general trend which emerged in other towns during the mid 1870s; when building regulations began to restrict the freedom of responsible architects and builders, and began to be regarded as a serious obstacle to the practice of their art. The architects and builders responded to the restriction by becoming involved in the byelaws making process. (245)

In April 1888 the council of the Sheffield Society of Architects and Surveyors wrote to the Highway Committee, enclosing certain suggestions, with respect to the draft byelaws. (246) It was
suggested that these be forwarded to the Local Government Board; (247) and this was duly done. (248) The Board was not convinced that the contribution of the Society was the product of the purest motives, (249) and consequently regarded the suggestions with a degree of suspicion.

The Society expressed its general satisfaction with the proposed byelaws, but felt that in certain particulars they could be improved. Several of the suggestions concerned the current building practices, with which the corporation did not seem acquainted. For instance, it was thought that space and money would be wasted if party wall between cottage houses had to be made 13 and a half inches thick. It was claimed that the current practice in Sheffield was to make such walls four and a half inches thick, thus nine was considered sufficient. (250)

However, the Society's most novel suggestion concerned the complex problem of the provision of space around new dwelling houses in the most congested parts of the town. The architects proposed that the area with a half-mile radius of the parish church be excluded from the space requirements. (251) The town council was less suspicious of the Society's motives than the Board, and welcomed the suggestions, especially those regarding the space clauses. (252) However, it should be noted that the council was itself an interested party, having a considerable amount of land left over from street improvements. The stricter
space clauses would have drastically reduced the value of such sites, and would in many cases have prevented a sale. (253)

In light of the Society's suggestions a joint committee of the council was set up to reconsider the draft byelaws. (254) It was concluded, after consultation with the borough surveyor, the engineer of the waterworks, the superintendent of the cleansing department, and the president of the Architect's Society, that many of the proposed byelaws were not adapted for use in Sheffield. (255) This resolution was confirmed later by the full council. (256) However, the struggle to acquire new byelaws was not abandoned, though the attitude towards the Local Government Board was hardening, as the following quote from the mayor illustrates.

If the Local Government Board would not allow such alterations in them, as would make them applicable to Sheffield, they would bear the ills which they had, rather than go to those under the new byelaws, or wait until they got an Act of Parliament in which could be incorporated such regulations in regard to buildings as could be carried out in Sheffield. The Committee would do their best to get some decent workable byelaws, but if they could not get them they would keep what they had got. (257)

The town clerk wrote to the Board informing it of the resolution, and outlining the intended modifications to the draft already submitted. The intention of adopting the Society's suggestion, with regard to the space clauses was emphasised. The least that the council was prepared to accept was the grant of some discretionary power to dispense with the byelaws in case of necessity. (258)
A number of the minor modifications were not wholly to the satisfaction of the Board's architect and medical officer, but they were not inclined to object too strenuously. However, they took great exception to the proposed modification of the space clauses, fearing the replication of overcrowded conditions when the central districts were redeveloped. The Board took up the council's offer of a conference, so that this important matter could be further discussed.

A deputation from Sheffield, consisting of the deputy mayor, the town clerk, the building inspector, and the chairman of the architect's society, attended at the Board's offices. Agreements on some of the minor modifications were arrived at, but no progress was made on the substantive issue, that of the space clauses. The deputation returned to Sheffield to reconsider the byelaws once more.

The resulting fourth draft of the byelaws was deposited with the Board in September 1888. This included the minor modifications agreed in conference, but did not include any space clauses, and all of the model clauses relating to water closets, earth closets, privies, ashpits, and cesspits had been deleted. It had become clear to the officers of the Board that the council would not adopt the model clauses in regard to open space. They were equally convinced that the council did not want to secure, by means of byelaws, any real remedy to the privy midden problem, all such clauses having been abandoned.
In the face of such intransigent opposition the Board was powerless, as it was not the practice to withhold confirmation of a series of byelaws, just because not all of the model clauses were included. However, the Board did attempt to exert some influence by suggesting, successfully, that the council retain those clauses in the existing byelaws, appertaining to space and privies; though these were considered defective, they were better than nothing. Beyond this, all the Board could do was to express regret that its advice had not been taken, whilst placing the responsibility for failure to adopt the available powers firmly on the shoulders of the council.

The officers of the Board had interpreted Sheffield's failure to adopt the model clauses, as testament to its unwillingness to tackle the problems such powers had been designed to ameliorate. However, it is apparent that this pessimistic view was far from justified. Close examination of the revised version of Particulars of Information, 'Detailed Suggestions', reveals a series of detailed provisions relating to the construction of waterclosets, privies and ashpits, the very subjects all but ignored by the revised byelaws. If these provisions are compared with the appropriate model byelaws only minor differences can be detected. However, it is significant that some of the departures from the model were the very ones proposed by the council, but objected to by the Local Government Board. Thus, it is apparent that the council used this quasi legislation to side step attempts by the Local Government Board to dictate the
content of the byelaws. The placement of the contested powers in this vehicle removed them from the influence of the Board. The council was quite prepared to admit that their 'Detailed Suggestions' did not have the force of law, claiming that the only object intended was to provide those persons intending to build with the advantage of a number of suggestions, arising from experience, which would help them to comply with the byelaws. However, it is debatable whether in practice the distinction between the legal requirement and helpful advice was so clear cut. The apparent legality of the suggestions was reinforced by the fact that they were published as an appendix to the 1889 building byelaws, and by the direct statement that these were the requirements of the council, in matters which were subject to the approval of the borough surveyor.

There was no reference to the thorny problem of the space requirements in 'Detailed Suggestions', however, this matter was the subject of further attention during the promotion of Sheffield's 1890 Corporation Bill.

As the building byelaws were entering the final stages of their journey towards confirmation the first moves were being made to acquire additional local legislation. As mentioned above, the 1890 Act was the first local act to be subjected to the full array of central government controls intended to instill uniformity and standardisation into local sanitary administration. Thus, the opportunity is provided to examine the
way in which the Local Government Board and the Police and Sanitary Regulations Committee co-operated in pursuing this aim. Moreover, since the promotion of the Bill followed so closely the revision of the byelaws, it is possible to argue that the proposed powers reflect the omissions and defects of the general law. That these defects and omissions were identified by those officials who were directly involved in the administration of the regulations, can be illustrated by reference to the debate surrounding the proposed clauses.

Clause 75, of the Sheffield Corporation Bill 1890,(276) was designed to prevent the construction of buildings until the street was properly defined. The council had first attempted to acquire such a power in 1878.(277) In the absence of this power the thresholds of buildings had been fixed at all kinds of levels, making it extremely difficult to fix the street at a level which would ensure the necessary gradients and crossfalls for the sewerage and drainage.(278) It is apparent that this extension of the general law was regarded as justifiable, since a similar clauses had been approved by the Police and Sanitary Regulations Committee in several recent cases.(279)

The Report of the Local Government Board on Sheffield's 1890 Bill concentrated on only three of the proposed controls relating to streets and buildings; the fitness of site for building, the definition of a new building, and the provision of air space.(280)
Section 71 of the Sheffield Corporation Act 1890, preventing buildings being erected on offensive matter, was almost identical to one of the byelaws passed in 1889. However, the clause, as originally drafted, was intended to extend the provisions of the byelaws by preventing the raising, filling up or embanking of ground with offensive matter; something that was not an unusual practice in Sheffield. This extension was objected to by the Local Government Board on the grounds that the required power was available under the byelaws; it was guided in its decision by the fact a similar clause had been struck out of a bill in the previous session. Due to the fact the Public Health Bill of 1890 contained a provision relating to the fitness of site, this clause was offered, and accepted, as a compromise. Thus, instead of expanding the powers at its disposal, the council merely succeeded in contributing to the increased complexity of the system of regulation. This increased local complexity paralleled that developing in the national arena.

The council's attempt to broaden the definition of a 'new building' can be seen as an attempt to deal with one of the perennial limitations of building regulations. Clause 77 was aimed at preventing buildings being altered to such an extent that if they had been originally so constructed, they would not have conformed with the byelaws. The sanitary protections contained in the building regulations could be negated, if, for example, a building not originally constructed as a dwelling was subsequently converted. However, the proposed clause was
objected to be the Local Government Board, since the expanded
definition would have resulted in legal confusion. In line with
previous decisions of the Police and Sanitary Committee, the
clause was restricted to the re-erection or raising of buildings,
and to the roofing in of open spaces between buildings.(287)

Another gap that emerged in the practice of the regulations, was
the difficulty of preserving the necessary airspace around
buildings. In practice, though the corporation could insist on a
requisite amount of air space being attached to new houses, it
could do nothing about subsequent alterations, which, by reducing
the space, prevented the free circulation of air.(288) The plans
sub-committee had discovered, upon consulting the town clerk,
that it had no jurisdiction over such alterations.(289)
Consequently, it was resolved that the Parliamentary Powers
Committee be requested to include in the Improvement Bill a
clause to enable the corporation to prevent the space adjoining
any building being curtailed beyond the limits required by the
byelaws currently in force.(290)

Thus, clause 82 of the Sheffield Corporation Bill of 1890
proposed to amend section 157 of the Public Health Act of 1875,
by making the byelaws regarding space around houses applicable to
all buildings, whether erected before or after the Local
Government Act came into operation in the borough.(291) The
ambiguous way in which this clause was drafted, caused a good
deal of misunderstanding, both within Sheffield and without.
Petitioners against the clause, were under the impression that the council would be able to insist on the alteration of existing buildings, and hence feared a great destruction of property. (292) There was also considerable consternation that such a clause, by introducing a degree of retrospective application, would broach one of the almost sacrosanct principles of the byelaw system. (293) The officers of the Local Government Board shared the petitioners misconceptions, being of the opinion that the intention of the clause was to require the alteration of existing buildings; since this was considered impractical in so many cases, the clause's omission from the Bill was recommended. (294)

However, it is clear that the council wanted to control, rather than to compel, the alteration of existing buildings. (295) Thus, when the matter was discussed before the Police and Sanitary Regulations Committee, the council accepted the alternative clause suggested by Mr Boyce, the Local Government Board's representative. The compromise clause, instead of making the byelaws relating to space applicable to all buildings, made it an offence to alter any building in such a way as to reduce the amount of space below the proscribed minimum. (296)

These examples provide concrete evidence of the way in which the Local Government Board and the Police and Sanitary Regulations Committee worked in concert to reduce legal and technical ambiguity in local legislation. Although the extension of the general law was not in every case be prevented, additions to it
were managed, and decisions were guided by precedents. In this way the organs of central government accumulated extensive knowledge of the limitations imposed by the general statutes, and of the areas in which local authorities were demanding extended powers. This accumulated knowledge was the foundation of the amending Public Health Act of 1890.\textsuperscript{(297)}

Before concluding this chapter it is first necessary to consider the administrative implications of the revised byelaws, and of the Sheffield Corporation Act of 1890. The new regulations played a significant role in the development of building inspection in Sheffield. The job of the building inspectors was extended by the Act of 1890, by the addition of the responsibility for supervising street work.\textsuperscript{(298)} In addition, their primary concern, the building byelaws, had been subjected to considerable revision. The administrative clauses of the new code were substantially the same as those of 1864. However, the technical clauses had not only increased numerically, from 25 to 67, but were also much more detailed. It is apparent that the two existing building inspectors were considered incapable of coping with the new demands being made upon them. On the same day that the new byelaws came into operation the plans subcommittee recommended that the town be divided into four districts, for the purposes of building inspection.\textsuperscript{(299)} Accordingly, two additional building inspectors were appointed.\textsuperscript{(300)} The expense of advertising the positions was
spared since both of appointees had been shortlisted for the vacancy the previous year. (301)

However, it would be a mistake to assume that the workload of the building inspectors had increased in direct proportion to the increase of staff. The supervision of street work dovetailed quite neatly with the existing responsibilities of the job. Moreover, the more numerous and more detailed byelaws did not necessarily add to the inspectors' burdens. A series of specific clauses could be less demanding on the officials' time, than one clause requiring a task done 'to the satisfaction of the council.' Thus, it is doubtful whether the workload actually increased on the scale that appears to be indicated. It is suggested here that the employment of additional building inspectors was also the product of a new understanding of the relationship between the regulations and their administration. There was now a much greater appreciation of the building inspection as a distinct profession. This appreciation is well illustrated by the job description produced by the Building Department in 1891. In addition to outlining the well established duties pertaining to plans and inspection, a new emphasis is placed on a building inspector's communication skills, and his role as an advisor. For instance, each inspector had to be available in the office between the hours of 9.00 -10.30 am, and 4.30 - 5.30 pm, every day, to attend to the queries of builders and architects; letters and reports had to be written; and the plans sub-committee meetings had to be
The impression that building inspection had acquired a new status within the borough surveyor's office is reinforced by the allocation, in June 1891, of a clerical assistant, to relieve the inspectors of the more mundane and repetitive aspects of the job.
This chapter, by analysing both the implementation of Sheffield's 1864 building byelaws, and the formulation of additional and amending powers, has revealed a definite cycle of administration and regulation. The fact that administration was itself creative and self generating has been illustrated by establishing direct connections between implementation of the regulations, and the formulation of new controls.

The analysis of the evidence has confirmed MacDonagh's contention that initial statutes paid little or no attention to the actual enforcement of the regulations. The development of an appreciation of the administrative implications of the regulations, nurtured by experience of implementation, has been illustrated, by reference to the growing professionalisation of the building inspectorate. It is suggested that the ability of the council to identify and define its legislative needs with increasing accuracy, was itself a function of this growing professionalisation.

However, it has always been recognised that the demand for extended powers was never merely a response to locally diagnosed problems. When any attempt was made to acquire new controls, Sheffield operated within an institutional framework which was increasingly dominated by the organs of central government. The timing and content of Sheffield's legislative applications had often been influenced by the local legislation acquired by other towns. However, the fruit of other towns' administrative
experience was rendered more immediately available as a result of the activities of the Local Government Board and the Police and Sanitary Regulations Committee.

Another significant factor that emerged, during the period under consideration in this chapter, was the involvement of specialised pressure groups in the process of formulating new regulations. This trend was more fully developed in the period after 1890, thus, it will be subjected to more detailed analysis in Chapter Eight.
FOOTNOTES


(3) See Chapter Five.


(6) CM, 13 July 1864.

(7) CM, 7 September 1864.


(9) ibid. recommendations 2-4.

(10) ibid. recommendation 21.

(11) ibid. recommendation 8.

(12) ibid. recommendation 9.

(13) MacDonagh, 'Revolution in Government', 59.


(16) ibid. 128.


(18) MacDonagh, 'Revolution in Government', 59.

(19) Minutes of the Highway Committee, CM, (hereafter, HC) 8 September 1864.

(20) ibid. 23 September 1864.
(21) ibid. 30 September 1864.

(22) CM, 12 October 1864.

(23) P.R.O. MH13/165/3120/64, 20 October 1864.


(25) 'The word decided to be [deleted] by the Holyhead and Stockton cases must be struck out.' ibid. byelaw 31.

(26) P.R.O. MH13/165/3120/64, 27 October 1864.

(27) P.R.O. MH13/165/3303/64, 14 November 1864.

(28) ibid. 15 November 1864.

(29) Sheffield and Rotherham Independent, (hereafter S&RI) 13 October 1864.


(31) P.R.O. MH13/165/402/65.

(32) CM, 11 July 1866.

(33) HC, 2 December 1864.

(34) See below, 275-76.

(35) See below, 273-74 and 292-94.

(36) S. F. Holmes, Particulars of Information, (Sheffield, 1864) (hereafter, Particulars).

(37) Byelaws as to New Streets and Buildings (Sheffield, 1864), byelaw V.

(38) Particulars, 4-6.


(40) Particulars, 16-17.

(41) ibid. 9-22.

(42) Byelaws as to New Streets and Buildings (Sheffield, 1864), byelaw XXXI.
(43) Sheffield City Archives, (hereafter S.C.A) Registers of Plans, CA205; S.C.A. Plans, CA206.


(45) Furness, Municipal Affairs, 63-74.

(46) H. Worth, architect/builder, plans sub-committee member 1864-66; J. Mountain, plumber, plans sub-committee member 1876-82.

(47) Statement of Duties of Borough Surveyor, HC, 6 July 1888.

(48) For example, HC, 8 September 1865.

(49) For example, Holmes consulted the chief sanitary inspector on the subject of earth closets, CM, 14 August 1867.

(50) For example, HC, 11 August 1865, J. Rose; HC, 25 August 1865, G. Bates.

(51) The members of the plans sub-committee appointed 17 November 1871 were reappointed 15 November 1872. Those appointed 12 November 1880 were reappointed 11 November 1881. The sub-committee appointed 16 November 1883 was reappointed, intact, 14 November 1884, 13 November 1885, and 12 November 1886. HC.

(52) HC, 12 November 1869, 11 November 1870, 13 November 1874, 15 November 1877, and 11 November 1887.

(53) HC, on 15 November 1878, only two out of the five existing sub-committee members were reappointed.

(54) HC, H. T. Lowe, member of the plans sub-committee November 1871 to November 1873; R. Hadfield, member of the plans sub-committee November 1867 to November 1875, and from November 1876 to November 1877.

(55) C. Sharman and J. Wilson.

(56) A. M. Wilson and H. Booker.

(57) M. Hunter.

(58) 1885-86, 54 per cent; 1886-87, 52 per cent; and 1887-88, 47 per cent.

(59) See below, 314-19.

(60) J. Wilson, C. Sharman and A. M. Wilson.
(61) HC, 2 December 1864.

(62) For example, HC, 6 May 1865.

(63) For example, HC, 19 January 1866, and 15 February 1878.

(64) For example, HC, 16 July 1878.

(65) For example, HC, 6 May 1865, and 14 June 1878.

(66) HC. At the Highway Committee's meeting of 18 November 1864 it was resolved that a public notice to this effect be inserted in each of the local newspapers, for one week.

(67) HC, 1 September 1865, and 29 December 1865.

(68) HC, 17 December 1875, 2 August 1878, 11 October 1878, and 22 August 1879.

(69) See above, 265.

(70) Viz, the assistance rendered by the borough surveyor to the plans sub-committee. See above, 262.

(71) Namely, maintenance of the road and public highways, acting as the surveyor under the Public Health and Local Government Acts, responsibilities to the Improvement Committee as surveyor and valuer, etc.

(72) CM, 21 July 1865, Notice of Business 8.

(73) HC, 18 August 1865.

(74) S&RI, 14 September 1865, 3.

(75) ibid. Alderman Webster.

(76) S&RI, 14 September 1865, 3.

(77) HC, 15 September 1865.

(78) HC, 31 January 1868.

(79) ibid. R. A. MacBriar.

(80) HC, 17 November 1871.

(81) HC, 15 September 1871.

(82) HC, 16 February 1872.

(83) HC, 1 March 1872.

(84) CM, 10 November 1873.
(85) ibid.


(87) CM, 10 December 1873.

(88) S&RI, 14 September 1865, Hallam.

(89) Borough Surveyor Committee Minutes, CM, 20 January 1874.

(90) ibid. 23 January 1874.

(91) CM, 11 February 1874.

(92) For example, HC, 13 September 1876. Reaction to comments made in council by F. E. Leggoe.

(93) CM, 27 October 1876.

(94) CM, 29 October 1877.

(95) CM, 9 November 1877.

(96) CM, 29 October 1877.

(97) CM, 9 November 1877.


(99) HC, 15 November 1877.

(100) HC, 1 February 1878, 'Draft report as to the efficiency or otherwise of the staff now employed in the Highway Department.' (hereafter 'Efficiency Report') The following section is based on this report.

(101) CM, 13 February 1878.


(103) ibid, 25.

(104) HC, 2 February 1877.

(105) HC, 8 January 1886, 'Annual Report of the Building Inspector for 1885.'

(106) HC, 28 June 1878, 'Report of the Borough Surveyor on the staff of his department'.

(107) HC, 18 November 1881.
HC, 30 May 1873, Report of W. R. Croft, Chief Sanitary Inspector, presented to the Health Committee and referred to the Highway Committee.

HC, 11 July 1873.

ibid.

HC, 7 February 1879, Report of S. Morley, Chief Inspector of Nuisances, on the sanitary condition of Heeley, presented to the Health Committee and referred to the Highway Committee.

The reasons for this were discussed in Chapter Three, 118.

The existence of a degree of professional rivalry is illustrated by the following extracts from a debate at an annual meeting of the surveyors' professional association. 'The Medical Officer of Health has entrenched largely upon the duties of the Municipal Engineer.' Proceedings of the Association of Municipal and Sanitary Engineers and Surveyors, (hereafter Proceedings AMSES) XV, 1888-89, 110. 'I believe the province of the medical officer, at any rate on engineering matters or sanitary details, is to consult with the surveyor.' ibid. 119.

Chapter Five, 208-09.

ibid.

Sheffield Daily Telegraph, 1 February 1876; F. W. Barry, Report to the Local Government Board upon the Epidemic Prevalence of Small-Pox in the Borough of Sheffield during 1887-88 (1889) (hereafter Barry, Small-Pox Report), 220.

S&RI, 12 September 1889.

Annual Report of the Medical Officer of Health, 1876 (Sheffield, 1877), 24.

ibid.

ibid. 25.

This paragraph is based on extracts from Barry, Small-Pox Report, 224, 248-50.

35 & 36 Vic. c. 79.

HC, 1 December 1882.

HC, 20 April 1883.

Barry, Small-Pox Report, 221.

ibid. 248.
(127) ibid.

(128) Annual Report of the Medical Officer of Health, 1887 (Sheffield, 1888), 68.

(129) Barry, Small-Pox Report, 250.

(130) HC, 18 November 1881.

(131) Though the absence of prosecutions is not necessarily an indication of inefficient implementation. See above, 283.

(132) See above, 283.

(133) It is significant that the position of borough surveyor was advertised in the Builder, the Architect, the Gas Journal, the Engineer, and Engineering. HC, 15 February 1878.

(134) HC, 19 January 1883.

(135) S. O. Addey & W. T. Pike, Sheffield at the Turn of the Twentieth Century, (Sheffield, 1900), 75.

(136) Proceedings AMSES XII, 1885-86, 3.

(137) HC, 1883-90.


(139) See above, 273-74.

(140) S.C.A. MS Minutes of the Plans Sub-Committee, CA371(1) (hereafter psc) 23 July 1886, the case of J. Andrews.

(141) psc, 6 August 1886.

(142) For example, psc, 20 February 1885, W. J. Cooper, occupation before certificate; psc, 26 June 1885, J. Holmes, building not in accordance with approved plan; and psc, 16 May 1886, F. Foulston, occupation before certificate.

(143) For example, the case of F. Clarke, psc, 7 December 1888, proceedings threatened; psc, 12 April 1889, another offence reported; HC, 24 May 1889, it was reported that Clarke had been prosecuted and fined.

(144) For example, the case of J. P. Earle, psc, 5 November 1889, 8 November 1889, and 3 January 1890; and the case of J. Grant, psc, 10 May 1889, 25 May 1889, and 7 June 1889.

(145) For example, psc, 4 September 1885, J. Holmes' attic windows; psc, 23 July 1886, Mr Lawrence's privies; psc, 18 March 1887, W. Blade's privies; psc, 29 April 1887, J. Merring,
building without plans; psc, 22 July 1887, Mr Lyon, insufficient space; and psc, 3 February 1888, Mrs Shepherd, insufficient space.

(146) For example, psc, 30 September 1887, J. W. Booth's privies; psc, 27 May 1887, F. Furniss' walls of insufficient thickness; psc, 23 July 1886, J. Marksill's passageway of insufficient width; and psc, 11 May 1888, Mrs Lowe's privies.

(147) psc, 28 November 1884.

(148) psc, 12 December 1884.

(149) psc, 9 January 1885.

(150) For example, psc, 9 July 1886, J. W. Jessop; psc, 23 July 1886, G. V. Quibell; psc, 3 August 1888, J. Goulder; and psc, 7 December 1888, R. E. Ash.

(151) psc, 12 October 1888.

(152) psc, 26 October 1888.

(153) psc, HC, and local newspapers 1864-90.

(154) HC, 1 February 1889.

(155) HC, 18 January 1889, Report of the works sub-committee.

(156) S.C.A. CA541/3, MS Minutes of the Select Committee of the House of Commons on Sheffield Improvement Bill, 2 May 1871, 107-08; CM, 12 April 1871, letter from the Mayor of Sheffield to Lord Fitzwilliam.

(157) P.R.O. WH13/165/4114/64, the Provisional Order for the repeal of the 1818 Act was signed by Sir George Graham, the Secretary of State of the Home Department, on 6 February 1865.

(158) CM, (special meeting) 19 October 1870.

(159) S.C.A. CA541/1, Sheffield Improvement Bill, 1871.

(160) ibid. clauses 22-29, and 62-89.

(161) ibid. clauses 92-94.

(162) S.C.A. CA541/2, Notice of Preparation of the Sheffield Improvement Bill, 1871, para. 1, 1-2.

(163) Chapter Four, 170-71.

(164) Chapter Five, 202.
(184) ibid. 159.


(186) CM, 25 April 1877.

(187) S.C.A. CA530(5), Minutes of the Parliamentary Powers Committee, 2 May 1877.

(188) S.C.A CA530(5), Report of the Parliamentary Powers Committee, 2 October 1877, 2.

(189) ibid. 1.

(190) S.C.A. CA530(5), Minutes of the Improvement Bill Committee, 18 December 1877.

(191) ibid. 1 February 1878.

(192) ibid.

(193) Chapter Four, 155-56; MacDonagh, 'Revolution in Government, 62.

(194) Chapter Five, 231.

(195) P.R.O. WH12/15484/87833/77.

(196) Chapter Five, 234.

(197) ibid. Section III, 230-36.

(198) S.C.A. CA597(7)/1-4, Minutes of Evidence before the Select Committee of the House of Commons regarding Police and Sanitary Regulations in the Sheffield Corporation Bill.

(199) See below, 320-24.

(200) Furness, Municipal Affairs, 431.

(201) S.C.A. CA597(1)/1, Sheffield Corporation Bill, 1890, clauses 76-87.

(202) It was reported that an opposition meeting of ratepayers was attended by 800 people. S.C.A. CA597(7)/2, Minutes of Evidence before the Select Committee of the House of Commons regarding Police and Sanitary Regulations in the Sheffield Corporation Bill, 10 July 1890, 24, G039-40, J. W. Pye-Smith.

(203) ibid.

(204) 53 & 54 Vic. c. 225.
(205) CM, 10 August 1870.

(206) CM, 1 October 1870, letter from Local Government Act Office.

(207) HC, 3 June 1881, J Highfield fined £3, plus costs; HC, 24 May 1889, F. Clarke, fined £3 8s, plus costs.

(208) S.C.A. CA541/1 Sheffield Improvement Bill, 1871, and Byelaws as to New Streets and Buildings (Sheffield, 1864).

(209) For example, S.C.A. CA541/1 Sheffield Improvement Bill, 1871, clause 74, damp proof courses; clause 77, ventilation of house drains; clause 80, specific recognition of earth closets; and clause 65, time limits for approving deposited plans.

(210) See above, 299.

(211) S.C.A. CA530(5), Minutes of the Parliamentary Powers Committee, 2 May 1877.

(212) HC, 11 May 1877.

(213) Chapter Five, 14.


(215) HC, 24 August 1877.

(216) Clause 39, approval of ashpits etc., was modelled on section 42 of the Halifax Act of 1876; clause 41, no houses to be built in streets until levels fixed and kerbstones laid, on section 39 of the Liverpool Improvement Act of 1871; clause 43, time limit for expiry of approval of plans, on section 35 of the Halifax Act; and clause 44, no building to be occupied until drainage completed, and certified as fit for human habitation, on section 37 Halifax Act, S.C.A. CA530(5), Minutes of the Parliamentary Powers Committee, 5 September 1877.

(217) ibid. 24 September 77, clause 39.

(218) P.R.O. MH12/15484/87833/77, Report from the Legal Department of the Local Government Board on Sheffield Improvement and Tramways Bill, 26 January 1878.

(219) ibid.

(220) Clauses relating to damp proof courses, distances between privies and dwelling houses, and the ventilation of soil pipes. HC, 15 September 1882 and 5 October 1882.

(221) First deposit 13 July 1886, P.R.O. MH12/15492/65766/86; second, 2 September 1887, P.R.O. MH12/15494/80801/87;
third, 2 February 1888, P.R.O. MH12/15494/11479/88; fourth, 4 September 1888, P.R.O. MH12/15495/81723/88; and fifth, 31 July 1889, P.R.O. MH12/15496/68984/89.

(222) HC, 26 October 1877.
(223) HC, 14 February 1879.
(224) HC, 15 May 1885.
(226) P.R.O. MH12/15492/65766/86.
(227) For example, the second part of Rider B (P.R.O. MH12/15492/65766/86) was equivalent to clause 11A (Knight's Annotated Model Byelaws of the Local Government Board, (1st edn. 1883) (hereafter KNMB83) 54-55); Rider CA, (P.R.O. MH12/15492/65766/86) was based on part of clause 26A (KNMB83, 76); and model clause 60A (KNMB83, 92) was included in first draft Sheffield byelaws. (P.R.O. MH12/15492/65766/86)
(228) For example Riders B, C, and G. P.R.O. MH12/15492/65766/86.
(229) P.R.O. MH12/15492/65766/86, 19 July 1886, comment of R. G. Thorne-Thorne of the Medical Department, and 24 July 1886, comment of P. Gorden-Smith of the Architectural Department.
(231) For example, the alterations to clauses 9, 71, 74, and 87. P.R.O. MH12/15492/65766/86, 19 July 1886, R. G. Thorne-Thorne.
(232) For example, the alterations to clauses 78 and 83. ibid.
(233) Chapter Five, 27.
(234) HC, 3 September 1886.
(235) P.R.O. MH12/15493/89882/86, Conference Report, 26 October 1886, R. G. Thorne-Thorne, P. Gorden-Smith, and W. A. Casson. (Legal Department)
(236) ibid.
(237) P.R.O. MH12/15494/80801/87, 2 September 1877.
(238) P.R.O. MH12/15494/80801/87, 9 September 1887, R. G. Thorne-Thorne.

(241) P.R.O. MH12/15494/11479/88, 2 February 1888.

(242) ibid.


(244) HC, 2 March 1888.


(246) pscc, 27 March 1888.

(247) ibid.

(248) P.R.O. MH12/15495/46699/88.

(249) 'I cannot but think they are influenced in their opinions, on some points, by different motives from those which ought to be held primarily in view in framing new building byelaws'. ibid. 7 June 1888, P. Gorden-Smith.

(250) P.R.O. MH12/15495/46699/88, Sheffield Society of Architects and Surveyors, 'Proposed New Byelaws relating to New Streets and Buildings in the Borough of Sheffield.'

(251) ibid. clauses 50 and 51.

(252) P.R.O. MH12/15495/59139/88, 19 June 1888, letter from J. W. Pye-Smith to the Secretary of the Local Government Board.

(253) ibid.

(254) The joint committee consisted of the chairman and deputy chairman of the Highway, Improvement, Health, Sewage and River, and Water Committees. HC, 11 May 1888.

(255) Minutes of the Joint Committee on the Byelaws, CM, (hereafter JCB) 5 June 1888.

(256) CM, 13 June 1888.

(257) SCRT, 14 June 1888, 3.

(258) P.R.O. MH12/15495/59139/88, 19 June 1888, letter from J. W. Pye-Smith to the Secretary of the Local Government Board.
(259) For example, the alterations to clauses 8, 20, and 29. P.R.O. MH12/15495/59139/88, 'Proposed Building Byelaws: as to the suggestions of the local society of architects', 27 June 1888, P. Gorden-Smith.

(260) ibid. clauses 50 and 51.

(261) P.R.O. MH12/15495/59139/88, 19 June 1888, letter from J. W. Pye-Smith to the Secretary of the Local Government Board.


(263) P.R.O. MH12/15495/81723/88, 4 September 1888.

(264) ibid. 12 September 1888, R. G. Thorne-Thorne, and 13 October 1888, P. Gorden-Smith.

(265) ibid. 17 September 1888, R. G. Thorne-Thorne.

(266) ibid.

(267) Byelaws as to New Streets and Buildings (Sheffield, 1864) clauses 12, 13, 21, 22, and 23.


(269) 'Detailed Suggestions and Particulars relating to the formation and construction of New Streets and the Sewerage thereof, setting forth the requirements in cases where works are subject to the approval of the Council or the Borough Surveyor', Byelaws as to New Streets and Buildings (Sheffield, 1889) 53-72. (hereafter 'DS') A few months after the adoption of the new series of byelaws, the borough surveyor laid a draft of 'Detailed Suggestions' before the Highway Committee. (HC, 21 March 1890)

The purpose of the document was to advise builders and architects of the requirements, on such matters which were subject to the approval of the council or the borough surveyor. Since the council had retained some discretionary power, such advice was essential. The suggestions were published as an appendix to building byelaws of 1889. It was directly acknowledged that the suggestions were the product of accumulated experience. (P.R.O. MH12/15498/75900/90, 30 August 1890, letter from F. W. Pye-Smith to Provis, the Secretary of the Local Government Board.)

(270) 'DS', 66-67, and 70-72.

(271) For example, the provision relating to the construction of ashpits, ('DS', 71.) was a modified version of model clause 84 (Byelaws as to New Streets and Buildings, Seventh Annual Report of the Local Government Board, PP 1878 XXXVII, Part 1, App. A, 106-09.) This modification of the model clause had been objected

(272) P.R.O. MH12/15498/75900/90, 1 September 1890, letter from F. W. Pye-Smith to Provis, Secretary of the Local Government Board.

(273) At a special meeting of the Highway Committee it was resolved that the suggestions should be printed as an appendix to the byelaws. HC, 21 March 1890.

(274) 'DS', 53.

(275) See above, 304.

(276) P.R.O. MH12/15497/111251/89.

(277) P.R.O. MH12/15484/87833/77, Sheffield Improvement and Tramways Bill, 1878, clause 66.

(278) S.C.A. CA597(5)/15, Proof of Evidence, for parts of the Sheffield Corporation Bill, 1890, of C. F. Wike, (borough surveyor) 4, clause 75.

(279) S.C.A. CA597(7)/3, Minutes of Evidence before the Select Committee of the House of Commons regarding Police and Sanitary Regulations in the Sheffield Corporation Bill, 11 July 1890, 87.

(280) P.R.O. MH12/15497/28549/90, Report of the Local Government Board on the Sheffield Corporation Bill, 1890, clauses 76, 77 and 82.

(281) Byelaws as to New Streets and Buildings (Sheffield, 1889), byelaw 7.

(282) S.C.A. CA597(4), Brief for the Promoters of Sheffield Corporation Bill, 1890, 29.

(283) P.R.O. MH12/15497/28549/90, Report of the Local Government Board on the Sheffield Corporation Bill, 1890, clause 76.

(284) S.C.A. CA597(7)/3, Minutes of Evidence before the Select Committee of the House of Commons regarding Police and Sanitary Regulations in the Sheffield Corporation Bill, 11 July 1890, 87.

(285) Chapter Five, 243-44.

(286) S.C.A. CA597(5)/15, Proof of Evidence, for parts of the Sheffield Corporation Bill, 1890, of C. F. Wike, (borough surveyor) 4-5, clause 77.

(287) S.C.A. CA597(3)/1, Sheffield Corporation Act, 1890, section 72.
For example, S.C.A. CA597(6)/1, Petition of the Duke of Norfolk against the Sheffield Corporation Bill, 1890, 4, clause 82.

(294) P.R.O. MH12/15497/111251/89, 19 March 1890, note on clause 82 of Sheffield Corporation Bill 1890, S. B. Provis.

(295) S.C.A. CA597(4), Brief for the Promoters of Sheffield Corporation Bill, 1890, 30.

(296) S.C.A. CA597(3)/1, Sheffield Corporation Act, 1890, clause 76.

(297) Chapter Five, 241-45.

(298) For example, supervising the erection and maintenance of hoardings during building operations, so as to protect the public, and ensuring that deposits of building materials or excavations were not an obstruction or a hazard.

(299) psc, 15 August 1890.

(300) ibid. 26 September 1890.

(301) HC, 24 May 1889.

(302) S.C.A. CA598(1), Building Department, Draft Annual Report, 1891.

(303) HC, 19 June 1891.
CHAPTER SEVEN: NATIONAL DEVELOPMENTS 1890-1914

This chapter will chart the development of building regulations through the period 1890 to 1914, the final period under consideration in this study. Chapter Five has demonstrated that, although without a cohesive and explicitly stated philosophy, central government had created an institutional framework which was underpinned by the dynamic accumulation of legislation. Thus, the development of building regulations can be said to have been consistent with MacDonagh's model of government growth, at least up to stage four. This chapter, however, will consider the ways in which further developments in this particular area of government growth departed from this model.

According to MacDonagh's model, during the fifth and final stage the executive officers and their superiors now demanded, and to some extent secured, legislation which awarded them discretions, not merely in the application of its clauses, but even in imposing penalties and framing regulations. They began to undertake more systematic and truly statistical and experimental investigations. They strove to get and keep in touch with the inventions, new techniques, and foreign practices relevant to their field. Later they even called directly upon medicine and engineering, and the infant professions of research chemistry and biology, to find the answers to intractable difficulties in composing and enforcing particular preventative measures. Once their findings were proved, the corresponding regulations passed
effortlessly into law, and unperceived the ripples of government circled even wider. In the course of these latest pressures, towards autonomy and delegated legislation, towards fluidity and experimentation in regulations, towards division and specialisation of administrative labour, and towards a dynamic role for government within society, a new sort of state was being born. (2)

Thus stage five of MacDonagh's model seems to imply that process of administration, once securely established, maintained itself immune from outside influences such as political pressures or vested interests. Thus, the range, scope and depth of regulations was ever increased in response to administrative necessity, regardless of any other considerations. However, as indicated in Chapter One, (3) the ultimate inevitability of self sustained administrative growth was always subjected to the possibility of limitation. With building control, the continuing expansion of the scope and complexity of the regulations had, by the end of the nineteenth century, engendered considerable popular and outspoken opposition. The dissatisfaction was in effect a reaction against what was considered, over-regulation. Thus, it is possible to maintain that in the area of building control, and potentially other areas, there is an alternative fifth, or a sixth stage of government growth, that of re-evaluation of the principles and practice of regulation.
This chapter will be divided into three main sections in order that attention may be directed at the main issues of the period.

Section I provides an overview, and demonstrates how the inadequacies of the established system of regulation of the urban environment were thrown into even sharper relief, as the new ideas, promulgated by the various strands of the town planning movement, were proliferated.

Section II analyses the attempts which were made to modify the established system of regulation, in order to adapt it to the new demands of the time.

Section III examines the developing national role of those officials who were actually responsible for implementing the regulations locally.
I Perceptions of the Established System of Regulation.

Harper has characterised this period in the development of English building regulations as one of gradual disintegration. The attempts by the legislature to keep pace with the ever increasing demands of the administrators, led, not to refined and ever more highly specialised controls, but to more and more piecemeal legislation which merely further confused an already complicated series of regulations.

To understand the reasons for this deterioration, it is first necessary to consider the way in which that most obvious of building regulations, the building byelaw, was generally perceived.

The quality of the houses built during the period after 1875, explicitly described by Daunton as 'the bye-law era', represented a considerable advance on what came immediately before, and it is generally accepted that the widespread adoption of building controls from 1875 onward did bring major improvements to the layout, construction and amenities of working class housing. However, the advances made have not been regarded as unequivocally beneficial. The results of this first attempt to bring planning into the urban chaos have sometimes been, almost contemptuously, designated as 'byelaw housing'.
The explanation for this often barely concealed contempt is to be found in the dreary and depressing uniformity of later Victorian urban development. (8) 'Byelaw housing' was especially appropriate for the development of new areas where the rectilinear layout of streets and terraces could be imposed over open land. (9) It therefore fitted ideally - both spatially and chronologically - into the pattern of suburban development which most large towns were experiencing especially from the 1870s onward. In London it happened earliest. From the middle of the century, rapid growth occurred along the lines of the railways, especially in north and north-east London where the Great Eastern Company offered the most comprehensive system of workmen's trains. (10)

Outside London suburbanisation tended to be later and slower, though it followed a similar pattern. The development of working class dormitories depended more on internal urban transport, and especially on the tram, than on the railway. The important development of the electric tramway located this sort of development from the 1880s and 90s onwards. (11)

Thus, during the last decades of the nineteenth century, miles and miles of peripheral streets were constructed across the country, almost exclusively for occupation by the working classes. (12) The paradox of the progress made by, and the continuing shortcomings of, so called, byelaw housing has been encapsulated by Ashworth,
The streets of this time were monotonous, but the monotony of order was an advance on the earlier monotony of chaos. They were devoid of all inspiration but at least they were sanitary, exposed adequately to air and moderately to light, and this was achieved widely and by deliberate provision, instead of occasionally and more or less by chance.(13)

Apologists have defended the byelaws on the grounds that the regulations did not actually require monotonous layouts and dreary design.(14) Unwin himself acknowledged the fact that, 'the whole responsibility for this ugliness cannot be attributed to the action of the byelaws.'(15) The defenders emphasise the fact that the regulations themselves cannot be blamed if society chose to house its population as cheaply as possible, and thereby in identical and parallel terraces of housing.(16) Nevertheless, despite the fact that in theory good terraces and interesting streets could be built under the byelaws, the most significant point was that in practice they were not.(17)

Notwithstanding the fact that advances had been made, by the early twentieth century, building regulations in general, and building byelaws in particular, were perceived as having created a form of development which was only marginally less objectionable, than that which it succeeded.(18) Many of the defects of the central slums were widely regarded as having been reproduced in the monotonous appearance of the innumerable straight rows of narrow fronted, densely packed, brick boxes with slate lids.(19)
Perhaps the reputation of the byelaw house might have been protected if, under the regime, a sufficient number of houses had been provided to adequately house the ever expanding urban population. However, the assumption that the market forces would always meet need— that the supply of houses would naturally and inevitably move in step with demand— had to be abandoned, albeit reluctantly, towards the end of the century.(20) The 1891 census, the first to contain figures relating to overcrowding, revealed alarmingly large numbers living in overcrowded conditions. The 1911 census confirmed the fact that the situation was worsening.(21) Confidence in the ability of the town building process to meet the full needs of British town dwellers was further eroded by the activities of the social investigators, who exposed the continuing horrors of slums and overcrowding, and those of the political economists, who identified sections of the population who, by their own efforts, could never attain a satisfactory standard of accommodation.(22)

Moreover, the revelations of the Boer War medical officers, relating to the parlous physical condition of army recruits, profoundly shocked a nation which entertained a much vaunted opinion of its military reputation.(23) A high proportion of the Boer recruits that were rejected on physical grounds were those from large cities.(24) Comparisons showed a shocking difference between recruits from Britain's manufacturing towns, and those from her rural areas.(25) Thus, the sharp wave of unease which resulted from such revelations, and which brought the whole
condition of British society into question, found a particular focus of concern in the condition of British cities. (26)

In the social debate of the early 1900s, thus engendered, the environmental problems associated with residing in urban areas enjoyed great prominence. (27) The basic problem was the apparent inevitability of overcrowded and unhealthy living conditions for the very poor in central areas of towns. However, both the overcrowding and unhealthiness of such properties was exacerbated by the growing imbalance of demand and supply in the housing market. The early twentieth century housing crisis was characterised by the stagnation of real wages on the one hand, and the increased cost of building and price of money on the other. (28) The inevitable result was a shortfall in the provision of new houses, in combination with the increasing rents of existing properties. Moreover, the imbalance within the housing market was intensified by the interventionist policies pursued by local government during the period. The imposition of minimum standards on new housing further increased the rents demanded for new properties; whilst the demolition of old slum property reduced the stock of available cheap housing. (29)

The deleterious consequences of atmospheric pollution, that had driven anyone who could afford the move to the suburbs out of the central areas, continued to plague those who had no choice but to stay. Little discernible progress had been made since the 1840s in the provision of parks or play areas and uplifting cultural
institutions in working class areas. Thus, there were still few alternatives to the social life provided for by the public houses.

None of these problems was being recognised for the first time, but many were arousing increasing concern. Moreover, the visual boredom and ugliness of working class and middle-class byelaw suburbs, constructed during the last decades of the nineteenth century, had disillusioned the optimists who had considered that the decentralisation of the working class population, by means of improvements in urban transport, would provide a neat solution to the urban problem. (30)

Thus, by the early 1900s the time was ripe for social reformers to consider new ideas in the area of town improvement. But such was the scale of the problems identified that any potential solution had to be seen as addressing them in an all encompassing fashion. Hence the popularity of two strategies which contemplated doing just that; garden cities and town extension planning. The idea of the garden city was proposed by Ebenezer Howard in his book, Tomorrow: A Peaceful Path to Real Reform, published in 1898. Howard's radical proposals were centered on the construction of a system of completely new urban settlements. The idea of the planned suburban extension to an existing town, was imported from Germany, though it had been foreshadowed in practice by the British tradition of suburban estate development.
most recently articulated in the construction of Port Sunlight and Bournville. (31)

As divergent as though these approaches were, they came together in a general agreement over the form and appearance of the local residential area. This was to be a habitat of cottages or small villas, set in generous gardens with additional public open space, all to be linked by modest winding streets. (32) Thus, the type of development envisaged represented a rejection of the example of the contemporary town; small groups of four to six houses were to replace long rows of terraced houses; densities as low as six to eight an acre were to replace those as high as 40 to 50 permissible under the byelaw system; and the grid-iron road networks were to give way to a more flexible approach to street planning. (33)

Actual examples of what could be achieved with more imaginative concepts of planning and design were provided by Lever and Cadbury's developments at Port Sunlight and Bournville. Subsequently these were partially replaced in the public estimation by Raymond Unwin's Hampstead Garden Suburb. These were persuasive symbols of the new urban order which town planning could bring about. (34)

Indeed, the legal preparation for the Hampstead Garden project was symbolic of the ability of town planning, being unencumbered by the heavy cloak of nineteenth century restrictive legislation,
to overtake and make progress beyond the byelaws. (35) A special local act of 1906 allowed for the modification of Hendon's building byelaws, and this enabled a number of architectural features to be realised; the density of houses was fixed at eight per acre, the relaxation of street byelaws allowed the pioneering use of cul-de-sacs, and the use of novel techniques such as sound proofing, tile hanging and hollow walls was facilitated. (36) In addition, the act provided the opportunity for byelaws to be made relating to the provision and maintenance of recreation grounds and open spaces. (37) One of the fundamental and enduring weaknesses of the building bylaw system was that the regulations were directed, if not at individual buildings, at least at individual developments. Scant regard was paid to the amenity and convenience of neighbouring lands, the provision of public open spaces, or to the potential for future development. (38)

The principle of town planning ideas received national legislative recognition with the passage of the Housing and Town Planning Act of 1909. (39) Under the Act's town planning provisions, powers were made available for local authorities to prepare planning schemes for peripheral districts in the process of being, or about to be, developed. The Act allowed for the pattern of main streets to be laid down, for industrial and residential areas to be designated, for land to be set aside for open space and public buildings, and for densities to be fixed in residential areas. (40) However, the important point to note here is that these powers did not affect existing built up areas, and
they represented an addition to the existing legislation relating to building and development, rather than a replacement for it.

Nevertheless, during the period under consideration, the freedom and opportunities offered by new ideas of the town planning movement fundamentally challenged the restrictive framework of byelaw control. There developed an expanding gap between what was theoretically possible and what was practically attainable under the existing regulations. The limitations of the houses built under the byelaw regime informed the debate negatively, and the existing regulations came to be regarded as obstacles to the realisation of the new order. Although building regulations had performed a useful service for the future of town planning, by helping to break down much of the initial resistance and inertia, they were trapped within a nineteenth century framework and were unable to break out and translate themselves into the new role which the more enlightened and liberal attitudes of the early twentieth century demanded. In fact the very future of building regulations was the subject of debate when, in 1914, the whole business was overtaken by events of a far greater magnitude. When consideration was resumed, the debate resurfaced in a new world where very different expectations awaited it.
II The Regulative System, Attempted Modifications.

In this section the focus of attention will be the attempts that were made to modify the established system of regulation, in order to adapt it to the new demands of the time. Elements of continuity with previous practice will be emphasised, as will departures from established customs.

The period under consideration begins with a note of optimism on the part of the legislature that the defects and shortcomings of the general law in regard to building regulation had been rectified by the inclusion of additional clauses in the 1890 Public Health Acts Amendment Act. Indeed such was the level of confidence, that the Police and Sanitary Regulations Committee was given the specific instruction that no clause in any local bill was to be sanctioned if it related to any matter which was the subject of a provision in the aforementioned Act. This instruction was, at least in the short term, rigorously adhered to. However, within a relatively short period, the pressure exerted by the demands made by local authorities, resulted in the Committee resuming its previous practice of granting powers in excess of the general law, albeit subject to certain conditions.

In cases where strong local evidence has been produced, and whereby such evidence proof has been given that difficulties were experienced in the locality with which the existing law has been unable to cope, or where it appeared to them desirable, in the interests of public health or of public convenience and security that some power should be granted to the locality, other than those conferred upon them by the general law.
The Police and Sanitary Regulations Committee, through its direct contact with local authorities, was made well aware of the dynamic element in legislation and administration. Parliament, on the other hand, repeatedly failed to appreciate the fact that, once initiated, the process of legislative accretion assumed its own momentum. Consequently, neither did it realise the futility of attempting to limit the accumulation of local legislation, simply by means of an instruction from the centre.

Thus, in practice, continuity was assured, with the Police and Sanitary Regulations Committee resuming its role as arbiter between the demands of the local authorities and the limits laid down by Parliament. The Committee explicitly acknowledged its role in nurturing and encouraging novel or experimental legislation. For example, it was noted in connection with a clause, allowed to remain in Manchester's 1903 Corporation Bill, that, 'some experience of its working will however be desirable before it is granted to any other authority.'(49) Another clause was sanctioned in Sheffield's Corporation Bill of the same year, despite the fact that such a provision had not, hitherto, been allowed. The clause was approved on the recommendation of Local Government Board advisors, for a limited period of seven years, since the experience that would be gained was considered to be of more than local value.(50)

MacDonagh in his model of government growth has interpreted this sustained impulse towards more regulation as a result of a
deepening understanding, on the part of administrators, of what could and should be done. (51) Indeed, previous chapters of this study have demonstrated the way in which the fruits of local initiative, in the form of original clauses designed to meet a specific local needs, ultimately became incorporated into the general legislation. In practice, however, what also tended to happen was that the local authorities' appetite for regulation grew in the very pejorative sense that MacDonagh chose to discount, (52) that is, a spiral of regulation for regulation's sake.

The Police and Sanitary Regulations Committee shouldered a heavy burden, as it attempted to ascertain the legitimacy of some of the legislative applications referred to it. Such was the level of concern, that time and expense were being wasted upon spurious and unwarranted clauses, that it was suggested that a circular should be issued, by one of the public departments, to every local authority, conveying the precise terms of the instructions issued by the House of Commons, and calling the attention of the local authorities to the necessity of confining their proposals within the limits which parliament had expressly laid down. (53) The Local Government Board duly obliged. (54) However, it is apparent that the circular did not have the desired effect.

Your Committee have...found that in many instances clauses are inserted in improvement bills which, although possibly founded on precedents, cannot be supported by evidence of local requirements, also that clauses are inserted which assume to but do not meet the requirements of the particular locality, as shown by the evidence of the witnesses, and that other clauses are inserted without any
apparent attempt having been made to enforce the General Law which is alleged, but is not proved, to be deficient. It appears...that much unnecessary time and expense might be saved by the exercise of greater care in preparing improvement bills, and in revising them before submission to the Committee in the light of the evidence to be given by the witnesses. It appears also...to be somewhat doubtful whether in all cases sufficient care has been taken to ascertain, before incurring the expense of a Private Bill, how far the objects to be attained can be effected under the General Law or by means of Provisional Orders.(55)

When considering the whole issue of building regulations, just before the outbreak of the First World War, the Departmental Committee of the Local Government Board found that the rationale for promoting certain clauses was often chiefly due to the fact that other towns already had such clauses.(56)

Despite the attempts of the Police and Sanitary Regulations Committee to impose a restraining influence, the scale and complexity of the local acts being promoted by local authorities continued to increase.(57) As new demands were continually being identified, so more precedents were established, and the number of local acts, wholly or in part relating to the subject of building regulation, proliferated accordingly. In line with its previous practice, the Committee made repeated attempts to persuade parliament to include in a public bill those clauses which were most frequently petitioned for, and almost invariably accepted by the House.(58) By 1903 the Committee was suggesting the passage of a 'Local Authorities' Clauses Act', of the type utilised in the 1840s, in order to effect savings for the promoters, while at the same time ensuring the uniformity of legislation in the future.(59)
All such attempts were unsuccessful until the passage of the general Public Health Acts Amendment Act of 1907. However, even then the only extension of power in the field of building regulation related to the construction of chimneys. Thus, since the Act of 1907 failed reflect the types of controls being requested by local authorities, it neither answered the demands of the Police and Sanitary Regulations Committee, nor provided an accurate reflection of actual developments in the building world. The point to be emphasised here is that, as was the case with the Public Health Acts Amendment Act of 1890, the Act of 1907 merely added to the pile of haphazard legislation relating to the regulation of buildings that had already been enacted. No attempt at consolidation or codification was considered, let alone attempted. Since there had been no willingness to meet the legislative demands of the local authorities that had already been identified, there was little hope that their future demands could be satisfied, other than by a continuation of the practice of the promotion of private bills.

Thus, the reluctance of Parliament to supply the gaps emerging in the general legislation relating to building, severely limited its adaptability, and added to its potential for obstructing new developments and ideas in the building world. However, it should be noted that the other arm of central control, the Local Government Board, was more amenable, at least to the idea of modifying the existing system of regulation, in light of the new ideas generated by, for example, the town planning movement.
Under the authorship of senior administrators at the Local Government Board, successive issues of *Knight's Annotated Model Byelaws* continued to appear. By the end of the period under consideration seven editions of the work had been published. On each occasion that a new edition appeared, considerable revision had been undertaken. Clauses were amended to reflect recent legal decisions, and alternative models were introduced, where it was considered powers originally designed to meet a specific local circumstance were of more general application. In addition, each new edition of the work provided the opportunity of updating the explanatory annotations and diagrams. The prefaces to the successive editions record the publishers' confidence in the reliability and usefulness of the information provided. Thus, as has previously been indicated, this quasi-legislation was much more sensitive and much simpler to modify than general or local legislation.

Most of the important alternative clauses to the original urban model that had been published in the first six editions of *Knight's Model Byelaws*, were, in 1904, permanently incorporated into the Board's official model. According to W. A. Casson, the author of the preface to the seventh edition of the annotated byelaws and the former head of the byelaw branch of the Board's legal department, the revision of the original series was undertaken in order to remove certain difficulties which had emerged in practice. These difficulties were partly attributed to the great stringency of some of the clauses, and partly
related to a want of elasticity in some of their requirements. Casson maintained that the production of the revised series signalled a change in policy at the centre. The model clauses had originally been more stringent that the alternative clauses, but this position was now reversed, with the local authorities being given the option of the less stringent clause, and being left to increase its stringency if the circumstances of the district so required.

This new concern to reduce the stringency, and to increase the flexibility, of the model building byelaws, can be seen as an indication that the new ideas of the town planning movement had penetrated at least to the policy making level of Local Government Board administrators. This policy was pursued actively with the model series being subjected to a continuous process of modification which was aimed at introducing more elasticity into the administration of the byelaws. Another revised edition of urban model series was published in 1912. A further indication that the Board's administrators were influenced by the town planning movement is provided by a circular issued to all district councils in August 1912. This circular acknowledged the possibility of road layouts being planned on garden city lines, and referred directly to new methods of construction, such as concrete, hollow walls and steel frames.
The content of the successive editions of Knight's Model Byelaws demonstrate the attempts of the central administrators to keep the model byelaws up to date with developments in the building world. This desire to respond to the needs of the time is also apparent in the extension, and the subsequent refinement, of building controls to non-urban areas.

One of the new powers introduced by the Public Health Acts Amendment Act of 1890 was that rural sanitary authorities could, if they so wished, make byelaws for the regulation of new streets and building within their areas of jurisdiction. The introduction, into rural areas, of controls primarily designed to meet the needs of rapidly developing urban centres engendered considerable controversy during the last decade of the nineteenth century. The resulting passionate and fierce debate surrounded not only rural, but all building byelaws.

Calls for reform of the byelaws had come from the large and powerful group of rural landowners whose ability to construct cheap cottages for labourers was being restricted by the encroachment of urban byelaw standards into rural areas.(72) As a result of the fierce debate, Royal Institute of British Architects set up a committee to consider the matter. In its report of 1899, this committee suggested the selection of a limited series of building byelaws which were apply to rural areas only.(73) The first sign that the Local Government Board was becoming aware that the urban byelaws were not altogether
appropriate for implementation in rural districts comes in 1901, with the issue of what ultimately became known as the rural model series. The Board's first rural model series was a good deal less comprehensive than the original urban model, with attention being focussed on the most important sanitary requirements to be observed in the construction of new buildings. (74) Thus, there were no clauses relating to new streets, or to the foundations, walls, chimneys or roofs of new buildings. In rural areas fulfilling sanitary requirements took priority over securing stability and preventing fires. (75)

It is significant however, that the administrators at the centre did not regard the rural model they had devised as sacrosanct. Conscious, no doubt of the way in which the urban model had developed, they emphasised the fact that,

There is much yet to be done before a satisfactory code dealing with rural cottage building can be framed and the present rural model of the Local Government Board can only be regarded as a sort of stop gap. It will rest with the rural councils to evolve some modifications of that code which will make better provision for matters that aught to be dealt with. (76)

Despite the introduction of the Board's rural model, country landowners were still unhappy at the effect of building byelaws in rural areas, and they formed the core of the pressure group, the Building By-law Reform Association, founded in 1902. In 1904 the Association drafted a short bill which had two main aims; to ensure that houses outside towns, so long as they were provided with sufficient open space, would be free from all structural controls, and to enable the Local Government Board to revoke
oppressive byelaws. The bill went through the House of Lords, but fell with Balfour's government in the autumn of 1905. The bill was re-introduced the following session but was again unsuccessful.\(^{(77)}\)

However, the process of adjustment and fine tuning of the system of regulation, predicted by the administrators at the Local Government Board, did take place. It was soon realised that the country could not be so conveniently divided into urban and rural areas. The Board's circular letter of January 1906, in effect, announced the introduction of an intermediate model series of building byelaws designed to meet the needs of 'rural areas which are beginning to assume urban characteristics'.\(^{(78)}\) This intermediate series was based on the rural model, but it was supplemented by selected clauses from the urban series;\(^{(79)}\) these included provisions relating to streets.\(^{(80)}\)

It must be remembered however, that the three model series represented the state of the art of building regulation, and were not an accurate indicator of contemporary practice. The attempts by the central administrators, to keep abreast of developments in the building world were insufficient to placate the anti-byelaw factions that had been gathering strength since the end of the nineteenth century. The explanation for this failure is not hard to identify. One of the most notable features of this system of regulation, which balanced local concerns against national control, was that it continued to depend on local initiative. It
did not matter how up to date the model series were kept, if local codes of were never revised in light of the recent developments. The Local Government Board could not make any reluctant authority, either rural or urban, revise its byelaws, neither could confirmation of a series be withdrawn once it had been given. Indeed, at least before the Town Planning Act of 1909, the Board had no power of any kind in regard to byelaws once confirmed; it could not interpret them, enforce them, entertain appeals or insist on their repeal. (81)

There were many reasons why local authorities failed to keep their codes of byelaws up to date with the recent developments. On the most basic level there can be detected the quite widespread static concept of regulation. In many cases a local authority had had to work hard to acquire a series of building byelaws, often in the teeth of considerable opposition, and the consequent glow of satisfaction of a job well done engendered inertia. It took time for the experience of actual implementation to convince administrators of the necessity of revision. Even in circumstances where this necessity was recognised, the process was not necessarily automatic or straightforward.

One of the supposed advantages of the byelaw, over a legislative enactment, was that it was an infinitely more flexible method of control, since individual clauses could be modified quickly and simply, as circumstances dictated. For
instance, one of the Sheffield councillors, when discussing the introduction of building byelaws into Sheffield, was of the opinion that any defects that came to light, after adoption, could be altered in a month.(82) This does not seem to have been too much of an exaggeration, as the timing of the modification of byelaw XXXI indicates; the official notice of the intention to alter the byelaw was presented to the council meeting of 10 August 1870, and the letter confirming the new byelaw was despatched by the Local Government Act Office on 1 October 1870.(83)

However, what was true of minor alterations to individual clauses, did not necessarily hold for the updating of a complete series of byelaws. In Chapter Six the long running saga of the revision of Sheffield's 1864 byelaws was analysed, and Chapter Eight will reveal similar machinations surrounding the modification of the 1889 series. The increasing scale and technical complexity of the successive editions of the model codes of byelaws did provide local authorities with a wider choice of controls, but, simultaneously also extended the potential for debate and disagreement. The technical aspects of proposed controls tended to attract professional comment from interested parties, and thus resulted in the involvement of groups of architects, builders, and engineers in the local byelaw making process.(84) The contribution of such groups, as has previously been noted, could considerably extend the time taken to revise a local series of building byelaws.
The experience of previous complications arising when attempts were made to revise a series of byelaws could be sufficient to delay or postpone any further attempt. Even in the absence of previous unpleasant experiences, the mere suggestion that obstacles or difficulties might exist, or that factional fighting might ensue, could be sufficient to dissuade all but the most determined from pursuing such a course of action. According to D. Dolton, the Principal of the Local Government Board's Legal Department, such inertia was not uncommon.

The revision of old byelaws is rather slow. It takes some little time to persuade the authority in many cases that their byelaws are out of date. They have got used to the byelaws, and they do not want, it may be, the trouble to amend them. It may be a thankless task revising a series of byelaws, and they perhaps think that they have got on very well and will continue to do so.\(^{(85)}\)

It is also possible that there were other reasons for the reluctance of local authorities to consider revising their codes of byelaws. One such reason was the knowledge that the validity of some existing byelaws was doubtful, and that it was unlikely that these would be re-confirmed.\(^{(86)}\) Authorities who had acquired byelaws before the model series was published in 1877, had typically based their codes on the 'form' of byelaws issued by the Board's predecessor, the Local Government Act Office, in 1858. One important aspect of the 'form' of byelaws, emphasised in Chapter Three, was the fact that many of these clauses were imprecise, and their details were left entirely to the discretion of the local authority. Of the 25 specific clauses relating to the details of construction, 21 reserved at least some discretionary power to the local authority.\(^{(87)}\) Any revision of
a local code which used the Local Government Board's 1877 model byelaws as a framework would mean the removal of a local authority's discretionary power to waive the byelaw requirement as it saw fit. The existence of a reluctance to abandon this discretionary power has been demonstrated by the case of Sheffield. When revising its 1864 building byelaws, the council went so far as to refuse to adopt some of the model clauses, preferring instead to retain several of its existing byelaws which incorporated discretionary power.\(^{88}\)

Another explanation for why local codes of byelaws went for so long unrevised can be found in the existence of an alternative channel through which additional powers could be acquired; that is, by the promotion of local legislation. Though sometimes promoted for a specific purpose, local acts of Parliament were frequently collections of groups of clauses referring to the many disparate strands of local government. All the administrative difficulties of revising a full code of byelaws, with the inherent legal, architectural, medical and engineering complications, could be avoided if a selection of additional powers relating to new streets and buildings was included in one of these omnibus bills, or was tacked on to a local bill being promoted for another purpose. This course of action was especially appropriate if the proposed powers went beyond what was attainable under existing general legislation. The Police and Sanitary Regulations Committee of the House of Commons did, in certain circumstances, approve the granting of powers in
It was obvious that controls relating to new streets and buildings accumulated locally in the same haphazard fashion as national legislation, as the necessity arose and the opportunity for fulfilment presented itself, rather than being the result of a deliberate plan or cohesive philosophy.

As a consequence of the general reluctance of local authorities to revise obsolete building byelaws, the Local Government Board acquired a new function during the early years of the twentieth century. In January 1906, the Board issued a circular urging all local authorities to consider their byelaws carefully, in order to ascertain whether or not they required bringing up to date. However, the response of local authorities was disappointing, with only a few taking immediate steps to relax or modify their byelaws.

Section 44 of the Housing and Town Planning Act of 1909 theoretically provided the Local Government Board with the necessary power to compel local authorities to revise defective byelaws.

If the Local Government Board are satisfied, by local inquiry or otherwise, that the erection of dwellings for the working classes within any borough, or urban or rural district, is unreasonably impeded in consequence of any byelaws with respect to new streets or buildings in force therein, the Board may require the local authority to revoke such byelaws or to make such new byelaws as the Board may consider necessary for the removal of the impediment. If the local authority do not within three months after such requisition comply therewith, the Board
may themselves revoke such byelaws, and make such new byelaws as they may consider necessary for the removal of the impediment, and such new byelaws shall have effect as if they had been duly made by the local authority and confirmed by the Board. (92)

Superficially, this power appears to represent a considerable advance in the ability of the central authority to exercise control over the local authorities. However, this initial impression is misleading, since the limitations of the section made it virtually inoperative in practice. The wording of the section restricted its operation to the erection of dwellings of the working classes, with no explanation of why a builder of a palace or a factory should be afflicted by unreasonable byelaws, whilst a person who erected workmen's dwellings should not. (93)

In addition, before the Local Government Board was empowered to take action, the section required that an actual impediment to building must be proved to exist in the locality concerned, rather than it being established that in an individual case the operation of the byelaws unreasonably impeded building. (94) Despite the willingness on the part of the administrators at the Local Government Board to make section 44 effective, the limitations of the power were such that in practice it was rendered nugatory. (95)

The inadequacy of the power can be illustrated by the fact that by 1914 only one formal complaint had been made under section 44, that against the byelaws of Gateshead. (96) The Board had sent inspectors to the locality to conduct an investigation, but they could not find any evidence to support the allegation that
building had been impeded, since there was no shortage of housing accommodation in the district. Thus no action was taken by the central authority.

As a consequence of defective legislative powers at its disposal, the Local Government Board was forced to rely on its powers of persuasion. In August 1912 another circular was issued to coincide with the latest revision of the urban building byelaw series. In this circular the Board strongly impressed on local authorities the necessity of bringing their byelaws up to date, so that builders could use modern methods of construction and modern materials. The response to this appeal appears to have been more encouraging than that of 1906, with over 300 places applying for copies of the various models, and, by the following year, 'a number of councils...have submitted proposal for revising their byelaws so as to bring them up to modern standards.'

However, despite such indicators of the successful exercise of its persuasive powers, the Board continued to be hampered in its attempts to update obsolete building byelaws, by the want of sufficiently reliable and authoritative controls. By 1914 there were a considerable number of byelaw codes still in force up and down the country which were obsolete, to a greater or lesser degree. In numerous districts byelaws had been in force, practically unaltered, for many years. Some of these predated the Public Health Act of 1875, whilst others were based on
the earliest editions of the model byelaws which were framed before modern methods and materials came into vogue, and consequently differed widely from the current models. Thus, although it is apparent that the administrators at the Board had come to appreciate the fact that the constant stream of new methods of construction and design emanating from the building world inevitably demanded the periodical revision of the model byelaws, (104) such awareness was not so discernible in individual localities.

The accusations bandied about by the anti-byelaw factions resulted from the deleterious consequences of the fossilisation of these out of date byelaw clauses, especially those older style urban controls which had been adopted in rural areas, before the issue of the rural and intermediate models. In 1905 of the 668 rural districts, 169, and parts of 114 more, still retained byelaws based on the urban model. (105) The hostility against the byelaws was general, though it was engendered by the archaic codes actually in force up and down the country, little or no distinction was made between these and the continually updated model byelaws. (106) The unpopularity of this form of control also made it a focus for dissatisfaction, to such an extent that the word 'byelaw' became a kind of bogey. (107)

One response to the widespread unpopularity of the building byelaws was the appointment of a Departmental Committee of the Local Government Board to 'consider the control at present
exercised in England and Wales over the erection of buildings and
the construction of streets by means of byelaws and local
regulations, and their effect upon building and
development.'(108) The general conclusion reached by the
Committee was that no case had been made out for abandoning the
system of control by byelaw established in 1858.(109) The
difficulties which had been experienced were due, in the opinion
of the Committee, not to any cause inherent in the nature of the
byelaw, but to defective byelaws; that is, those which did not
embody the freedom for new methods of construction and design of
the type contained in the model series.(110)

The Departmental Committee concluded that if all local byelaws
could be brought up to the model standard, almost all of the
reasonable complaints directed against the method of control
would be answered.(111) Thus, the crux of the problem was to
encourage local authorities to update their building byelaws, and
once this was achieved, to ensure that they were kept up to the
standard attained by the models.(112) But, as has been indicated
above, this was a considerable undertaking, which the Local
Government Board had been attempting to grapple with since the
beginning of the century, with only limited success.

In its Report, the Departmental Committee suggested three methods
of achieving the dual aims of getting and keeping local codes on
a par with the most recent models. The first of these regarded
the alteration of section 44 of the Housing and Town Planning
Act; the second suggestion was to confer on builders the legal right to follow current model byelaws; and the third concerned the possibility of declaring obsolete codes null and void. (113) The shortage of staff at the Local Government Board, and the pressure of work, directly connected with the war, meant that it was not possible to pursue the revision of local building byelaws with the amount of vigour considered appropriate. (114)

Towards the end of hostilities it is apparent that the Board still entertained the desire to repeal, and to replace with new series where necessary, all codes of byelaws made before 1900, and at least the examination and amendment of all those made between 1900 and 1912. (115) As a method of ensuring the central authority was kept up to date with developments in the localities, it was recommended that it should be made obligatory for all local authorities to make periodical returns to the Board regarding the current state of its building byelaws. (116) Moreover, it was also suggested that machinery be introduced whereby, in default of the making of the necessary byelaws, the Local Government Board could put in force, by Order, provisions which would have effect as if they were byelaws made by the authority. (117) In this way, the power of the central authority to influence the actions of local councils, implied by section 44 of the Housing and Town Planning Act of 1909, could be realised.

However, a recurrent theme throughout this study has been to indicate the fact that byelaws were not the only means by which
building and development were controlled by local authorities. There were, in addition, many sections in general acts of Parliament, and an immense number of local acts, which wholly, or in part, related to the subject of building regulation. These alternative methods of control were responsible for engendering much of the unpopularity which was apportioned to the byelaws. The Departmental Committee was confident that at least 70 per cent of the justifiable complaints made concerning the existing system of controlling building and development, had their origin in matters which, in reality, were nothing to do with the byelaws whatsoever. (118) It is therefore necessary to consider the weaknesses of these alternative methods of control, and of the Committee's suggestions for improvement.

The promotion of local acts of Parliament to deal with the negative externalities generated by rapid urban development predated the establishment of the byelaw system. (119) A few local authorities, for reasons beyond the scope of this study, did not adopt byelaws as such, but adapted their local legislation, sometimes in advance of, and sometimes as a response to, national developments. Thus, even in 1914, Leicester had scarcely any byelaws; building and development were dealt with by a total of eight local acts, the principal of which had been passed in 1868. (120) It was much more common for local authorities to adopt building byelaws based on the models provided first by the Local Government Act Office, and subsequently by the Local Government Board. However, the
utilisation of these standardised controls did not, as indicated in previous chapters, (121) result in the general abandonment of local legislation.

As has been seen, in the case of Sheffield, the acquisition of a local act of Parliament was sometimes regarded as a symbol of the civic dignity and independence of a town. (122) However, more significantly, the imperfections in the authorising statutes, combined with the failure of central government legislators to understand or to appreciate the dynamic concept of regulation and administration, were responsible for the perpetuation of local legislation. One of the axioms of administrative history, established by MacDonagh, was that experience soon showed that it was endlessly possible to devise means of evading at least some of the new requirements. (123) In the particular field of building regulation it was always possible for some flaw to be detected in one of the model codes; for some new method or material to come into use for which provision had not been made; or even for there to be a difference of opinion between one expert and another in regard to the legitimacy of some method of construction allowed or prevented by the model. (124)

The way in which general legislation relating to building had accumulated throughout the period, in the absence of any plan or guiding philosophy, gave rise to a legislative patchwork, under which the control by local authorities of building and development was restricted to particular topics or particular
There existed many gaps in coverage, and many sections on similar subjects which did not fit together. The report of the Departmental Committee on Building Byelaws catalogued a whole range of these gaps and deficiencies, of which the following selection is just an example. Walls, foundations, roofs and chimneys (except for the special classes of chimney in the Act of 1907) could only be regulated in regard to securing stability, preventing fires, and for the purposes of health; floors and staircases, added by the Act of 1890, could apparently be regulated for any purpose. Flushing cisterns for water closets could be required under the general legislation, as could an adequate supply of water. However, a curious hiatus in the law meant that no byelaw could be made to secure that the water should be brought into the cistern. Thus, all lawful byelaw requirements could be met by an empty cistern and a bucket full of water. Many local authorities who desired to regulate the composition of plaster to be used on the walls of buildings discovered that such a power was not authorised under the general statutes. None of these could perhaps be regarded as large matters in themselves, but local authorities attached such importance to the ability of dealing with them, that they applied regularly to Parliament for the requisite special powers.

Thus, the existence of gaps and deficiencies in the general legislation, and the reluctance of Parliament to attempt codification or consolidation, resulted, not in more refined and
ever more highly specialised controls, but in more and more piecemeal legislation, which merely further confused an already complicated series of regulations. An individual attempting to build in any particular locality could find himself caught up in a mesh of restrictions, of which those contained in the building byelaws were but a part. The Departmental Committee proposed that assistance could be given to such individuals by the local publication and gratuitous availability of all sections of local acts appertaining to building. It was noted that many local authorities did in fact print and issue such sections in one volume, with their byelaws, and recommended that to do so should be made compulsory.(130)

This recommendation was however no more than a palliative, to deal with the immediate practical difficulties of those attempting to build. The problems inherent in the existing system of regulation needed more radical solutions. As indicated above,(131) the Committee believed in the byelaw, and considered it an appropriate vehicle by which building and development could be controlled. It was however, recognised that in order for the system to be made effective the statutes authorising the making of byelaws needed to be consolidated; the opportunity being taken at the same time to stop up any obvious gaps, to add any powers which might suitably be exercised by all authorities, and generally to widen the scope of the byelaw making power, so that all matters inherently capable of being so controlled could be transferred to the byelaw system.(132) In addition, the
Committee considered it advisable that further consideration be
given to the possibility of empowering the Local Government Board
to add specific topics on which byelaws could be made to the
authorising statutes, as and when the necessity arose. (133)

In this way the control of new methods and materials of
construction could be achieved by administrative means, without
the long delays which had previously resulted from the dependence
on the slow grinding legislative process. Moreover, the
improvement in the coverage of general statutes, and the
continued close co-operation between the two arms of central
control, the Local Government Board and the Police and Sanitary
Regulations Committee, (the Local Legislation Committee from 1909
onwards) could reduce the need for special local legislation in
the future.

The realisation, or otherwise, of the recommendations of the
Departmental Committee of the Local Government Board, fall beyond
the chronological parameters of this study. The point being
emphasised here is that despite the existence of hostility
against building control, focused on the byelaws, the central
administrators believed that the system of regulation initiated
in 1858 could be made to work. Although it was envisaged that at
some point in the future a complete programme of town planning
might possibly remove the necessity for any regulations in
addition to those contained in town planning schemes, such a time
was not considered to be very near. Thus, for the foreseeable
future it was felt that the established system had an important role to play in checking the potential excesses of individual enterprise.(134)
III The Executive Officers.

Before concluding this chapter it is necessary to consider the national developments affecting those officials who were professionally charged with the responsibility of implementing the local building regulations. MacDonagh's model of government growth emphasises the pivotal role played by executive officers in providing the momentum for the administrative-cum-legislative process. It was the concrete experience of executives that revealed the grave deficiencies of the existing legislation, and which engendered demands for its amendment, with a new and ultimately irresistible authority. (135)

In the field of building regulations the responsibility for implementation fell upon the borough surveyor and his assistants. It was the needs identified and defined by these local executive officers, which could not be satisfied by general statutes, or byelaws authorised by the same, which provided the momentum for the continuous updating of the model byelaws, and for the promotion of local acts containing building provisions. Moreover, it was the passage of local statutes, in advance of general measures, which ultimately provided the impetus for national re-regulation. Thus, the revision of national statutes, and of the model byelaws authorised by them, was the product of the aggregate experience of the local executive officers working up and down the country.
However, in any individual locality the efficacy of enforcement, and the quality of new regulations, was crucially dependent on the competence of local executive officers. An effective system of building regulation depended on the sympathy and actual support of those architects and builders attempting to do good work. (136) Thus, in both implementing existing regulations and in formulating new powers the confidence of those being regulated had to be cultivated and retained. A vital component of this confidence was a respect for the capabilities of the local executive officers.

At the beginning of the period covered by this study, the 'borough surveyor' was generally perceived as being the 'mere mender of roads' and 'patcher of highways'. (137) Though the title remained the same, the prodigious growth of municipal work, and the multifarious responsibilities devolving upon the 'surveyor' under the numerous public health and local government acts, meant that only a competent civil engineer and surveyor could hope to be equal to the job. (138) Despite this fact, and unlike the office of Medical Officer of Health for which a certificate of competency was required, no formal qualification was specified under any legislation authorising the appointment of a borough surveyor. (139)

Such was the novelty and rapid development of the profession, that before the 1880s there were few practical reference books which dealt with the many subjects falling within the
jurisdiction of the borough surveyor. H. P. Bulnois, in carrying out the many duties devolving upon him as the borough surveyor of Exeter, had so often felt the need for a practical book of reference, that he wrote one himself, The Municipal and Sanitary Engineers Handbook. (140) It is apparent that others had felt a similar need since by 1898 stocks of the first two editions of the work had been exhausted, and in response to his publishers' requests, the author updated the Handbook for its third edition. (141) The presence of 'engineer' in the title of the work demonstrates the way in which practitioners in the field perceived themselves.

Notwithstanding the fact that no formal qualifications were required for the position, it is apparent that many incumbent borough surveyors, especially those in larger towns, had been formally trained as engineers, and many were members of the Institute of Civil Engineering. (142) However, it is also apparent that this body did not fully satisfy the aspirations of those borough surveyors who were becoming increasingly conscious of the distinctiveness of the profession. Contemporaneously with the establishment of the Local Government Board, (143) there was a move by a group of practising borough surveyors to found a national association with the declared aim of building up the sanitary branch of the engineering profession. (144) The inaugural meeting of the Association of Municipal and Sanitary Engineers and Surveyors was held on 2 May 1873 at the Institute of Civil Engineering in London; (145) thereafter, its annual
meetings were held up and down the country, returning to London approximately every third year. In addition to the annual conference, district meetings were held throughout the country, during the year; these provided valuable opportunities for the interchange of ideas and exchange of views between the members.(146)

Membership of the Association was open to all civil engineers and surveyors holding chief permanent appointments under the various municipal corporations or sanitary authorities, within the auspices of the Local Government Board.(147) In 1886 membership of the Association was extended to London by the inclusion of all holders of equivalent positions under the Metropolitan Local Management Act.(148) At its formation the association had 33 members;(149) this total had increased to 170 by 1875,(150) and to 834 by 1898.(151)

One of the acquired functions of the Association was that of attempting to influence the content of national legislation; a role the membership considered itself uniquely qualified to undertake.

Who is better able to make useful and practical suggestions for an amending act than those who have been engaged for years in carrying out the law under the existing statutes?(152)

In 1886 the Parliamentary Committee of the Association was made a standing committee, and was charged with the responsibility of 'watching the interests of the Association in matters of
legislation affecting members.'(153) The Committee submitted a number of suggestions on the Public Health Acts Amendment Bill of 1890, and was gratified to report that many of the amendments suggested by the Association were adopted by the select committee on the bill.(154) In addition to responding to specific pieces of legislation, it is also apparent the Association periodically submitted suggestions relating to various aspects of general legislation to the Local Government Board and to the Police and Sanitary Regulations Committee.(155) Though the Association was not always successful in influencing events, it is suggested that its activities in this area represent an institutionalisation of vested interests in the field of sanitary administration. This institutionalisation was itself one of the consequences of the development of the increasingly formalised national legislative procedures described in detail in Chapter Five. The operation of a similar process in individual localities has already been suggested,(156) and will be further explored in Chapter Eight.

Of all the activities of the Association, it was perhaps the holding of examinations, and the certification of successful candidates, that did most to enhance the professional status of the 'municipal engineer'. The first set of examinations were held in April 1886, at the Institute of Civil Engineering in London, with nine of the 15 candidates who presented themselves satisfying the examiners.(157) Thereafter, the Association set examinations biannually; in April in London, and in October at one of a variety of regional centres such as Liverpool,
Manchester, Leeds or Birmingham. (158) The examination consisted of four written papers;

1. Engineering as applied to Municipal Work
2. Building Construction and Materials
3. Sanitary Science as applied to Towns and Buildings
4. Public Health Acts and River Pollution Acts. (159)

To satisfy the examiners candidates had to achieve a pass mark of 50 per cent, and conduct themselves successfully in a viva voce. (160) In order to pass, it was essential that candidates demonstrated a thorough awareness of legislation, including byelaws, affecting sanitary authorities. It is significant that Knight's Model Byelaws, in addition to be of use to practising architects and builders, was prescribed as a text book by examining bodies, and the publishers noted with satisfaction that the work had rendered great assistance to a large number of students. (161)

It is apparent that, in undertaking the examination of young engineers, the Association perceived itself as performing a service of great utility to the community. (162) It was a strongly held conviction that the holding of one of the Association's certificates ought to be a compulsory requirement for the position of municipal engineer, (163) since it was felt that the work of ascertaining the professional qualification of candidates would be better done by a body of examiners, formed of municipal engineers, than by the lay committee of a town council. (164) Although, during the period under consideration, the possession of qualifications did not become a legal
requirement, it is clear that the aspirations of the Association were, to some extent, satisfied.

The examinations are already beginning to bear good fruit, for there are not wanting instances in which the selection of candidates for municipal office has been determined by the holding of one of this Association's certificates. (155)

Notwithstanding all that has been stated so far regarding the professionalisation of the borough surveyor or 'municipal engineer', it must be noted that, as time went by, this official was increasingly distanced from the job of actually implementing building regulations. Such was the diversity and complexity of the responsibilities falling upon the borough surveyor, that in practice he did not have the time to ensure that all the detailed requirements relating to building were carried into effect. As has been demonstrated in the case of Sheffield, the responsibility for the actual implementation of building regulations was delegated to one of the borough surveyor's subordinates. (166)

It follows that in any individual locality the efficacy of enforcement, and the quality of new regulations, was increasingly dependent on the competence of the fledgeling building inspectors. In the absence of any formal qualification for the job, and given the interfering nature of the powers at their disposal, the building inspectors were particularly exposed to criticism. Professional architects and builders, attempting to do good work, often found their subjection to these local officials particularly irksome;
they subject all parties engaged in building to a number of harassing petty formalities, and men of standing and reputation to the interference of an official who is hardly on a par in many cases with their own office clerks. (167)

Initially there were few guides to good building inspection practice, but as with borough surveyors, those actively involved with the implementation of the regulations generated their own literature which defined the parameters of their profession.

The author of a book, published in 1908, entitled *Elementary Manual of Building Inspection, or How to become a Building Inspector* (168) was the building inspector of the borough of Hove. Parts of the book had previously appeared as a series of articles in the journal *Building World*. (169) The work set out in detail the various duties and responsibilities of a building inspector employed by a municipal authority, and included an extensive list of the qualifications considered requisite for successful practice. In addition to being a good penman, draughtsman and correspondent, it was considered that candidates for office should possess a sound theoretical and practical knowledge of building construction and sanitation, of basic surveying techniques, of aspects of civil engineering which related to drainage and sewerage, and of all legislation appertaining locally to building construction. (170)

Another indication of the increasing distinctiveness of building inspection as profession was the growing appreciation of the value of a specific formal qualification. It is apparent that
the existence of examinations, aimed at assessing professional competence, in other areas of administration, gave rise to the suggestion that similar provision should be made for building inspection. (171) Nothing came of the suggestion during the period under consideration, but it is argued that the mere discussion of the subject illustrates the increasing professionalisation of the art of building inspection.
This chapter, in charting the development of building regulations between 1890 and 1914, has demonstrated a significantly different pattern of government growth than that predicated by MacDonagh's model.

Some parallels between the two can be found, most notably regarding the increased 'professionalism' of the executive officers. The papers delivered at the annual meetings of the Association of Municipal and Sanitary Engineers and Surveyors, (Incorporated Association of Municipal and County Engineers after 1890) and the discussions thereby engendered, demonstrate the fact that executive officers in this field were performing the ascribed function. They did begin to undertake more systematic and truly statistical and experimental investigations. They did strive to get and keep in touch with the inventions, new techniques, and foreign practices relevant to their field. Later they even called directly upon medicine and engineering, and the infant professions of research chemistry and biology, to find the answers to intractable difficulties in composing and enforcing particular preventative measures.(172)

It is, however, at this point that the model breaks down. In theory the legislative refinements and adjustments demanded by the executive officers should have, 'passed effortlessly into law.'(173) The improvement of the regulative system would therefore have been a part of a cumulative process, with loopholes being closed and the screw being tightened ring by ring
in the light of continuing experience and experiment. (174) But this did not happen in the field of building regulation. Successive pieces of national legislation did not match up to the new demands of an increasingly complex building world, whose novelty was always some way ahead of the cautious legislature. (175) Moreover, the haphazard accumulation of general legislation relating to building throughout the period, without any plan or guiding philosophy, resulted, not in more refined and ever more highly specialised controls, but in more and more piecemeal legislation, which merely further confused an already complicated series of regulations. (176)

Thus, stage five of MacDonagh's model of government growth needs to be modified if it is to provide a useful description of developments relating to the growth of government intervention in the field of building control.

It is suggested that, in the fifth stage of this model of local government growth, the very self generating administrative momentum that sustained the continual process of accumulating new, revised or expanded controls, also guaranteed that these modified controls would conform to the well established patterns of the past. What this chapter has demonstrated is that, in attempting to manage the increasingly complex demands emanating from the building world, administrators were guided by the tried and tested elements of the established system of control. The point can be illustrated by reference to the suggestion made by
the Police and Sanitary Regulations Committee in 1903 that a
clauses Act, of the type utilised in the 1840s, would resolve
some of the present confusion in local legislation,(177) and also
to the general conclusion reached by the Local Government Board's
departmental committee that no case had been made for abandoning
the system of control by byelaw established in 1858, since if all
local byelaws were brought up to the model standard, almost all
of the reasonable complaints directed against the method of
control would be answered.(178)

It is true that the Local Government Board did contemplate the
possibility that, at some point in the future, the established
system of control might be subjected to a complete overhaul, as a
result of a wholesale programme of town planning, but such a time
was not considered to be very near.(179)

It took an event as catastrophic as the First World War to lift
the heavy cloak of nineteenth century restrictive
legislation,(180) and to bring about another stage in this
particular area of government growth, that of the fundamental re-
evaluation of the established principles and practice of
regulation.

The concluding chapter of this study, Chapter Nine, will, by
analysing the ways in which developments in the field of building
regulation departed from MacDonagh's model, suggest a refined
model, one particularly concerned with the pattern of local government growth.
(1) Chapter Five, 246-47.


(3) Chapter One, 23-4.


(7) ibid.


(9) Burnett, Housing, 160.

(10) The spectacular growth of some of the London suburbs can be illustrated by the following population statistics, 1851-1891.

<table>
<thead>
<tr>
<th>Suburb</th>
<th>1851</th>
<th>1891</th>
</tr>
</thead>
<tbody>
<tr>
<td>Willesden</td>
<td>3,000</td>
<td>114,000</td>
</tr>
<tr>
<td>West Ham</td>
<td>19,000</td>
<td>267,000</td>
</tr>
<tr>
<td>Leyton</td>
<td>5,000</td>
<td>98,000</td>
</tr>
</tbody>
</table>

ibid. 161.

(11) ibid.

(12) A. Sutcliffe, Towards the Planned City: Germany, Britain, the United States and France, 1780-1914, (Oxford, 1981) (hereafter, Sutcliffe, Planned City) 68.


(14) Gaskell, Building Control, 49.

(15) R. Unwin, Town Planning in Practice: An Introduction to the Art of Designing Cities and Suburbs, (2nd edn. 1911) (hereafter, Unwin, Town Planning) 386.
(16) Gaskell, Building Control, 49.


(19) M. R. Lucas and T. W. Marshall, Anti-Building By-laws: Suggestions for Reform, (Southampton, 1906) 11-12; Sutcliffe, Planned City, 68.

(20) Burnett, Housing, 138.


(22) Burnett, Housing, 138.

(23) Gauldie, Cruel Habitations, 297.


(25) Gauldie, Cruel Habitations, 297.

(26) Sutcliffe, Planned City, 63.

(27) ibid.

(28) Daunton, House and Home, 289.

(29) ibid. 288.

(30) Sutcliffe, Planned City, 68.


(32) ibid.

(33) Swenarton, Homes Fit for Heroes, 18.

(34) Sutcliffe, 'Britain's first town planning act', 290.


(36) ibid. 474.
(37) ibid.


(39) 9 Edw. 7 c. 44.

(40) Sutcliffe, Planned City, 82.


(42) ibid. 589.

(43) ibid. 481.

(44) ibid. 479.

(45) For details see Chapter Five, 241-45.


(47) ibid. 843.

(48) PSR, P.P. 1893-94 XIII, 449.

(49) PSR, P.P. 1903 VII, 543.

(50) ibid.

(51) MacDonagh, 'Revolution in Government', 60.

(52) ibid.

(53) PSR, P.P. 1893-94 XIII, 450.

(54) Circular Letter to Town Clerks, Local Boards and Improvement Commissioners: Promotion of Bills by Local Authorities, 29 September 1893, Twenty-third ARLGB, P.P. 1894 XXXVIII, cxxxiv, 91.

(55) PSR, P.P. 1896 XIII, 4.

(56) Local Government Board Departmental Committee on Building Byelaws, Report, P.P. 1918, VII (hereafter, LGB, DC on Building Byelaws, Report) 7.

(57) PSR, 1890-1914.

(58) PSR, P.P. 1895 XII, 116; P.P. 1896 XIII, 4; P.P. 1897 XIII, 550; and P.P. 1898 XI, 556.
(59) PSR, P.P. 1903 VII, 543
(60) 7 Edw. 7 c. 53.
(61) ibid. section 24.
(63) KMB, (3rd edn. 1890) iii; (4th edn. 1893) iii; (5th edn. 1897) iii; and (6th edn. 1899) iii.
(64) Chapter Five, 227.
(65) KMB, (7th edn. 1905) vii.
(66) ibid. vi.
(67) ibid. vii.
(68) Memorandum for the Housing Inspectors, October 1918, LGB, DC on Building Byelaws, Report, 52.
(69) Local Government Board, Model Building Byelaws, (1912).
(70) Circular Letter to District Councils: Byelaws as to New Streets and Buildings, 29 August 1912, LGB, DC on Building Byelaws, Report. 51-2.
(71) ibid.
(74) Thirty-first ARLGB, P.P. 1902 XXXIV, cxxvi.
(75) KMB, (7th edn. 1905), vi.
(76) ibid.
(77) This paragraph is based on Harper, Victorian Building Regulations, xxvii.
(78) Forty-second ARLGB, P.P. 1913 XXXII, xlv.


(81) LGB, DC on Building Byelaws, Report, 15.

(82) Sheffield and Rotherham Independent, 13 October 1866, 10, Ald. Beckett.

(83) Minutes of the Proceedings of the Council, 10 August 1870 and 12 October 1870.

(84) Chapter Six, 315.

(85) LGB, DC on Building Byelaws, Minutes of Evidence, Q.30.

(86) LGB, DC on Building Byelaws, Report, 14.

(87) Chapter Three, 134.

(88) Chapter Six, 319.

(89) LGB, DC on Building Byelaws, Report, 14.

(90) LGB, DC on Building Byelaws, Minutes of Evidence, Q.30.

(91) Thirty-sixth ARLGB, P.P. 1907 XXVI, Appendix, 29.

(92) 9 Edw. 7 c, 44, section 44.

(93) LGB, DC on Building Byelaws, Report, 16.

(94) LGB, DC on Building Byelaws, Minutes of Evidence, Q.138.

(95) LGB, DC on Building Byelaws, Report, 16.

(96) Forty-second ARLGB, P.P. 1913 XXXI, xlv-xlvi; LGB, DC on Building Byelaws, Minutes of Evidence, Q.31.

(97) LGB, DC on Building Byelaws, Minutes of Evidence, Q.32.

(98) Forty-second ARLGB, P.P. 1913 XXXI, 345-47.

(99) LGB, DC on Building Byelaws, Minutes of Evidence, Q.30.

(100) ibid.

(101) Forty-third ARLGB, P.P. 1914 XXXVIII, xlvi.

(102) LGB, DC on Building Byelaws, Report, 12.
(103) In 1914 18 boroughs and 40 other urban districts still had building byelaws that were made under the Local Government Act of 1858. LGB, DC on Building Byelaws, Report, Appendix, 325.


(105) Thirty-fifth ARLGB, P.P. 1906 XXXV, lxix.

(106) LGB, DC on Building Byelaws, Report, 35.

(107) ibid. 11-12.

(108) The Committee was set up on 30 April 1914, ibid. 3.

(109) ibid. 13.

(110) ibid. 22-23.

(111) ibid. 14.

(112) ibid. 15.

(113) ibid.

(114) Memorandum for the Housing Inspectors, October 1918, ibid. 52.

(115) ibid.

(116) ibid. 48, Recommendation 21.

(117) ibid.

(118) ibid. 12.

(119) Chapter Two, 43.

(120) LGB, DC on Building Byelaws, Report, 38.

(121) Chapter Two, 57-8.

(122) Chapter Six, 298.

(123) MacDonagh, 'Revolution in Government', 60.

(124) LGB, DC on Building Byelaws, Report, 12.

(125) ibid. 7.

(126) ibid. 6-7.

(127) ibid. 6.

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(128) ibid. 7.
(129) ibid.
(130) ibid. 39.
(131) See above, 376.
(132) LGB, DC on Building Byelaws, Report, 9.
(133) ibid.
(134) ibid. 44.
(135) MacDonagh, 'Revolution in Government', 59.
(136) Unwin, Town Planning, 389.
(139) ibid. 14.
(140) ibid. Preface.
(142) These included R. Davidson and C. F. Wike, the successive borough surveyors of Sheffield.
(144) ibid. vol. XVII, 1890-91, 169.
(145) ibid. vol. XII, 1885-86, 2-3.
(146) Builder, 8 May 1886, vol.50, 690.
(148) ibid. 3.
(149) ibid. vol. XVII, 1890-91, 168.
(150) ibid. 169.
(151) ibid. vol. XXIV, 1897-98, 2.
(152) ibid. vol. XVII, 1890-91, 175.
(153) ibid. vol. XII, 1885-86, 4.
(154) ibid. vol. XVI, 1889-90, 4.
(155) For example, ibid. vol. XVIII, 1891-92, 3; and vol. XIX, 1892-93, 3.
(156) Chapter Four, 186-87; Chapter Six, 329.
(158) Builder, 8 May 1886, vol. 50, 690.
(160) ibid.
(161) KMB, (5th edn. 1897) v.
(163) ibid. vol. XVII, 1890-91, 172.
(164) ibid. vol. XIV, 1887-88, 292.
(165) ibid.
(166) Chapter Six, 281-82.
(167) British Architect and Northern Engineer, 22 September 1876, 184.
(168) W. R. Purchase, Elementary Manual of Building Inspection, or How to become a Building Inspector, (1908).
(169) ibid. iii.
(170) ibid. 1.
(171) ibid. iii.
(172) MacDonagh, 'Revolution in Government', 60-61; AMSES, Proceedings, 1874-1914.
(173) MacDonagh, 'Revolution in Government', 61.
(174) ibid. 60.
(176) See above, 362.
(177) See above, 361.
(178) See above, 376.
(179) See above, 382-83.
This chapter analyses the developments relating to building regulations in Sheffield between 1890 and 1914. Further detailed investigation will be undertaken into 'the processes of administration of regulations,'(1) and the way in which regulations relating to building were expanded and refined during the period will be considered. Local acts of Parliament containing building clauses were acquired by the corporation in 1900, 1903 and 1912, and a new series of building byelaws was confirmed by the Local Government Board in 1912.

In pursuing the main aim of this study, namely the construction of a model of local government growth, an assessment will be made of the extent to which the cycle of administration and legislation in operation in Sheffield departed from the fifth and final stage of MacDonagh's model. As has been indicated in Chapter Seven, the continuing expansion of the scope and complexity of building regulations had, by the end of the nineteenth century, engendered considerable popular and outspoken national opposition.(2) The extent to which this was discernible at the local level will be investigated.

As in previous periods the activities of the local authority with regard to its byelaws, and in relation to private legislation, brought it into direct communication with the central bureaucracy. Thus, further developments in the relationship
between this specific locality and the centre will also be considered.

This chapter will be divided into several sections in order that attention may be focussed on the main issues.

Section I will consider how Sheffield's byelaws, confirmed by the Local Government Board in 1889, were implemented. Attention will be particularly directed towards the respective roles performed by the members of the plans sub-committee, and by the building inspectors.

Section II analyses the extent to which the inadequacies of the established system of building regulation came to be appreciated, as the new ideas concerning the management of additions to the built environment gathered strength locally.

Section III examines how Sheffield's building regulations were modified during this period. The genesis of particular changes will be investigated, and the distinction will be made between the modifications which were the products of local experience, and those which reflected more general concerns.
I Implementation of Building Regulations.

At the beginning of August 1890 the Borough Surveyor reported to the plans sub-committee that copies of the new building byelaws, confirmed by the Local Government Board the previous December 1889,(3) had been distributed to architects and builders within the town.(4) It was therefore decided that all plans to be subsequently considered by the sub-committee would be judged on the basis of the new byelaws, and that a notice to this effect should be advertised.(5)

Notwithstanding any of the changes regarding the technical requirements of the byelaws, it should be noted that no alteration was made to the administrative framework that had been established when building byelaws had first come into operation in Sheffield in 1864. Consequently, the system of regulation described in Chapter Six,(6) remained substantially unaltered throughout the period under consideration. Thus, the plans sub-committee remained the first point of contact for those intending to build.

As indicated in Chapter Six, it is not easy to establish the effectiveness or otherwise of the members of the plans sub-committee in the absence of detailed biographical information.(7) Thus, only tentative suggestions can be made on the basis of crude performance indicators such as continuity and length of service.
Over the period 1890 to 1914 the number serving on the plans sub-committee varied between six and eight. A total of 45 council members served during these 24 years; 14 served for only one year; 22 accumulated between two and five years service; six were members of the sub-committee for between six and ten years; and three served for more than 14 years. The two longest serving members, C. T. Skelton and S. Uttley, had respectively 22 and 21 years experience of plans sub-committee meetings. As with the previous period, there was a considerable degree of continuity of membership. On three occasions no new members were appointed to the sub-committee, and on eight occasions only one new member was appointed. There was only one occasion when fewer than half of the existing members achieved re-appointment for the following year, and even then some of the newcomers had served on the sub-committee previously.

The evidence supporting the contention that there was continuity of membership needs to be corroborated by data which indicates that members actually attended plans sub-committee meetings. By compiling attendance registers from the manuscript minutes of each meeting the sub-committee it has been possible to establish both individual and average attendances. Over the 24 year period average attendances at sub-committee meetings ranged from 57 to 80 per cent, with individual annual performances being subject to the widest possible variation. However, if the three most regular attenders in each year are selected out the average attendances then range between 75 and 95 per cent.
Whilst again not suggesting that such statistics demonstrate the effectiveness of the plans sub-committee as an administrative authority, it is contended that the continuity thus established made consistency in administration more probable. In addition, the accumulation of experience, especially by the most regular attenders, made it more likely that any shortcomings in the regulations would be appreciated, and that attempts at improvement would be undertaken.

It is apparent, from the manuscript minutes of almost six hundred meetings during the 24 year period, that in the administration of the building regulations the plans sub-committee continued to pursue and develop a broader role than that of merely approving or rejecting deposited plans. The evidence suggests that sub-committee members employed a whole range of more sophisticated techniques than those strictly laid out in the regulations. It is also clear that the system was sufficiently flexible to allow for negotiation and compromise, such that the prosecution of offenders was a last resort.

There was a considerable amount of continuity with the administrative practices developed by the plans sub-committee in the period before 1890. Where the misdemeanours were insignificant, or where the failure to comply with the byelaws was judged to be accidental, and with no injurious effects, the sub-committee was prepared to overlook the matter. Such largesse was however often conditional upon the guilty party
undertaking to be more careful in the future. (17) But where there was a risk that injury might arise from a contravention of the regulations, the modification of the offending work was insisted upon. (18)

It was suggested in Chapter Six that the plans sub-committee exercised a quasi-judicial function. (19) It is apparent that during the period after 1890 this function was further developed, with the sub-committee itself imposing, what were in effect, fines, on individuals who failed to comply with the building regulations. Instead of insisting that all contraventions were rectified, and in lieu of formal prosecution, offending work was allowed to remain on condition that a specified amount was 'voluntarily' contributed to a charitable fund. It is questionable as to whether such payments could be legally insisted upon, but it is clear that many individuals preferred to pay, rather than correct irregular work or be subjected to formal prosecution. The minutes of the plans sub-committee record only one occasion when an individual chose to alter defective work in preference to paying the requested fine. (20) It is interesting to note that, during the period, the cumulative total of these voluntary contributions was greater than the fines imposed by the local magistrates for offences against the building regulations; £129 12 shillings as compared with £115 19 shillings. (21)

An attempt was made in 1900 to discontinue the practice of accepting financial contributions in lieu of full compliance with
the regulations. A resolution was passed by the full council instructing the Highway Committee to ensure that the building byelaws were strictly enforced. However, it is apparent that the device was too useful to abandon. The following year the council confirmed the plans sub-committee's acceptance of a voluntary payment of £3, in lieu of the alteration of insufficient attic windows. Thereafter, the practice continued unimpeded.

The members of the plans sub-committee had to develop techniques to deal with the problems which emerged during the actual administration of the regulations. The ultimate solution was to amend the regulations in light of administrative experience, however, legislative solutions were not instantly apparent or accessible. Thus, in the short term other methods had to be devised. One issue which illustrates this point was the growing legal uncertainty surrounding wooden sheds.

Under the byelaws an open space was required behind every dwelling house, for the purposes of ventilation. The council considered that the erection of a wooden shed on this space constituted an infringement of the byelaw that specified that this should be left open. The problem emerged when several attempted prosecutions were dismissed by magistrates, on the grounds that certain wooden sheds, namely greenhouses and foul houses, were exempt from the operation of the byelaws. The failure by the local authority to achieve a successful
prosecution, led to a considerable amount of uncertainty, and a lack of confidence in the regulations. Succeeding cases were often abandoned in preference to risking further failures.(27)

In many instances the wooden sheds in question were very small, and did not interfere with ventilation, therefore could be ignored. However, in practice it was found that it was impossible to legally differentiate between sheds that interfered with ventilation and those that did not. The council, in an attempt to restore a degree of certainty, introduced an agreement under which some sheds were allowed to remain. Thus upon signing this agreement undertaking to remove the shed on notice from the corporation, and paying an annual acknowledgment of 2s 6d, cycle, motor-cycle, tool and other sheds, not considered an interference, were allowed to remain. Others were 'removed on the request or the requirement of the plans sub-committee.'(28)

In this way the uncertainty of the law was sidestepped, the distinction between what was allowed and what was not was restored, and the agreement became legally binding in place of the regulations.

The plans sub-committee was not however always successful in imposing its will. The previous two examples have illustrated the willingness of those being regulated to comply with the demands made by the council. The following example demonstrates the resistance which could be encountered when such demands proved unacceptable.
At a special meeting of the plans sub-committee in May 1892 it was decided that only cast iron gullies would be acceptable in the drainage systems of new houses, replacing the cheaper and more widely used earthenware ones. The building inspectors were instructed not to certify new houses where the use of earthenware gullies was continued. A considerable number of builders ignored the recommendation, and consequently the number of new, but uncertified houses rose from 146 in 1893, to 1052 in 1896. An agreement was suggested as a possible way out of this stalemate, but, in contrast to the merely uncertain legal position of the wooden sheds, there was no regulation at all which specified the use of the more expensive cast iron gullies. Thus, an agreement was not acceptable as a compromise by the builders. In the face of immutable opposition, and no legal weapons at its disposal, the corporation was forced to back down, and during 1896 all attempts to enforce cast iron gullies were abandoned.

It should be noted that the total of uncertified houses did not immediately fall. This was because of the anomalous legal position of systems of combined house drainage introduced by section 19 of the Public Health Acts Amendment Act of 1890. This issue will be discussed below.

The Building Department, as reorganised in 1890-91, consisted of four building inspectors and a clerical assistant. The town
was divided into four districts for the purposes of building
inspection; the central district consisted of 351 acres, and the
eastern, western and southern districts consisted of 5434, 5472,
and 8393 acres respectively. (35) The central district had
purposely been kept small to enable the chief building inspector,
W. C. Fenton, to attend to the general work of the
department. (36) It is interesting to note that at the end of
1891, the salary bill for the building department amounted to
£680. (37) This total alone illustrates the enormous growth in
municipal activity, since the budget for salaries in the whole of
the borough surveyor's department was, in 1874, only £715. (38)

The work of the building department appears to have been executed
satisfactorily during the first half of the 1890s. But during
1897 hints of strain began to emerge, as the first impulses of
the forthcoming building boom were experienced. The Annual
Report of the Building Department for that year records
the weather since the beginning of 1895 has been most
favourable for building operations...This has caused the
work of the department to be more that usually continuous
in its operation and the full capacity of the staff has
been called for to deal with it. (39)
The department was beginning to feel the strain, yet the boom did
not reach its peak until after 1900. (40) This responsiveness to
changing conditions in the building industry is a new factor.
The recognition that inspectors were working at the full capacity
clearly illustrates the new understanding of the relationship
between the inspector and his job. (41) This is confirmed by the
belief that under the increased pressure the quality of work had
suffered, a view that was spelled out in the Annual Report of 1898;

On account of the large number of plans which have had to be dealt with and the increased number of notices received, the calls upon the inspectors' time have been such that the necessary and important work of casual inspection has not received the attention that it ought so as to prevent builders doing inferior work and to detect breaches of the byelaws in their initial stages. Under present conditions the Department cannot display its presence and take such an effectual grip of its work as is desirable throughout the very extensive area of the city. (42)

The standard of performance expected, under the system established during the first half of the 1890s, could not, with the existing manpower, be maintained throughout the building boom. The fear that the system may break down altogether prompted the Mayor to order an investigation into the work of the staff in the City Surveyor's Office. (43) In this the City Surveyor emphasised the fact that no increase in the number of building inspectors had taken place since 1890, although the number of plans approved had increased by 50 per cent, and the number of houses certified had increased by 200 per cent. The heightened activity had made it impossible for the three inspectors of the outlying areas to give adequate attention to their districts; each of which was larger than towns such as Newcastle-upon-Tyne, Salford, Preston or Burnley. It was recommended that each of the outlying districts should be divided into two for the purposes of inspection. The pressure on the chief building inspector was particularly acute, for after performing the duties devolving on him as head of the department he had little time for the detailed work of his central district. Thus, the City Surveyor recommended that he should be relieved of
his district duties, by the appointment of an additional inspector, allowing the chief to concentrate on the work of supervising the department. (44)

The sub-committee of the Highway Committee which considered this report approved of most of its recommendations, and four additional building inspectors were appointed in July 1899 at annual salaries of £120. (45) It is apparent that the City Surveyor's advice that £120 per annum was an insufficient amount to attract, 'men of the type required for this important work' fell on unresponsive ears. (46) However, despite the City Surveyor's pessimism about the generosity of the proposed remuneration, advertisements for building inspectors continued to attract wide interest; 56 applications were received for a vacancy in 1898, (47) 93 candidates responded to the advertisement for four new building inspectors in 1899, (48) and vacancies in 1902 and 1904 attracted, respectively, 65 and 103 applications. (49) Moreover, it is apparent that there was some incentive for improvement. During the reorganisation of the building department in 1899 the salary of the chief building inspector, E. A. Green, was increased from £190 to £230, with annual increments of £10 incorporated, up to a maximum of £300. (50)

Within a decade the practice of building regulation had been transformed from a one-man-band, to a distinct department within the City Surveyor's office; with a specialist superintendent; and
with a clerical assistant to provide support, advice and information to the seven inspectors in the field. During the final decade of the nineteenth century the administrative system implied by the 1864 regulations began to be realised. This structure remains intact for the rest of the period under consideration. Various corporation acts and new byelaws redefined and extended the powers at the disposal of the building inspectors, but at least before the war there was no fundamental change in the nature of the job.

According to MacDonagh it was the executive officers who breathed life into the administrative-cum-legislative process.(51) It is therefore necessary to undertake a detailed analysis into the way in which the building inspectors went about their duties. Because of their position on the 'front line' of regulation, factors which influenced the performance of the building inspectors to a large extent determined the effectiveness of the implementation of the regulations. In an ideal world it would be desirable to distinguish between collective and individual building inspectors, but detailed biographical information on these 'minor' public officials is just not available. The only detailed evidence uncovered relates to W. C. Fenton, but it seems that he was a far from typical example of the species, since in later life he became something of a local celebrity.(52) It has therefore been necessary to treat individual inspectors as homogeneous, a tendency that is as regrettable as it is unavoidable.
The 1908 publication, subtitled *How to be a Building Inspector*, provides an illuminating contemporary insight into the qualities considered essential for operatives in the profession. The first priority was a practical and theoretical knowledge of building construction and sanitation. Experience of surveying techniques was a necessary attribute, as was a grasp of the basic principles of civil engineering in their relation to drainage and sewerage. The ideal inspector should, in addition, be thoroughly conversant with the provisions of the various public and private acts, byelaws and regulations appertaining to building. He should also be an accurate draughtsman and penman, and a capable correspondent. Yet above all,

He should be of undoubted integrity, energetic in the performance of his duties, and in his character, above suspicion.

For the reasons explained above it would be impossible to even attempt to suggest the extent to which Sheffield's building inspectors lived up to these ideal standards. However, there are several areas in which at least tentative statements can be made. One of these areas is length of service, making the albeit crude assumption that everything else being equal those with the longest service will be the most capable. Length of service on its own does not mean very much, but it is endowed with some significance when it was achieved in a department with several precedents of dismissal for incompetence. Moreover, it also appears that the lack of experience could have serious implications on the work of the rest of the department, as the Annual Report for 1898 illustrates,
The staff (in which two changes have taken place in the inspectorate during the year) has, on this account, and owing to the large amount of office and clerical work... been moving under pressure the entire period.(57)

In fact the period between March 1897 and October 1898 must have been very difficult. There were six changes in the inspectorate, including the resignation of Fenton; and of the four inspectors operating in the borough at the beginning of 1897, only one remained at the end of 1898.(58) However, by the end of the period under consideration the picture looked quite different; of the eight inspectors employed at the end of 1914 one had been in the department for over 25 years, four had between 15 and 18 years service, and the remaining three had accumulated, respectively, 11, 10 and two years service.

The question of experience has rather wider connotations in the light of the professionalisation of building inspection. It has been demonstrated that building inspection evolved as a distinct profession within this specific corporation, but how widespread was this trend? Were there career building inspectors or did individuals just drift in and out of the profession? Specific evidence relating to preceding and succeeding occupations would be required to supply definitive answers to these questions. Of the 20 building inspectors taken on between 1864 and 1914, eight were still in the employ of the corporation at the end of the period. Unfortunately, very little information pertaining to previous occupations has been discovered. Information on succeeding occupations, though more extensive, is still
incomplete; though some details have been found regarding the succeeding activities of nine of the 12 inspectors who left the employ of the corporation. However, one of these nine retired due to ill-health, so can be excluded. One 'took up a more valuable occupation in Grimsby' which is not very informative; another set himself up as a builder, gamekeeper turned poacher, as it were; and the redoubtable Fenton became an architect and surveyor. Only one definitely went on to be a building inspector with another local authority. Though one other did become 'an inspector' which may or may not have been of buildings.

However, by far the most interesting factor is that five of the eight found employment in some area of municipal activity. In addition to the two previously mentioned, one became a surveyor and water engineer to Pwllheli Corporation, another, clerk of works to Manchester education committee, and the fifth stayed in the employ of Sheffield Corporation as one of its District Surveyors. The only building inspector whose previous occupation has been traced was formerly an inspector in Sheffield's Health Department. Although findings in this area are as yet impressionistic, there are indications that a distinct breed of municipal servants was emerging, though the evidence that suggests that this trend extended to the particular profession of building inspection is not quite so convincing. It is significant that the distinctiveness of the profession of borough surveyor had become well established. Six of the eight
applicants shortlisted for the vacancy in Sheffield in 1878 were
practising borough surveyors or assistant borough surveyors; (68)
as were all of the candidates shortlisted for the same position
in 1888. (69)

Any efficient system of building regulation depended on the
existence of an effective deterrent; namely the certainty that
any evasions or contraventions would be detected and punished.
But such certainty in a town the size of Sheffield, was an
impossibility, even with eight building inspectors. As the City
Surveyor pointed out:

In all common sense it must be granted that the inspector
cannot watch the progress of the house from basement to
roof. He is not the foreman on the job. (70)

Thus, the regulative system depended on factors which reinforced
the impression of omniscience, omnipresence and omnipotence.
This could be done in a variety of ways. One method was, as new
regulations came into force, to loudly announce and publicise the
fact that these would be determinedly enforced. These initial
proclamations could be reinforced, by firmly handling the first
cases under the new regulations, pour encourager les autres.
Periodic reminders of the requirement of the building
regulations, circulated to architects and builders could have the
effect of jogging neglectful or forgetful memories. However, in
all probability the most effective policy was the casual
inspection. The possibility of an unexpected visit from the
building inspector was intended to create uncertainty among the
builders and thus promote conformity. That such inspection was
considered a vital part of the regulative system is attested to in almost every Annual Report of the Building Department; for instance,

The above [number of notices received] are apart from and in addition to the casual visits to buildings made by the inspectors for the purpose of detecting any irregularities which may take place in the carrying out of approved plans and any work in connection with new buildings.(71)

As indicated in Chapter Six, the number of successful prosecutions is not an unequivocal index of performance, since the decision to prosecute was only taken in the last resort, and represented the failure of the system of regulation.(72) An infringement of the building regulations would be, in the first instance, informally dealt with by the building inspector. It was only after the builder had failed to rectify defective work that an official notice would be sent, requiring the builder to comply with the regulations. It this was ignored, proceedings would then be threatened, and ultimately instigated. It should be noted that at each stage up to actual prosecution, there was a chance that through discussion, persuasion and conciliation the builder would agree to comply with the regulations. It is significant that the Chief Building Inspector reported, with a sense of pride, that in connection with 253 cases of buildings in a dangerous condition, which infringed the regulations, 'the rectification of all of these has been obtained without recourse to legal proceedings.'(73)

It is because of the potentially protracted negotiations with builders that the building inspectors' personal characteristics
played such a significant role; it is easy to imagine the contrasting responses to 'respectful requests' or perfunctory legal notices. The large number of infringements of the regulations reported to the plans sub-committee, and the relatively small number of formal prosecutions initiated, suggests that the building inspectors exercised a considerable amount of informal power under the umbrella of the regulations.

One of the limitations to the professionalisation of building inspection was the absence of any formal qualifications in an increasingly qualification conscious world. Contemporary awareness of this problem is demonstrated in the *How to be a Building Inspector* manual:

> Suggestions have been made that the profession of building inspector should be open to an examination, and, as examinations have now extended to most positions of trust, it is a strong argument for adoption. (74)

The failure to establish such professional examinations had potentially serious consequences when the building inspector came into contact with other professional or seasoned exponents of specialised trades. The standing of a building inspector was not great, his reputation and effectiveness depended on his ability to persuade architects and builders to follow his instructions, hence this advice on conduct from the manual.

> The building inspector, in his first contact with the builder, should be courteous in his manner and reasonable in his demands and, although he is armed with extensive powers against 'the person who erects' yet no menace or bluster is necessary; on the contrary, he should be conciliatory in his dealings and leave an impression that he is a man entitled to respect, whose advice may be sought if necessary. (75)
It was assumed that architects, builders and others would respond much more positively if convinced that the building inspector was competent, impartial and reasonable. Indiscriminate or arbitrary exercise of authority could, by alienating those who were being regulated, undermine the system of regulation.

However, it is clear that architects and responsible builders found their subjection to the building inspectors, particularly irksome. There were suspicions that the qualifications of the inspectors were inadequate for the job they had to perform. Reference has already been made to the Manchester architect, who resented the fact that the work of 'men of standing and reputation' was interfered by officials who were hardly equal to their own office clerks. Similar sentiments were expressed by Sheffield architects, who were of the opinion that 'some of our so-called inspectors' had little or no knowledge of the best or most modern principles of construction.

However, of greater significance appears to be a reaction against the implicit assumption of the building regulations that all subject to them were equal, and that all were equally likely to attempt evasion. In Sheffield architects felt restricted by the usual official and erroneous view that property owners, builders and even architects and surveyors, are continually attempting to evade the law and to scamp their work.

This view, of the regulatory practices of a specific local authority, echoes the more general professional opinion of the fundamental principles of building regulation,
Local authorities framing regulations have but one class of buildings in their mind, namely what is called 'cottage property', and one class of builder, popularly known as the 'jerry builder', and in order to circumvent him, they subject all parties engaged in building to a number of harassing petty formalities.(79)

It is apparent that it was felt that the regulations, and those who were employed to enforce them, failed to appreciate, or to allow for, the vested interest those who built had in the production of good work.

With this in mind, it is interesting to note the way in which complaints made about alleged undue interference on the part of the building inspectors were interpreted by the Building Department;

Judging from the number of complaints brought in by the inspectors, and those made by builders and others as to the supposed undue interference of the inspectors ... it may be fairly assumed that the restraining and compelling influence of the department is effecting its purpose, and that the inspectors are carrying out their duties in a careful and methodical manner.(80)

Thus, the Building Department regarded the number of complaints as an indication that both the regulations, and the inspectors, were performing effectually. Alternative interpretations were not even considered.

The detailed investigation into what Burnett termed 'the processes of administration', has revealed an interesting picture. The argument put forward in Chapter Six was that the administrative implications of the building regulations adopted by Sheffield Town Council in 1864 could not be said to have begun
to be realised before the establishment of the department of building inspection 1890-91. Moreover, as suggested in this section, it was only during the 1890s that the relationship between the regulations and their implementation was fully appreciated. Thus, what we have is the creation of a bureaucracy which was nurtured by, and which in turn sustained, a predetermined administrative framework. One of the consequences of this symbiotic relationship, what MacDonagh has termed self generating administrative momentum,(81) was a certain amount of insularity from outside influence. This partly explains why building regulations, and those who were charged with the responsibility of enforcing them, were trapped within a nineteenth century framework, from which they were unable to break free and translate themselves into the new role which the more enlightened and liberal attitudes of the early twentieth century demanded.(82) The following sections of this chapter demonstrate that, despite the new demands made of them, administrators had become so habituated to the system of building control that was centred on the building byelaws, and patched up by additional legislation, that it proved impossible for them to entertain an alternative.
II Perceptions of Local Building Regulations.

The fundamental implication of the fifth and final stage of MacDonagh's model of government growth is that the product of administrative experience and ingenuity will necessarily be better regulations. The process of 'closing loopholes and tightening the screw ring by ring'(83) is regarded as evidence of a deepening understanding on the part of administrators of what might and should be done. The culmination of the process is seen as the ability of the executive officers to demand, and to some extent secure, legislation which awarded them discretions, not merely in the application of its clauses, but even in imposing penalties and framing regulations.(84) Thus, unperceived the ripples of government circled even wider.(85)

Stage five of MacDonagh's model, therefore, seems to imply that process of administration, once securely established, maintained itself immune from outside influences such as political pressures or vested interests. Thus, the range, scope and depth of regulations was ever increased, primarily in response to administrative necessity, and almost regardless of any other considerations. As has been described in Chapter Seven, this process of legislative accretion had, by the end of the nineteenth century, engendered considerable popular and outspoken opposition, and had also begun to stimulate interest in alternative methods of controlling the additions to the built environment.
This short section will, by using the experience of a particular town, provide specific examples of the general reaction against 'traditional' building regulations described in Chapter Seven.\(^{(86)}\) The aim of this section is to illustrate the growing awareness of, and interest in, the new freedoms and opportunities offered by the developing ideas of the town planning movement. Section III of this chapter will demonstrate the extent to which the restrictive framework of byelaw control itself proved to be a serious obstacle to the realisation of the new order.

The inadequacy of Sheffield's established system of building regulation was thrown into sharp relief as a consequence of the building boom of the late nineteenth and early twentieth centuries. During the 1890s new building engulfed the outlying areas of Meersbrook, Sharrow, Fulwood, Ecclesall, Walkley, Crookes, Firvale, Tinsley, Catcliffe, Darnell and Intake.\(^{(87)}\) Hillsborough and Norton were incorporated into the city in 1901, and thereafter increased rapidly.\(^{(88)}\) The new building was intimately connected with the extension of the tram network, which had been taken over by the corporation in 1896, and was continually extended down to the outbreak of war.\(^{(89)}\) The new estates, such as those at Hillsborough and Woodseats, were built around tram termini.\(^{(90)}\) The decade between 1895 and 1905 saw the total housing stock increased by a quarter; and of the 47,000 houses built by since the building byelaws came into operation in 1864, 21,000 had been constructed after 1895.\(^{(91)}\)
Suburban development, however, failed to provide a solution to the slum problem. Indeed, it was soon realised that the enormous potential offered by the introduction of the tramway system into Sheffield's unspoilt countryside had been wasted. (92) During the September and October of 1904 a series of articles entitled 'Sheffield's Suburban Slums' appeared in one of the local newspapers. (93) These articles illustrated the way in which many of the new developments had quickly become slums as grim and depressing as those left behind in the city centre.

When the last slum court and all its squalor and nastiness has been dealt with in the heart of the city the demon of slumdom still exists. He has thrust his tentacles away to the outskirts of the city and in her once beautiful suburbs the evil grows and propagates. (94)

As indicated in Chapter Seven, it was the deadly dullness and dreary monotony of the buildings constructed that proved to be a particular focus for the criticism. (95) Street after street of artisans dwellings had been constructed 'with barrack like monotonous uniformity, until the whole district becomes an uninteresting grimy mass of houses and works.' (96) The president of the Architect's Society pointed out that despite the fact that the plans and sections of such house had satisfied all the requirement of the corporation, the result was almost invariably, 'streets of frightful monotony and unmitigated ugliness.' (97)

Sheffield Corporation's attempts to deal with the central slums had begun in 1894, with the sanctioning of a plan to redevelop the Crofts area; 260 properties, inhabited by approximately 1,260 people were demolished. (98) Around 700 were rehoused in blocks
of flats on the cleared site. But the costs, especially the compensation payments, were exorbitant. The total cost of the acquisition, including compensation, amounted to just over £100,000. Financial considerations led the corporation to reject a similar project for Scotland Street in 1900. Because of the financial obstacles encountered with redevelopment, the corporation changed its approach, and attempted to deal with the housing problem by trying to encourage workers to migrate to the outskirts of the city.

In 1900, the corporation acquired an estate of about 60 acres at High Wincobank, at a cost of £9,100. The declared intention was to endeavour, as far as possible, to erect a miniature garden city. By 1905 the first 41 houses had been completed, and 'negotiations were in progress for the allocation of sites for a church, chapel and Council school.' The development of the High Wincobank Estate took place under the auspices of the Housing sub-committee of the Health Committee of Sheffield Town Council. This sub-committee, in formulating its plans for the estate, had visited many parts of the country, and had consulted widely on the problems connected with such developments.

It was partly a result of the desire to share the fruits of this research, that the Housing sub-committee organised a conference on the 'Housing Question', in association with the Royal Sanitary Institute, the National Housing Reform Council, the Association of Municipal Engineers, the Co-partnership Tenants' Housing
Council, the Bourneville Village Trust and the Garden City Association. The conference, the first of its kind being organised officially by a corporation, was held in Sheffield in October 1905, and was well attended by around 200 representatives of local authorities, and interested associations. The most important speaker at the conference was W. H. Lever, who delivered a paper entitled, 'The Development of Suburban Areas.' The overwhelming conclusion of the conference was that local authorities, existing building regulations notwithstanding, did not have sufficient powers either to get rid of existing slums, or to prevent the creation of new slums in suburban areas.

One concrete suggestion which resulted from the conference was that made by H. R. Aldridge, the secretary of the National Housing Reform Council, concerning the arrangement of a model cottage exhibition, of a similar nature to that held in Letchworth in 1905. The formal decision to hold such an exhibition in Sheffield was taken at a meeting of the National Housing Reform Council, in London, in November 1905. The corporation made available several acres of the High Wincobank estate for the purposes of the exhibition. The objects of the exhibition were as follows.

1. To provide an example of model suburb planning under the existing byelaws.
2. To stimulate the building of well designed and comfortable homes capable of being let at rents within the means of workmen.
3. To provide architects and builders desiring to improve upon existing methods of building and planning workmen's
cottages with an opportunity of showing the value of their improvements in a definite and practical way. (115)

The exhibition featured 42 houses, of three different types, in blocks of two, three and four, at maximum densities of 12 houses per acre. (116)

The passage of the Housing and Town Planning Act of 1909 gave further impetus to the work of the corporation. Even before the Act reached the statute book, a sub-committee had been appointed to prepare schemes of suburban development, 'to place the corporation in a position to take advantage of the powers on this subject which will be conferred upon them in the event of the...bill being passed into law.' (117) By 1914 Sheffield had become one of the acknowledged leaders of the municipal town planning movement. (118) However, such an achievement has to be put into perspective; the total number of houses actually constructed by the corporation before the outbreak of war only amounted to 409, whereas 17,000 families were still inhabiting back-to-back houses, and a further 8,000 families lived in homes designated as unfit for human habitation. (119)

The direct involvement of the corporation in the laying out of estates and the construction of buildings provided first hand experience of the deficiencies of the established system of regulation. The chairman of the Estates Committee, which took over control of all lands and buildings belonging to the corporation, previously under the charge of the Housing sub-
committee of the Health Committee, in 1906, concluded that what was needed was,

a more simple of making up private streets on Town Planned Estates, where traffic is likely to be of a more limited character, and where regard may be paid to the amenities of a district and the possibility of a combination of the utilitarian and artistic method of laying out and development.

The existing 'cast iron code of byelaws' made it difficult, for all subjected to it, to give due regard to both the variety of local conditions, and to the new opportunities provided by town planning; and the lack of flexibility in the system hampered the corporation in its attempts to persuade landowners developing new estates to adjust to the new demand of the time. The absence of certain powers, most notably that of limiting the number of house to be erected to the acre, meant that 'we have slums springing up in suburban areas'.

Thus, it has been demonstrated that within the council itself, there was an appreciation of the new opportunities provided by town planning, and an understanding of the limitations of the existing methods of control. The following section of this chapter will consider the extent to which this new thinking influenced the changes made to the building regulations of the council within the period.
III The Modification of Local Building Regulations.

This section will consider the attempts that were made between 1890 and 1914 to modify Sheffield's building regulations. Of primary concern will be an analysis of those modifications to the regulative system which resulted from the accumulation of local experience; however, the extent to which the changes made can be regarded as attempts to adapt the nineteenth century system of control to the more complex needs of the twentieth century will also be assessed.

During this period, the corporation acquired three local acts of Parliament which contained additional building regulations; in 1900, 1903 and 1912. All of these acts were subjected to the full array of central government's supervisory controls intended to instill uniformity into local sanitary administration. (124) The continuing policy of the Police and Sanitary Regulations Committee of the House of Commons (the Local Legislation Committee after 1909) was not to grant powers in excess of the general law, unless the need for these could be justified by strong local evidence. (125) However, once extensions had been granted, a precedent was established which could be exploited by others. (126) Thus, in composing local bills, Sheffield's council officials made wide use of acts recently acquired by other local authorities. (127) Moreover, in connection with the Sheffield Corporation Bill of 1900, the borough surveyors of two local authorities, both of which had acquired acts of parliament in
1898, were commissioned to provide supporting evidence of the local need for similarly extended powers.(128)

The suggestion was made to the Local Government Board's Departmental Committee on Building Byelaws that clauses were inserted into local bills chiefly for the reason that other towns already had such powers.(129) However, it appears that this was not invariably the case. For instance, the Sheffield Corporation Bill of 1900 contained a clause which required that all deposited plans should be drawn on tracing cloth, rather than on the cheaper, and more fragile, tracing paper.(130) The precedent cited for this clause was section 46 of the Warrington Act of 1896.(131) At a plans sub-committee meeting in August 1890 the decision had been taken only to accept plans drawn on tracing cloth.(132) It had been found that plans were subjected to so much wear and tear in the hands of building inspectors, in the course of their duties, that paper plans ceased to be of any use as a permanent record.(133) However, the decision of the plans sub-committee was challenged almost immediately by architects who had failed to find any byelaw which required the use of the more expensive tracing cloth.(134) Since the byelaws insisted upon the deposit of 'complete plans', the town clerk was of the opinion that the sub-committee had the authority to prescribe the required form,(135) but the position was far from certain, hence the clarifying clause in the Bill of 1900.
The material upon which plans were drawn cannot, it must be admitted, be regarded as a matter of great significance. However, it is illustrative of a range of problems, faced by local authorities, which resulted in special applications to Parliament for the necessary powers. The Departmental Committee of the Local Government Board, which considered the whole matter of building regulations, concluded that

the result of this process has been a legislative patchwork under which the control by local authorities of building and development is restricted to particular topics or particular purposes, while there are many gaps and many sections on similar subjects which do not fit together.(136)

Local legislation had come to be regarded by local authorities, not only as a vehicle for obtaining new enabling powers, but also as the means by which the difficulties and doubts which had arisen in the course of implementing existing legislative provisions could be cleared up.(137) This function of local legislation can be well illustrated by the inclusion in successive Sheffield Corporation Acts of clauses relating to combined drainage.

The problems which emerged in connection with the combined drainage of houses were the result of a legal anomaly. Section 19 of the Public Health Acts Amendment Act of 1890 provided that where two or more houses, belonging to different owners, were drained by a combined system, then such a drain should be treated as a private drain and not as a public sewer, with the responsibility for repairs falling on the owners.(138) The
anomaly arose when all the houses drained by combined operation were the property of a single owner. In such cases the responsibility for upkeep and maintenance fell upon the corporation, since such drains, although in effect private drains, were legally regarded as public sewers.\textsuperscript{(139)} The problem was a national one but it was particularly acute in Sheffield owing to the topography of the city. In the majority of other working class towns the provision of back lanes or passages enabled each house to be drained separately into the public sewer;\textsuperscript{(140)} but in Sheffield, because of the absence of back lanes due to steep gradients, common yard drainage was the typical arrangement for artisans' houses.

The only way that the corporation could prevent itself from becoming liable was to insist that each house should be separately connected to the sewer, but this solution was regarded as an economic absurdity.\textsuperscript{(141)} Thus, an alternative method of meeting the difficulty was found in an agreement, entered into by owners and the corporation, which contracted them out of the provisions of section 19 of the Public Health Acts Amendment Act of 1890.\textsuperscript{(142)} But such an agreement could not be insisted upon, hence the clause in the 1900 Corporation Bill which placed the responsibility for the repair and maintenance of all new private drains and sewers upon the owners, whether in one curtilage or not.\textsuperscript{(143)} Under a further extension of the law in the Sheffield Corporation Act of 1903, the corporation divested itself of the
responsibility for systems of combined drainage which predated 1900. (144)

During the first decade of the twentieth century a further loophole in the local law relating to combined drainage emerged, when it was discovered that combined drains which emptied into cesspools, rather than into sewers, were not covered by the existing legislation. In the short term, agreements were again resorted to as a method of relieving the corporation of responsibility. (145) The promotion of the Sheffield Corporation Bill of 1912 provided the opportunity of closing the loophole. (146)

It is suggested that the modifications to the regulative system, considered so far, can be regarded as part of the ongoing process of legislative accretion, which resulted from the accumulation of local experience. However, it can also be shown that some tentative steps were taken to use local legislation to adapt the nineteenth century system of control to the more complex needs of the twentieth century.

One of the fundamental and enduring weaknesses of the building byelaw system, which had become increasingly apparent by the end of the nineteenth century, was that the regulations were directed, if not at individual buildings, at least at individual developments. There was no mechanism within the established system which ensured that regard was paid to the amenity and
convenience of neighbouring lands, the provision of public open spaces, or to the potential for future development. Sheffield's Act of 1900 included a section which empowered the corporation to vary the position and or direction of a proposed new street, or an extension to an existing street, 'on lines which will better meet the convenience of the general public, instead of each field or small estate being laid out without reference to adjoining estates.'

However, a comment made by the chairman of the Estates Committee in 1909, suggests that such an initial, tentative step had been insufficient to prevent the construction of streets that are simply laid out to the best commercial advantage, that lead nowhere in particular and that are planned with no regard whatever to intercommunication between different parts of the same district, but arranged simply to put the largest number of buildings upon a given area.

The passage of the Town Planning Act of 1909 gave further impetus to the local authority's attempts to adopt a more all-embracing approach to building and development. One of the perceived disadvantages of the Act was that its provisions only related specifically designated 'town planning' areas. Consequently, the Sheffield Bill of 1912 included a number of clauses relating to formation of streets, which were intended to enable the corporation to more fully carry out the principle embodied in the Act throughout the area of the city.

It is significant that the Local Government Board was of the opinion that it was inexpedient for special legislation to be passed on matters which were the subjects of general legislation, especially since the
general legislation in question had been passed so recently as 1909. (150) Thus, notwithstanding the suggested limitations of the Town Planning Act of 1909, which had, by implication, restricted the wider application of town planning principles, (151) the Board preferred to see the continuation of the established practice; that is, development being controlled by the definite requirements of the byelaws under general legislation. (152)

The question therefore arises of the extent to which the Local Government Board itself contributed the general perception that the restrictive framework of byelaw control was an obstacle which prevented the realisation of the new order. The protracted correspondence, between the Board and the corporation, regarding the revision of Sheffield's 1889 building byelaws, provides some insights into this question.

The process of revising Sheffield's 1889 series of building byelaws was set in motion by the corporation in 1901, (153) though various factors delayed the final confirmation of the new series until 1912. The extended period, during which the revision of the building byelaws was under consideration, coincided with the heightening of local interest in town planning matters, and increasing concern over the development of suburban areas. (154) The revision process was, perhaps inevitably, influenced by this new thinking. Indeed, one direct consequence of the conference on housing questions held in Sheffield in October 1905, was an
attempt, by the corporation, to incorporate into the building byelaws controls which would 'secure, as far as possible, suburban parts of Sheffield be laid out with every regard to what may be termed the Garden City Ideal.' (155)

The deputy town clerk of Sheffield visited the offices of the Local Government Board in London, in October 1905, to canvas the opinion of the Local Government Board in regard to the possible introduction of separate codes of building byelaws to serve the different needs of the central area, and the semi-suburban areas all around the town. (156) Some willingness to co-operate was displayed by J. H. Leggett, the officer of the Board dealing with the suggestion, who agreed that the principle of differential codes was one which the Board had adopted when dealing with rural areas, and urban areas surrounded by rural. (157) However, it was noted that the question had not previously arisen in connection with a great city the size of Sheffield. Leggett suggested that the only practical method of dealing with the problem, by way of the byelaws, was to increase the amount of open space required in connection with each dwelling house, (The Croyden requirement of 500 square feet was cited as an appropriate precedent.) whilst utilising the streets byelaws to encourage the promotion of avenues. (158)

Because of the practical problems involved of differentiating between urban and suburban areas, it was decided that the corporation's existing bylaw proposals be pursued to a
conclusion before discussions on the 'garden city' ideal were embarked upon. (159) Despite the fact that the corporation's proposals were thought to be worthy of further investigation, the decision to postpone their consideration, to a conference at some future unspecified date, ensured that the new byelaws would more closely reflect the concerns of the past, rather than the issues of the present.

As noted above, the process to acquire a new series of building byelaws was initiated in 1901. That these proceedings proved to be so long and so tortuous is partly to be explained by the novelty and originality of the draft code submitted to the Local Government Board. (160) In drafting the code the plans sub-committee had selected some model clauses, while omitting others, resulting in much inconsistency and confusion. (161) New definitions and novel methods of measurement had been introduced and these escalated the complexity of the whole series. (162) The Local Government Board was singularly unimpressed by the corporation's individuality, believing it characteristic of local pushfulness to demand something different from the model byelaws. (163)

Faced with such a complicated draft series, the Board attempted, in the first instance, to deal with the problems by organising a conference between its officers and representatives of the corporation. The deputy town clerk, the city surveyor and the chief building inspector duly visited the offices of the Local
Government Board, in September 1903, to discuss the proposed byelaws; the meeting lasted seven hours. (164) It is apparent that not many of the contentious issues were settled at this conference, and a subsequent request by the town clerk for another meeting was postponed until the corporation had fully considered the Board's comments, and the areas of dispute had been narrowed. (165) Frustrated by the intransigence of the corporation, the Board attempted to harden its approach. The officers of the Board were determined that the corporation must accept their revisions, or must go without the troublesome clauses. (166) It was even suggested that the latest draft of the byelaws be marked 'final revision' rather ostentatiously, in an attempt to force the council into compliance. (167) Yet the corporation proved again that it could be most tenacious, and it argued interminably for its point of view. The draft regulations were submitted no less than nine times between 1902 and 1908. (168) In spite all the areas of disagreement, the byelaws eventually received the Board's provisional approval in 1908. (169) However, at the council meeting held to approve the adoption, the representations made by several local professional associations persuaded the council to refer the whole matter to a special committee, and consideration of the byelaws was postponed until after that committee had reported. (170)

Representatives of a number of local associations had involved themselves in the process of revising the building byelaws from the outset. The first meeting between the plans sub-committee
and a deputation from the Sheffield Society of Architects and Surveyors had taken place during October 1901. (171) Letters on the same subject were received from the Sheffield Trades Council, the Association for the Better Housing of the Poor, the Property Owners' Defence Association, (172) and from the area branch of the National Plumbers Association. (173) The intervention of the associations, at the point at which the new building byelaws were about to be adopted by the local authority, can therefore be interpreted as an expression of frustration that their views had not received due consideration.

By far the most voluble of the professional associations, in relation to the building byelaws, was the Sheffield Society of Architects and Surveyors. The Society agreed with the Local Government Board that many of the proposed bylaw clauses were impractical, and would simply hamper the planning and design of houses, without any compensating improvement from a sanitary or constructional point of view. (174) However, neither was the Society over impressed by the competence of the Local Government Board as an authorising body, believing many of the Board's requirements to be, 'somewhat strange and rather antiquated.' (175)

The Society did not initially find it easy to deal with the representatives of the corporation, many of whom failed to appreciate the numerous objections put forward to the draft code. Although this could be interpreted as frustration on the part of
the Society after failing to get its own way, it does illustrate the difficulties encountered by the predominantly 'lay' drafting committee, when faced with increasingly detailed technical controls. For instance, it was only after the Society presented the sub-committee with tables of stock sizes of floor and roof timbers that it was persuaded of the practicality of framing regulations in accordance with available products.(176)

The tendency toward making building regulations ever more strict and detailed was viewed with increasing consternation; it was feared that the more demanding requirements would increase the cost of building unnecessarily.(177) The opinions that were being voiced in Sheffield reflected the arguments that were being conducted on the national level on the nature of building controls. There was a growing belief that the proper role of a local authority should be limited to ensuring the use of good materials, and to securing sound construction and sanitation, and the provision of ample air space, thereby properly safeguarding the interests of the individual and the public, but that decisions on the finer points of construction should be left to the skill and judgement of the qualified architect and surveyor.(178)

However, despite desiring many departures from it, Sheffield Corporation was still working within the framework of the model code of building byelaws, which allowed little room for the
increasingly flexible approach demanded by the local professional associations.

The Special Committee appointed in 1908 adopted a more accommodating approach, and invited the submission of suggestions and comments from any party interested in the building byelaws. Responses were soon received from the Sheffield Society of Architects and Surveyors, Sheffield Master Builders' Association and Sheffield Chamber of Commerce. An understanding was reached with the representatives of these associations, that it was in the interests of all to secure a workable set of building byelaws, and therefore co-operation and compromise were more likely to be productive than for each group to defend its own position. The success of this approach was attested to by all of the parties involved. The revised draft was submitted to the Local Government Board, who still found it to be needlessly complicated, but restricted its comments to the new points brought up by the Special Committee, and was even then prepared to accept some dubious clauses rather than open up new areas of discussion. The confirmation of the building byelaws in 1912 was greeted with great relief, if not with universal satisfaction, by every group involved in their production.

Despite the great amount time and effort devoted to the revision of the byelaws, difficulties soon arose in connection with their administration. The architects, who had long been convinced that
the case had been made for more elasticity in the application of
the byelaws with respect to new streets and buildings,(185) found
themselves
unnecessarily annoyed with all manner of vexatious
annoyances and red tapeism, which often causes delay in the
passing of plans and the erection of buildings, and give
architects an unlimited amount of trouble and annoyance and
does no good to anyone.(186)
Within a relatively short period, the amendment of some of the
clauses containing ambiguous terminology was being considered.
For instance there was a dispute between the plans sub-committee
and the architects' and builders' professional associations as to
whether bitumen sheeting qualified as a 'durable material
impervious to moisture' as was required by the byelaw relating to
damp proof courses;(187) and an amended clause was put forward by
the reconvened Special Committee on Building Byelaws.(188)

However, the problem which refocussed public attention on the
whole issue of building regulations was the precipitous decline
in residential house building. The number of new houses
certified fell from a peak of 2876 in 1900, to 1243 in 1910, and
to only 542 in 1913.(189) In 1914 the Medical Officer of Health
reported that the number of empty houses was less than in any one
of the previous ten years; and drew attention to the large number
of cases of overcrowding that had been reported.(190) The
outbreak of hostilities led to a further decline in house
building, as resources were transferred to the war effort, and
costs were increased due to a shortage of labour and
materials.(191) The situation was exacerbated by the absorption
or demolition of old houses, to make way for new works buildings, or as a consequence of public and private improvement schemes; and yet more had been lost due to closures under the Housing Acts. (192)

Since the stringency of the local building byelaws was the only cost factor over which the local authority had any control, there was a strong case for relaxing some of the requirements of the regulations in order to facilitate the erection of houses. The Special Committee on the Building Byelaws, in conjunction with the Sheffield Society of Architects, the Sheffield Master Builders Association and corporation officials, duly produced a modified series which it was suggested should apply for the duration of the war, and for a further two years. (193) However, it is significant that the Special Committee also recommended that, before such a period expired, the alterations made should be further considered and if, upon reconsideration, it appeared desirable that such modifications should become permanent, the byelaws should be so revised. (194)

Developments relating to building regulations which took place after 1914 are beyond the chronological parameters of this study, and have not, therefore, been subjected to detailed analysis. The final point being made here is that, in the event, it took a crisis as enormous as the first total war to precipitate a fundamental change in central and local government policy towards housing and development. Such was the commitment of those
operating within it to the established system of control, that, even during the hostilities, all that was envisaged for the post war world was a slight relaxation of the existing building byelaws.
The proceedings which culminated in the adoption of Sheffield's 1912 building byelaws, took place, as indicated above, against a background of changing attitudes towards building control. Yet it had proved impossible to synthesise any of these new ideas into the framework of the established regulative system. The self-generating administrative momentum operating within the system, at both the national and the local level, not only ensured that the process of accumulating new, revised or expanded controls would continue, but also guaranteed that these modified controls would conform to the well-established patterns of the past. The situation was neatly encapsulated by the president of the Sheffield Society of Architects and Surveyors.

The byelaws show a want of elasticity in many of their provisions, too great a desire to conserve old methods of building is evinced, and too little encouragement is given to more modern methods or materials, but this is not entirely the fault of our city council or of its local advisors. The model byelaws of the Local Government Board, under present conditions, must form the basis of all such documents, and these, like all such 'models' permit of little or no variation to suit local requirements, but rather tend to establish a uniform system throughout the country. (195)

The continuing expansion of the scope and complexity of the building regulations had, by the end of the nineteenth century, engendered considerable popular and outspoken opposition. It was beginning to be recognised that the operation of building regulations had tended towards the stereotyping of construction and the annihilation of artistic conception. The streets clauses that had resulted in the parallel rows of terraced houses, were too rigid, being wasteful of both space and money, and the limitation on house frontages allowed little variety of the
internal layout of appartments. Ashworth has suggested that this 'monotony of order' became increasingly unacceptable as the introduction of new planning ideas and new building materials provided a more imaginative alternative for the future development of towns and cities.(196)

Yet, in spite of the dissatisfaction and of the new opportunities, before the war only tinkering emendations had been made to the established system of control. It is true that the many of the new ideas had been incorporated in the Town Planning Act, but this was a new branch of legislation, and did not directly affect existing building regulations. However, such was the increase in expectations that resulted from the war, that much of the pre-war housing was no longer regarded as merely unsatisfactory, but as positively intolerable. It is therefore suggested that this sea-change in the way in which the tangible products of the existing system of control were perceived, brought about a fundamental re-evaluation of the established principles and practice of regulation.
FOOTNOTES


(2) Chapter Seven, 349-54.

(3) P.R.O. MH12/1547/96700/89, S. B. Provis, 2 December 1889.

(4) S.C.A. CA371, MS Minutes of the Plans Sub-Committee, (hereafter, psc) 1 August 1890.

(5) ibid.

(6) Chapter Six, 262-64.

(7) ibid, 268.


(9) Minutes of the Highway Committee, CM, (hereafter, HC) 15 November 1889; 16 November 1906; and 11 November 1910.

(10) HC, 17 November 1893; 13 November 1896; 12 November 1897; 23 November 1900; 21 November 1902; 17 November 1905; 15 November 1907; and 15 November 1912.

(11) ibid, 21 November 1913.

(12) ibid. Three council members who had previously served on the plans sub-committee were re-appointed, along with three serving members. Three new members were also appointed.

(13) These have been calculated as described in Chapter Six, 272.

(14) That is, from nought to one hundred per cent.

(15) Chapter Six, 40-42.

(16) For example, psc, 15 September 1899, H. W. Lockwood's rooms of insufficient height; 6 November 1901, Spring Brothers' attics of insufficient height; 14 February 1902, occupation of houses in Fawsett Street without a certificate; and 29 January 1904, J. Hather's bedrooms of insufficient height.

(17) For example, psc, 29 September 1899, J. A. Lenthall's kitchen erected with no plans; 9 September 1904, J. Holmes' improper bonding of brickwork; and 11 October 1909, A. J. Parker's slight deviation from approved plan.
For example, psc, 31 August 1900, T. H. Johnson's use of inferior mortar: it was reported on 7 December 1900 that the walls had been properly raked out and repointed; 20 December 1901, G. Olivot's building had reduced the road width to below 40 feet; it was reported on 2 January 1910, by the building inspector, as having been altered; and 5 October 1906, the placing of timber under back hearths of two houses, by J. Thirsk: the breach reported as having been corrected on 19 October 1906.

Chapter Six, 273.

psc, 27 October 1899.

CM and psc, 1890-1914.

CM, 10 January 1900.

psc, 6 December 1901.

Byelaws as to New Streets and Buildings, (Sheffield, 1889) byelaw 48a.

ibid, byelaw 48b.

ibid, byelaw 2(h). On 23 October 1903 the plans sub-committee instigated proceedings against Wallis & Wallis. The proceedings were heard before the local justices, who dismissed the case as they considered the erection was not a building within the meaning of the byelaws. (S.C.A. CA598(1), Building Department, Draft Annual Report, 1903, 4.) On 29 July 1904 similar proceedings were instigated against J. H. Belt. The Town Clerk reported to the plans sub-committee on 4 November 1904 that this summons had also been dismissed.

For example, psc, 8 March 1907.

S.C.A. CA598(1), Building Department, Draft Annual Report, 1908, 3.


S.C.A. CA598(1), Building Department, Draft Annual Report, 1894, 2; and ibid, 1896, 3.

HC, 29 June 1994.


See below, 437-39.

Chapter Six, 325-27.

(36) ibid.

(37) HC, 18 December 1991.

(38) HC, 1 February 1878, the investigating sub-committee's 'Draft report as to the efficiency or otherwise of the staff now employed in the Highway Department.'

(39) S.C.A. CA598(1), Building Department, Draft Annual Report, 1897, 1.


(41) Chapter Six, 326-27.

(42) S.C.A. CA598(1), Building Department, Draft Annual Report, 1898, 4.

(43) HC, 28 April 1899.

(44) HC, 9 June 1899, Report of the City Surveyor as to the work of staff in the City Surveyor's Office, 25 April 1899.

(45) psc, 7 July 1899.


(47) psc, 25 November 1898.

(48) psc, 5 July 1899.

(49) psc, 11 April 1902 and 22 April 1904.

(50) HC, 9 June 1899.


(52) S. O. Addy and W. T. Pike, Sheffield at the Turn of the Twentieth Century, (Sheffield, 1900) 75.

(53) W. R. Purchase, Elementary Manual of Building Inspection, or How to become a Building Inspector, (1908) (hereafter, Purchase, Building Inspection).

(54) ibid, 1.
(55) ibid.

(56) Chapter Six, 277 and 280-81.

(57) S.C.A. CA598(1), Building Department, Draft Annual Report, 1898, 4.

(58) CM, March 1897 to October 1898.

(59) psc, 21 November 1913.

(60) HC, 12 April 1889.

(61) psc, 17 September 1897.

(62) psc, 10 October 1905.

(63) psc, 28 February 1902.

(64) psc, 28 October 1898.

(65) psc, 25 March 1904.

(66) psc, 1 April 1898.

(67) psc, 17 September 1897.

(68) HC, 29 March 1878.

(69) HC, 17 August 1888.

(70) Sheffield and Rotherham Independent, (hereafter, S&RI) 4 October 1904, 5.

(71) S.C.A. CA598(1), Building Department, Draft Annual Report, 1904, 3.

(72) Chapter Six, 265-66.

(73) S.C.A. CA598(1), Building Department, Draft Annual Report, 1914, 5.

(74) Purchase, Building Inspection, iii.

(75) ibid, 18.

(76) Chapter Seven, 391; British Architect and Northern Engineer, 22 September 1876, 104.


(78) Architects, Annual Report, 1904-05, 16.
(79) British Architect and Northern Engineer, 22 September 1876, 184.

(80) S.C.A. CA598(1), Building Department, Draft Annual Report, 1900, 5.

(81) MacDonagh, 'Revolution in Government', 53.


(83) MacDonagh, 'Revolution in Government', 60.

(84) ibid,

(85) ibid, 61.

(86) Chapter Seven, 349-57.

(87) Pollard, Labour in Sheffield, 185.

(88) ibid.


(90) Pollard, Labour in Sheffield, 186.

(91) S.C.A. CA598(1), Building Department, Draft Annual Report, 1995-1905.


(93) S&RI, 28 September 1904, 5; 29 September 1904, 5; and 1 October 1904, 7.

(94) S&RI, 28 September 1904, 5.

(95) Chapter Seven, 350.


(97) Architects, Annual Report, 1908-09, 32.


(99) Pollard, Labour in Sheffield, 186.
(100) Suburban Areas: Report, 25.
(101) Pollard, Labour in Sheffield, 186.
(102) ibid. 27.
(103) ibid. 26.
(104) ibid. 28.
(105) ibid. 26.
(106) ibid. 4-5.
(107) ibid. 3.
(108) ibid. 15.
(109) ibid. 11.
(110) ibid. 6-13.
(111) ibid. 15.
(112) ibid. 12-13.
(113) National Housing Reform Council, Official Illustrated Catalogue of the Yorkshire and North Midlands Model Cottage Exhibition, August-September 1907, (1907) 11.
(114) ibid. 12.
(115) ibid. 3.
(116) ibid. 12-13.
(117) CM, 13 January 1919.
(119) Pollard, Labour in Sheffield, 188.
(120) CM, 12 September 1906.
(122) ibid.

(125) Chapter Seven, 358.

(126) Local Government Board Departmental Committee on Building Byelaws, PP 1918, VII (hereafter LGB, DC on Building Byelaws) Minutes of Evidence, Q2725.

(127) For example, 'In addition to the Stockport Corporation Act of 1899 which I have got from you, will you kindly lend me the following Acts of Parliament for the purpose of verifying the references thereto in the Sheffield Bill, St Helens Corporation Acts 1893 and 1898, Warrington Corporation Act 1899, Bootle Corporation Act 1899, Darwen Corporation Act 1899, and Salford Corporation Act 1899.' S.C.A. CA435/1/13, Sheffield Corporation Bill 1900, Letters from the City Surveyor to the Town Clerk, 23.1.1900.

(128) S.C.A. CA435/1/6, Sheffield Corporation Bill 1900, Proof of Mr. George C. Broom, Borough Engineer of St Helens regarding Street and Sanitary Regulations; S.C.A. A435/9/3, Sheffield Corporation Bill 1900, Proof of Mr. E. Bachus, Engineer to Edmonton U.D.C., regarding Street and Sanitary Regulations.

(129) LGB, DC on Building Byelaws, Report, 7.

(130) S.C.A. CA435/1/2, Sheffield Corporation Bill 1900, City Surveyor's Observations on Clauses relating to his Department, clause 75.

(131) S.C.A. CA435/5/1, Sheffield Corporation Bill 1900, Brief for Promoters, clause 75.

(132) psc, 15 August 1890.

(133) S.C.A. CA435/1/2, Sheffield Corporation Bill 1900, City Surveyor's Observations on Clauses relating to his Department, clause 75.

(134) P.R.O. MH12/15499/86398/90, letter from C. F. Wike (Sheffield City Surveyor) to J. B. Mitchell-Withers, 29 September 1890, and letter from H. Webster to J. W. Pye-Smith,(Sheffield Town Clerk) 30 September 1890.

(135) ibid, letter from J. W. Pye-Smith to H. Webster, 1 October 1890.

(136) LGB, DC on Building Byelaws, Report, 7.

(137) S.C.A. CA613(11), Report by the Town Clerk on the progress of the Sheffield Corporation Act 1912, 17 March 1913, 4.
(138) S.C.A. CA435/1/6, Sheffield Corporation Bill 1900, Proof of Mr. George C. Broom, Borough Engineer of St Helens regarding Street and Sanitary Regulations, clause 121.

(139) S.C.A. CA435/15/19, Sheffield Corporation Bill 1900, Proof of Dr J. Robertson, Medical Officer of Health, clause 122.

(140) S.C.A. CA608(69) Sheffield Corporation Bill 1903, Proof of Dr J. Robertson, Medical Officer of Health, 2.

(141) S.C.A. CA435/15/19, Sheffield Corporation Bill 1900, Proof of Dr J. Robertson, Medical Officer of Health, clause 122.

(142) ibid.

(143) S.C.A. CA435/1/2, Sheffield Corporation Bill 1900, City Surveyor's Observations on Clauses relating to his Department, clause 122.

(144) S.C.A. CA608, Sheffield Corporation Act 1903, section 38.

(145) For example, psc, 2 December 1904, 28 June 1907, and 12 July 1907.

(146) S.C.A. CA613(2)/1, Sheffield Corporation Bill 1912, Brief for Promotors, clause 99.

(147) S.C.A. CA435/1/2, Sheffield Corporation Bill 1900, City Surveyor's Observations on Clauses relating to his Department, clause 79.


(149) S.C.A. CA613(3), Minutes of the Proceedings taken before the Select Committee of the House of Commons on the Sheffield Corporation Bill, 1912, 26 June 1912, 581.

(150) ibid.

(151) ibid, Q4233.

(152) ibid, 593.

(153) psc, 21 June 1901.

(154) See above, section II, 428-34

(155) P.R.O. HLGl/686/125814/05, J. H. Leggett, 30 October 1905.

(156) ibid.

(157) ibid.
These byelaws which are very elaborate and stringent as to detail, appear, so far as they differ from the model clauses, to be the original work of the Sheffield Town Council, or their officers; and not to be taken -in form at least-from the series in force in any other town.'


For example, P.R.O. HG/686/151783/04, C. B. N. Ellis, 10 January 1905.

For example, P.R.O. HG/686/118595/04, Comment of the Architectural Department, 4 October 1904.


P.R.O. HG/686/118595/04, notes on conference with the representatives of Sheffield Corporation, undated.

P.R.O. HG/686/118595/04, C. B. N. Ellis, 6 December 1904.


ibid.

P.R.O. HG/686, 1902-08.

HC, 3 September 1908.

CM, 9 September 1908.

psc, 25 October 1901.

psc, 10 October 1901.

psc, 14 March 1902.

Architects, Annual Report, 1902, 8.

ibid, 1909-10, 15.

ibid, 1903, 8.

ibid, 1907-08, 14.

ibid, 30-1.

S.C.A. CA197/10, Minute Book of the Special Committee regarding Byelaws as to New Streets and Buildings, (hereafter, Special Committee, Minutes) 21 October 1908.
(180) ibid.

(181) Sheffield Telegraph, 13 October 1910, 11.

(182) For example, ibid; S.C.A. LD 1986/7-8, Sheffield Chamber of Commerce, Annual Reports, 25 February 1910 and 7 February 1912; and Architects, Annual Report, 1909-10, 15.


(185) Architects, Annual Report, 1907-08, 28.

(186) ibid, 1913-14, 26.

(187) CM, 8 May 1912.

(188) Special Committee, Minutes, 9 September 1915, byelaw 20.

(189) S.C.A. CA598(1), Building Department, Draft Annual Reports, 1900-1913.


(191) ibid, and S.C.A. CA598(1), Building Department, Draft Annual Report, 1915, 2.

(192) S.C.A. CA598(1), Building Department, Draft Annual Report, 1915, 2.

(193) Special Committee, Minutes, Interim Report, 29 February 1916.

(194) ibid.

(195) Architects, Annual Report, 1911-12, 14.

CHAPTER NINE: CONCLUSION

In charting and analysing the development of building regulations in Sheffield between 1840 and 1914 a similar approach has been adopted to that employed by MacDonagh in his study of emigrant protection. (1)

As noted by MacDonagh, the close analysis of one particular aspect of governmental growth has its drawbacks; it is laborious and exact, and does not lend itself to lively or graceful treatment, nor to the rapid multiplication of cases. But it does have one extraordinary and important advantage. By concentrating attention upon a single continuous line, a sufficiently long and varied period of development is spanned, facilitating the examination of the matter in sufficient detail to understand the most intimate causes and connections, and the cumulative effects of a whole range of changes. Moreover, it is the only approach that has been found to be consistent with the fundamental purpose of this study; namely, to elucidate, in one particular field, the operation of certain pressures and tendencies working in the nineteenth century towards the development of the modern state.
I Building Control 1840-1914:
Phases of Development.

Using building regulations as an example, this study has analysed the activities of central government in defining, creating and making effective national uniform standards of sanitary administration, within a framework of local autonomy.

Although a study of this nature does not lend itself to clear-cut chronological demarcation, certain discrete phases of development can be defined.

Phase One.
1840-58: Definition and Creation.

By the beginning of this first phase of development it had become apparent that the traditional organs of local government had been overwhelmed by the problems of the 'new' industrial and urban society. Thus, during this phase central government was forced, by pressure of circumstances, to devise new methods of dealing with the enormous economic and social dislocation which was engendered by the continuing process of industrialisation. The phase culminates with the issue, by central government, of specific standards of sanitary administration which were to be achieved by local authorities up and down the country.
In the first instance the ability of central government to define and create uniform standards of sanitary administration was a function of what Hennock has termed 'the centralisation of knowledge'.(2) Since the formulation of general legislation could not be achieved in a vacuum, central government was dependent upon local information for both its appreciation of the extent of the problems, and for the suggestion of possible legislative solutions.

From the 1830s onward central government was itself directly involved in the process of collecting local information.(3) An increasing number of inspectors, representing central government departments, travelled round the country collecting standardised information about different localities. In addition, the Registrar General, acting through his local agents, began to collect standardised information on births, deaths and marriages for the whole country. Thus, for the first time it had become possible to make statistical comparisons between localities, and to identify those places which had fallen below established national norms.

Similarly objective information was also being accumulated locally. One reaction, during the 1830s, to the general deterioration of the urban environment, was the formation of a number of local statistical societies, which collected facts illustrative of the general condition of society.(4) The painstaking efforts of these societies to collect hard facts and
present them by statistical method, in a manner too
irreproachable to be ignored, had real impact both in the
communities in which they worked and at a national level.(5)

Additional information was directly solicited during the national
health enquiries of the 1840s. The Blue Books of the period
abound with reports, submitted by doctors, ministers, and clerks
and knowledgeable individuals of all professions, regarding all
types and sizes of towns and villages. They dealt with the
physical geography of areas, their drainage and water supply, or
the want of them, the cleansing of streets, the prevalence of
fever, the general condition of habitations, and the comparative
chances of life in different classes.(6)

Through the mass of evidence collected, central government was
informed of both the extent of the prevailing social problems,
and of the inadequacy of the range of legislative solutions
heretofore pursued by individual local authorities. The
abundance of local improvement acts passed between 1780 and 1840,
which had created a myriad of variously constituted bodies
exercising an equally varied range of powers, were revealed as
being fatally flawed by their inconsistency and confusion. Thus,
the principle of uniformity was identified as a key to the
effective working of a national system of sanitary
administration.
Greater uniformity in local improvement legislation was rendered possible by the passage of the Towns Improvement Clauses Act of 1847. This Act, one of a series of clauses acts, contained a range of powers of local administration which could be incorporated into an improvement bill being promoted by a local authority. The types of provisions pioneered by the more progressive municipalities were thus standardised, and made accessible to all local authorities in search of wider powers of local administration. The trend towards uniformity was consolidated by the passage of the first of a series of general acts in the field of sanitary administration, the Public Health Act of 1848. As was the case with the Towns Improvement Clauses Act, the provisions of this Act were distilled from the accumulation of local experience. The Public Health Act could be adopted in any locality in which one-tenth of the ratepayers were in favour of the measure. Thus, the realisation of uniformity in sanitary administration was rendered more feasible by the introduction of general legislation.

However, the progress toward uniformity was limited because of the perceived threat to local self administration posed by the establishment of the General Board of Health. Throughout the 1850s the General Board of Health ranked as the most unpopular organ of the government. The hostility engendered by the Board emphasised to central government the importance of combining the pursuit of uniformity in sanitary administration with the preservation of local autonomy. The Local Government
Act of 1858 was, in effect, introduced to remove the appearance of centralisation symbolised by the General Board of Health. In actuality this Act changed little. It contained the same basic powers of sanitary administration that the Public Health Act had granted, though these were now purely permissive. Moreover, the powers over the activities of local boards exercisable by the newly created Local Government Act Office were substantially the same as those of the General Board of Health which it replaced.

It should not however be assumed that mere name changing was the sole achievement of the 1858 Act. As has been demonstrated in Chapter Three, in the field of building regulation the legislation of 1858 was a considerable advance on that of 1848. The interval had provided the opportunity for testing the tentative building controls, introduced in the Towns Improvement Clauses Act and incorporated into the Public Health Act. By 1858 sufficient local experience had been accumulated, and transmitted to the centre, for sections 53 and 72 of the Public Health Act to be repealed and to be re-enacted in a greatly expanded form as section 34 of the Local Government Act. Thus, even in this early stage of governmental growth the operation of a self generating administrative momentum can be detected.

The 'form' of building byelaws issued by the Local Government Act Office in 1858, to assist local authorities in the framing of local codes, extended the principle of 'model regulations' introduced by the series of clauses acts. (10) The origins of the
detailed clauses contained in the 'form' have been identified by Harper as being, the Metropolitan Building Acts of 1844 and 1855, the Towns Improvement Clauses Act and other local acts.(11) The Metropolitan Acts were in turn based on the Normanby Bill, the proposed national building act, that had been abandoned in 1842 in the face of local opposition.(12) Thus, the 'form' can be seen as the product of the experience that had been accumulated over the previous twenty years.

The 'form' of byelaws was the first attempt to provide a national structure and system for local adoption and adaptation.(13) The earlier experience of local control, and the conflict inherent in efforts to secure some degree of uniformity and standardisation across the country by means of a national building act had led to a heightening of tension between local and central government. The Local Government Act of 1858 proved to be a significant factor in the resolution of such suspicion and apparent conflicts of interest, and in the implementation of a system which balanced local concerns and national control. The 'form' of byelaws allowed for that control, along with the dissemination of national experience, within a system which left the introduction and implementation of regulations firmly in local hands. The system of regulation introduced by the Local Government Act was to stand the test of time; by the latter part of the nineteenth century byelaw control of building had become generally accepted. However, in 1858, this eventuality could not have been
confidently predicted. The method of control had yet to prove itself in practice.

Phase Two.
1858-77: Introduction and Refinement.

This second phase of development witnesses the gradual introduction, across the country, of the uniform standards of sanitary administration laid out in the Local Government Act; though in the absence of any compulsion this process was neither even, nor automatic. Moreover, due to the novelty of the regulations being introduced, it was inevitable that problems would be encountered when attempts were made to put them into practice. Experience of implementation soon led to the realisation of existing inadequacies, and the concomitant appreciation of the need for more exacting regulations. This second phase ends when, in 1877, the department of central government responsible for local administration, the Local Government Board, issued its revision of the 'form', the model building byelaws.

Between 1858 and 1871 over 700 places adopted the Local Government Act, but, with some notable exceptions, the majority of these were small towns. As a rule larger towns continued to act independently by promoting their own measures, either supplemental to general legislation, or in preference to it. However, this apparent singularity is largely illusory.
This is because, when framing local acts, local authorities tended to employ the standardised provisions of the Local Government Act. In addition, the byelaws made under these local acts, like those made under national legislation, were subject to confirmation by the Secretary of State for the Home Department. Moreover, in framing these byelaws local authorities made extensive use of the 'form' of byelaws issued by the Local Government Act Office.

It is therefore necessary to distinguish between the limited impact of the Local Government Act in terms of the number of towns actually adopting it, and its far greater significance in terms of its influence on local legislation, and, for the particular purposes of this study, on the concept and content of building control. (15)

Within a relatively few years of the passage of the Local Government Act of 1858 there were definite signs that a national system of building regulation was beginning to take root. During the 1860s, almost all large towns acquired codes of building byelaws which closely followed the 'form', despite the fact that most never formally adopted the Local Government Act. However, the 'form', though it represented a considerable advance, was far from perfect. Its inherent weaknesses were transmitted into all local codes based on the model. The nature of the clauses contained within the 'form' was inconsistent; whilst some were over specific others were very vague and open ended. (16) This
vagueness meant that local authorities exercised considerable
discretion when determining precise details of construction; this
in turn undermined the legality of the byelaw. Thus, when tested
in court, many were found to be ultra vires, since they exceeded
the power of the authorising statute.

As part of its general investigation into the sanitary
administration of the country the Royal Sanitary Commission
undertook an analysis of the working of the byelaw system. It
was recognised that the problems encountered in the courts with
byelaws had been a serious obstacle to reform. The suggestion of
dispensing with byelaws altogether was considered as a solution,
since by enacting similar provisions within general statutes the
problem of ultra vires could be avoided. However, the
commissioners held fast to the principle that although matters of
general application should be included in general legislation,
matters which required adaption to varying times or localities,
or which were too minute for general legislation, were fitting
subjects for byelaws. Thus, it was concluded that byelaws were
too useful to set aside, and that no adequate substitute could be
found for them. The commissioners were confident that the
problem of doubtful validity was diminishing, and would continue
to do so.

This was a key decision; it enshrined the instrument of the
byelaw within the system of sanitary administration; it confirmed
the byelaw as the appropriate method of controlling intricate and
detailed matters, of which building construction was a prime example; and it ensured that the model byelaws issued by the Local Government Board in 1877 followed the format of the pattern outlined in 1858.

It was the passage of the Public Health Act of 1875 which provided the impetus for the production of a new series of model byelaws. Under section 157 of the Act, the byelaw making powers of the Local Government Act were repealed and re-enacted in an expanded form. But the statute provided little specific information as to what was actually allowed under its byelaw making provisions. Thus, like its predecessor, the Local Government Act Office, the Local Government Board was pressed by local authorities for guidance and direction on the presentation of byelaws submitted for confirmation under the Public Health Act.(17)

The Local Government Board responded to such requests by embarking on the preparation of a model series of byelaws. In 1877 nine sets of model byelaws were issued by the Board, the fourth, and by far the most extensive and complicated, set related to the construction of New Streets and Buildings.(18) In formulating the models the Board had proceeded with extreme care. It was anxious to avoid the weaknesses that had dogged previous models, and so attempted to ensure that the new byelaws were in strict conformity with the terms and legal principles of the enactments to which they were to give effect. Another priority
was the provision of rules that would be suitable for general application, while allowing for local diversity. (19) The new model byelaws for New Streets and Buildings drew on existing regulations in earlier legislation, but carefully reframed, refined and extended them. The risks of legal uncertainty were reduced by the removal of the local authorities' discretionary power to waive the byelaw requirements when they saw fit.

The 1877 model byelaws for New Streets and Buildings were a considerable advance on the 1858 form of byelaws. In Harper's terms, local authorities were now provided with 'something nearer a technical handbook, rather than mere guidelines to basic principles of performance.' (20) Within this model the regulations relating to fire and stability, inherited from the eighteenth century, had been brought up to date, and more recent regulations concerning health had been incorporated. According to Gaskell, this was a substantial achievement and a constructive culmination to the pattern of previous legislation which had gradually and experimentally established increasingly sophisticated understanding of the formulation of building control. (21) Thus, in the model byelaws we can discern a reflection of the general move towards consolidation characterised by the Public Health Act itself. (22)
Phase Three.
1877-1890: Realisation.

In this third phase of development the system of building regulation, introduced by the Local Government Act of 1858, and refined by the Public Health Act of 1875, was realised in practice. Daunt has directly suggested that the passage of the Public Health Act initiated 'the byelaw era',(23) and many other commentators date the construction of 'byelaw housing' from this period onward.(24) However, for the purposes of this study, the significance of this period is that it witnessed the substitution of a dynamic for a static concept of administration. It was during this phase that an institutional framework was established by which the experience of administration acquired at a local level was systematically channelled to the centre. Though this did not guarantee that the new statutory needs, thus identified and defined, would be catered for by additional national measures, the potential existed for this eventuality.

It is generally accepted that building controls were generally adopted after 1875.(25) Despite the fact the issue of local codes was permissive rather that mandatory, by 1883, almost one thousand urban authorities had had their building byelaws approved by the Local Government Board.(26) The importance of sanitary controls was now more favourably accepted than ever before. This change in attitude has been ascribed by Harper to the growth of a more human concern for public welfare, and to the
more obvious fact that the operation of building byelaws could be
seen as having beneficial effects on the general state of towns
that had adopted them at an early date.(27)

In each individual locality where building byelaws were adopted
the administrative machinery had to be created through which the
controls could be made effective. Since building control was, in
most cases, a totally new area of municipal activity this
administrative system had to be set up from scratch. Chapter Six
has provided a detailed analysis of how, in one particular town,
Sheffield, such an administrative system evolved over time. The
analysis of the evidence has confirmed MacDonagh's contention
that initial statutes paid little or no attention to the actual
enforcement of the regulations. It has been demonstrated that
the development of an appreciation of the administrative
implications of the regulations was nurtured by actual experience
of implementation. The growing professionalisation of the
building inspectorate was itself a product of this new
understanding of the relationship between the regulations and
their enforcement. It has been suggested that the ability of the
council to identify and define its future legislative needs, with
increasing accuracy, was itself a function of this growing
professionalisation.

Despite the widespread adoption of building byelaws across the
country absolute uniformity of controls was not achieved. This
was because the diversity of local circumstances meant that the
model byelaws had to be adapted to meet the particular needs of each individual locality. Where these were thought to be of more general application, the modifications, officially sanctioned by the Local Government Board, were incorporated into Knight's Annotated Model Byelaws. Through the publication of successive editions of Knight's Annotated Model Byelaws the fruits of accumulated local experience were made accessible to all towns in search of extended powers. Thus, though the potential for diversity between the building byelaws of different localities did exist, this was limited, since the Local Government Board held fast to the principal that no byelaw was confirmed which went beyond the limits prescribed by the statutory provision from which its force was derived.(28)

However, the limitations imposed by the authorising statutes under which building byelaws could be made militated against the uniformity of sanitary administration being pursued under the byelaw system. This was because if a local authority could not acquire a desired control by means of a byelaw, an alternative was available through the promotion of local legislation.

The centre's first attempt to instill some uniformity into local legislation was the Towns Improvement Clauses Act of 1847. But the rapid growth of urban centres generated demands for an ever increasing range of new controlling powers, which could not be satisfied even by successive pieces of general legislation.
Local authorities were returning to parliament year after year, and acquired new legislative enactments, without any check being made that the new measures were consistent with those already in force. In the absence of all but cursory parliamentary supervision, local acts containing illogical, inconsistent and contradictory provisions accumulated. The failure of parliamentary committees to screen bills for such flaws was often compounded; once a clause was enshrined in one local act, a precedent was established that other towns could and did make use of.

Soon after the Royal Sanitary Commission had revealed the confusing state of local legislation there were signs of renewed attempts to effect a degree of central control. Under the operation of the Municipal Corporations (Borough Funds) Act of 1872 the autonomous ability of local authorities to promote local legislation was restricted. Only when the Local Government Board was satisfied that the powers applied for necessitated special legislation was sanction granted for the expenses of promotion to be paid for out of the rates. In addition, the extension of an existing standing order of the House of Commons enabled the Local Government Board to influence the actual content of local legislation. In 1872 Standing Order 39 was expanded to include the provision that, any bill, made by or on behalf of a local authority, within the field of interest of the Local Government Board, had to be deposited at its offices for report.
The vesting of these responsibilities with the Board meant that for the first time a central department was directly involved in the management and direction of local legislation. Through the detailed examination of local bills, in addition to the general administration of the laws relating to public health, the Board acquired considerable experience across the whole spectrum of local government. This experience was of material assistance in enabling the administrators at the centre to offer expert and authoritative advice to both parliamentary committees and to local authorities. This distillation of experience into a cohesive policy was a powerful force in the continuing struggle for uniform sanitary administration.

However, the efforts of the Local Government Board, in highlighting the deficiencies of local bills, did not always prove effective; where bills were unopposed, the Board's reports were largely ignored by private bill committees. (31) It was only after the Police and Sanitary Regulations Committee was appointed annually, after 1884, that parliamentary policy and practice acquired the coherence necessary to promote uniformity in local legislation.

By the mid-1880s central government had, in a piecemeal fashion, established a framework within which the parliamentary activities of local authorities could be, if not controlled, at least effectively monitored. The efforts of the legislature and the central government departments were harnessed together in an
attempt to impose a uniform system of national sanitary administration. The practice of promoting local legislation persisted within this framework, and continued to perform the valuable function of identifying new areas requiring general legislation. But now the drafting of clauses, with which the general legislation was to be amended, was carried out in a much more systematic way, with the Police and Sanitary Regulations Committee performing a co-ordinating function. However, all this does not imply that the system worked smoothly from the 1880s onwards. The imperfections inherent in the system, the delay in amending general legislation and the intransigence of local authorities, among other factors, all created frictions which militated against absolute uniformity. Nevertheless, for the first time a framework existed which, subjected to a process of continual refinement, ensured a much greater degree of uniformity than had hitherto been the case.

Phase Four.
1890-1914: Disintegration.

During this fourth phase of development the freedom and opportunities offered by new ideas of the town planning movement fundamentally challenged the established system of building control. (32) In attempting to deal with this challenge administrators, both central and local, were guided by the tried and tested elements of the established system. So habituated had the administrators become to the system of building control that
was centered on the building byelaws, and patched up by additional legislation, that it proved impossible for them to even to entertain an alternative. The self generating administrative momentum operating within the system, at both the national and the local level, not only ensured that the process of accumulating new, revised or expanded controls would continue, but also guaranteed that these modified controls would be made to conform to the well established patterns of the past. Suffice to say that, in attempting to manage the increasingly complex demands emanating from the building world, within the established framework of control, administrators were trying to fit a quart into a pint pot.

The period 1875 to 1890 had witnessed the realisation of a system of regulation, the chief characteristics of which had been conceived between 1840 and 1858. The primary objective of the controls formulated during the middle decades of the nineteenth century was to secure good sanitation. The nature of these controls was circumscribed by the prevailing contemporary perceptions of what was politically acceptable during this earlier period. By the end of the nineteenth century the 'monotony of order' had come to replace the 'monotony of chaos', but this in turn generated a reaction in favour of a habitat made possible by rising incomes and a new transport technology. After 1900 the demands for a more sensitive and comprehensive approach to the development of urban areas found expression in the idea of town planning. The establishment and operation of the national
system of building control had performed a useful service for the future of town planning, in helping to break down much of the initial resistance and inertia.(33) However, the system itself was trapped within a nineteenth century framework from which it could not break free, it was therefore incapable of assuming the new role which the more enlightened and liberal attitudes of the early twentieth century demanded.(34)

Chapters Seven and Eight have analysed the attempts that were made, both centrally and locally, during the period to adapt the established system of building control to the new demands of the time.

In Chapter Seven it has been suggested that the new ideas of the town planning movement had penetrated at least to the policy making level of Local Government Board administrators.(35) The evidence presented in support of this suggestion includes the Board's acknowledgment of the possibility of road layouts being planned on garden city lines; its direct references to new methods of construction, such as concrete, hollow walls and steel frames; the continuous process of modification which was aimed at introducing more elasticity into the administration of the byelaws; and the extension, and the subsequent refinement, of building controls to non-urban areas.(36)

Alternatively, this evidence can also be used to support the contention that the Local Government Board's overriding concern
was the preservation of the established system of control. The
Board attempted to massage the demands being made by town
planning enthusiasts in order to fit them into the established
framework. The Board remained convinced that, despite the
existence of hostility against building control, focussed on the
byelaws, the system of regulation initiated in 1858 could be made
to work.

However, what was becoming increasingly apparent during the early
years of the twentieth century was that the system, tinkering
emendations notwithstanding, could not cope with the new demands
being made of it. There developed an expanding gap between what
was theoretically possible and what was practically attainable
under the existing regulations. Thus, the existing regulations
came to be regarded as obstacles to the realisation of the new
order.

Many of the principles espoused by the town planning movement
received national legislative recognition in the Housing and Town
Planning Act of 1909.(37) It is significant that, as far as the
town planning clauses were concerned, this was a totally new
branch of national legislation which was unrelated to the
measures relating to building and development already on the
statute book. Being thus unencumbered by the heavy cloak of
nineteenth century restrictive legislation, town planning was
capable of overtaking, and making progress beyond the
byelaws.(38)
The provisions of the Town Planning Act did not directly affect existing building regulations, thus, they represent yet another addition to the existing legislation relating to building and development, rather than a replacement for it. The passage of this Act, together with passage of the Public Health Acts Amendment Act of 1907, demonstrate the absence of unanimity of purpose in attempts to keep pace with an ever widening sphere of control. More and more piecemeal legislation was being added to an already complicated collection of regulations. The whole system was characterised by complication, contradiction and confusion. (39)

Chapter Eight has illustrated that at the local level some tentative steps were being taken in an attempt to adapt the nineteenth century system of control to the more complex needs of the twentieth century. Through both the mechanisms of local legislation and byelaw revision attempts were made to apply some of the principles of the town planning ideal. (40) Yet, it proved impossible to synthesise any of these new ideas into the framework of the established regulative system.

During the revision of Sheffield's 1889 building byelaws the suggestion was made to the Board that separate codes should be introduced to serve the different needs of the central area, and the semi-suburban areas all around the town. But because of the practical problems involved of differentiating between urban and suburban areas, it was decided that the corporation's existing
byelaw proposals should be pursued to a conclusion before discussions on the 'garden city' ideal were embarked upon. Despite the fact that the corporation's proposals were thought to be worthy of further investigation, the decision to postpone their consideration, to a conference at some future unspecified date, ensured that the new byelaws would more closely reflect the concerns of the past, rather than the issues of the present. (41)

Sheffield's Improvement Bill of 1912 contained a number of clauses relating to formation of streets, which were intended to enable the corporation to more fully carry out the principles embodied in the Town Planning Act throughout the area of the city. These clauses were objected to by the Local Government Board during the committee stage of the Bill, since it was of the opinion that it was inexpedient for special legislation to be passed on matters which were the subjects of general legislation, especially since the general legislation in question had been passed so recently as 1909. Instead, the Board preferred to see the continuation of the established practice; that is, development being controlled by the definite requirements of the byelaws under general legislation. (42)

Thus, the Local Government Board itself came to be regarded, in the public imagination, as the lynch pin of the restrictive framework of byelaw control which obstructed reform and prevented the realisation of a new order.
When, in 1914, a Departmental Committee of the Local Government Board was set up to consider the whole subject, building regulations, in the form of building byelaws, were at a very low ebb, having been thoroughly discredited on all sides. Speeches were made in Parliament condemning them for being too restrictive; the sanitary world was calling for their reform on town planning lines; the British Byelaw Reform Association, in its new guise as the British Constitution Association, was still promoting bills for their amendment; and the building and architectural worlds had reached what Harper has described as 'virtually a state of exhaustion.'(43)

However, the general conclusion reached by the Local Government Board's Departmental Committee was that no case had been made for abandoning the system of control by byelaw, since if all local byelaws were brought up to the model standard, almost all of the reasonable complaints directed against the method of control would be answered.(44) The realisation, or otherwise, of the specific recommendations of the Departmental Committee fall beyond the chronological parameters of this study. The point being emphasised here is that despite the existence of hostility against building control, focussed on the byelaws, the central administrators believed that the system of regulation initiated in 1858 could be made to work. Although it was envisaged that at some point in the future the established system of control might be subjected to a complete overhaul, as a result of a wholesale programme of town planning, such a time was not considered to be
very near. Thus, for the foreseeable future it was felt that the established system had an important role to play in checking the potential excesses of individual enterprise.
II A Refined Model of Government Growth.

The above description of the successive phases in the development of building control serves to highlight the parallels which exist between this particular area of government growth and MacDonagh’s model, at least up to and including its fourth stage. However, a significantly different pattern of government growth to that predicated by MacDonagh’s model can be detected in the development of building control after about 1890.

It is suggested here that MacDonagh’s fifth stage of government growth does not provide a complete or satisfactory explanation of how relationship between administration and legislation developed once the machinery of government had become securely established in any particular field. Indeed, it could be argued that the shortcomings of MacDonagh’s fifth stage result from the fact that the model was abstracted from his study of emigrant protection. MacDonagh himself has admitted that all the rudimentary fifth stage developments in this field were abruptly checked by the fall in emigration, the advance of the steam ship, and the emergence of the great shipping company. Thus, emigrant protection cannot necessarily be regarded as a typical branch of administration.

Though further comparative research will be necessary to establish whether or not building control can be regarded as a typical case, this branch of administration does have an
advantage over emigrant protection in that it provides insights into the types of difficulties experienced by a maturing bureaucratic structure.

It is acknowledged that MacDonagh has performed a useful service to scholarship by demonstrating that 'internal dynamism' played a crucial role in the process of government growth. Previous chapters of this study have illustrated the way in which central and local government became part of an administrative system, through which experience acquired at the local level was channelled to the centre. The areas which required additional legislation were thus identified and defined. Though it has to be admitted that 'internal dynamism' did not automatically result in an improved regulatory system. The delay in the passage of amending general legislation, and the lack of a cohesive philosophy governing its accumulation, resulted in a legislative patchwork, in which there were many gaps in coverage, and many of the regulations on similar subjects did not fit together.

Moreover, the creative and self generative aspects of administration have also been detected in the growing professionalism of local government officials. Professions, being national bodies, provided a means of creating common national standards which did not depend on central government. The entrance qualification, the professional journal and the regular conference, all reinforced the notion of a minimum standard, and an effective circulation of knowledge.(46) The
establishment of associations focussed professional interests, and provided a platform for influencing the content and direction of relevant national legislation. These tendencies have been seen to have been most highly developed within the profession of borough surveyor, but a similar trend has also be detected in the emergence of building inspection as a distinct profession.

The analysis undertaken in this study has therefore confirmed MacDonagh's contention that those individuals who were professionally charged with the responsibility of enforcing the regulations performed a vital role in the process of government growth. It has been demonstrated that the executive officers, in gaining expertise in implementing policy, came to define its future goals and thus became progenitors of further policy initiatives. Thus the whole administrative-cum-legislative process was brought to life.

However, what this study has also revealed is that there were other tendencies inherent in the developing bureaucratic structure which undermined this continuing momentum in policy, and which bred stagnation. These tendencies operated at both the national and the local level.

The sheer scale and complexity of the task of establishing and operating a national system of building control, within a framework of local autonomy, had demanded the formalisation of procedures and structures through which the Local Government
Board exercised supervision over byelaws and local legislation. A similar appreciation for the necessity of formalisation was increasingly apparent as municipal authorities sought to implement and revise their local building regulations. One of the consequences of this increasing formalisation was the creation and strengthening of the administrative framework described above.

However, the corollary of this strengthening was that the administrative framework was increasingly insulated from outside influence.

Macleod, in his study of the Local Government Board, has referred to the inevitable tendency of all large organisations to become inelastic. Sutherland has noted that this was partly due to the development of career structures in government, since the professional civil servant's concern for not rocking the boat could inhibit and confine initiative. The general picture she paints is of a central bureaucracy gently ossifying, concerning itself primarily with pushing out again the paper that came in. By the early twentieth century the public image of the Local Government Board was being exposed continually to attack. One contemporary commentator referred scathingly to the vested interest central officials had in maintaining the established system and plan of administration, regardless of the fact that many of methods employed by the Board were 'as wooden as old warships and as much out of date as manual fire...
This opinion, that the primary concern of central administrators was the preservation of the status quo, is confirmed by their unenthusiastic treatment of Sheffield's attempts to broaden the basis of local building controls to encompass the spirit of town planning ideas.

At the municipal level, those being subjected to the requirements of local building controls were complaining with ever increasing frustration about the creeping bureaucracy.

We frequently find the architect is unnecessarily annoyed with all manner of vexatious annoyances and red tape, which often causes delay in the passing of plans and the erection of buildings and give architects an unlimited amount of trouble and annoyance and does no good to anyone.

Those locally responsible for implementing building regulations tended to respond with inflexibility to complaints about the lack of elasticity within the system; 'that is the byelaw' was a common reply. The established system of regulation was nurtured by, and in turn sustained, those operating within it. Temerity, born of an inability to cast aside the old clothes of habitual practice, tended to breed inertia. Even when local initiative was forceful enough to push for broadening the scope of the established system, it was suppressed by the dead hand of the central administration.

Thus, within the developing bureaucratic structure itself there were forces operating which acted as an undercurrent, and which limited the ripples of government from circling ever wider. Building regulations, and those who were charged with the
responsibility of enforcing them, were trapped within a
nineteenth century system, they were unable to break free and
translate themselves into the new role which the more enlightened
and liberal attitudes of the early twentieth century
demanded.(57)

Moreover, what this study of a specific branch of administration
has also revealed is that there were other pebbles being thrown
into the pond, the effects of which continually interacted with
the rippling government growth. These pebbles were thrown by
individuals or groups whose interests were affected by the
establishment of a national system of building regulations. The
analysis conducted in this area has highlighted the fact that
MacDonagh's model does not ascribe significant relevance to the
continuing relationship that developed between the regulations
and the regulators, and those actually being regulated.

In stage one of his model of government growth MacDonagh has
acknowledged that as the threat to legislate took shape, the
process was generally resisted as the endangered interests,
whatever they might be, brought their political influence into
action.(58) However, in the subsequent stages of the model no
further reference is made to influence exerted by these
'endangered interests', such that by stage five 'unperceived the
ripples of government circled ever wider.'(59)
In the cautions that are appended to the model it is recognised that a large number of forces could positively and more or less effectively resist the process. This was true to such an extent that MacDonagh maintains that the closer a subject engaged the attention of public opinion the more likely it was of being frustrated or diverted. Indeed, in the search to observe the practical functioning of government administration, MacDonagh recommends the selection of subjects which were far removed from public notice, passion and commitments. The passenger acts are lauded for revealing the indigenous developments of government in as pure and uncomplicated a state as is likely to be found.

However, it is suggested here that the very isolation of emigrant protection makes it an atypical case. It follows that a model of government growth which is abstracted from this branch of administration is of only limited significance when applied to other areas.

The analysis presented in this study has revealed a continuing and evolving relationship between the regulations and the regulators, and those actually being regulated. Once the engine of change had been set in motion, and the principle of regulation had been established, the 'endangered interests' did not merely evaporate. They regrouped and reformed, and, as the wider implications of regulation came to be appreciated, new threatened interests emerged. The motivation of these interested groups
cannot be categorised simply as striving to resist the process of change, they were not merely obstacles to be overcome or circumvented. This is because the interests of such groups were served by their active participation in the legislative-cum-administrative process. Thus it is suggested that any model of the mechanics of government growth must include an appreciation of the influence exerted by those groups directly affected by the regulations.

At the beginning of the period under consideration in this study much of the opposition to the introduction of sanitary controls was of a dispersed nature, unified by the perceived threat to traditional rights and privileges. The strength of this opposition was sufficient to establish certain principles which were to govern the future development of building control. The commitment to the privacy of domestic life, one manifestation of belief in the sanctity of private property and individual liberty, ensured that building regulations did not interfere with the internal arrangement of dwellings, and were restricted to the shell of domestic buildings. The deep-rooted antipathy towards regulations made after the event which were retrospectively binding guaranteed that the constructional control would apply only to new buildings. Moreover, the traditional hostility towards the interference of central government meant that local autonomy had to be protected within any system of national control.
However, once the principle of building regulation was enshrined in national legislation those groups directly affected by the operation of building controls can be seen to have become more organised and specialised. This institutionalisation of vested interests in the field of sanitary administration was a parallel development to the increasing formalisation of the procedures and structures through which the organs of both central and local government sought to impose a national system of building control. The framework thus established provided a forum for the exchange of ideas between those regulating and those being regulated.

The first concrete example of interaction comes in 1876, when the Local Government Board was in the process of producing its code of model byelaws. The Board forwarded to the Royal Institute of British Architects a draft of the proposed model byelaws, and invited suggestions for its revision.(67) The Board had much pleasure in acknowledging the contribution made by the 'independent experts' from the Institute.(68) Throughout the period under consideration the Institute continued to monitor the effects of building regulations upon its membership. Contact with the Local Government Board was established on numerous occasions when the Institute considered that the interests of its members were being adversely affected.(69)

At the municipal level it became increasingly apparent that the local legislative process could no longer be influenced by the
voice of the masses, as expressed at the often tumultuous public meetings. (70) Interested opponents of proposed measures had therefore to find alternative methods of exerting an influence on the local decision making body. Chapters Six and Eight have described the active involvement of various local professional groups, including the Sheffield Society of Architects and Surveyors, the Sheffield Master Builders Association and the area branch of the National Plumbers Association, in the byelaw revision process. Relations between the local authority and these groups were not always harmonious, but the point being emphasised is that the channels existed through which their views about local regulations could be expressed.

However, the cloak of nineteenth century legislation was a heavy one, and the system of regulation established in 1858 proved to be resistant to the new demands being made of it. Unwin, writing at the end of the first decade of the twentieth century highlighted the problem which was undermining the established system of control.

It cannot be too clearly recognised that for building byelaws to work successfully they must have the sympathy and actual support of those architects and builders, admittedly many, who are seeking to do good work. So long as the goodwill of those who are trying to build well can be retained on the side of the byelaws they can be enforced with ease, and are in no danger of being seriously weakened; but as soon as they hamper the operations of those who are trying to do good work they raise against themselves a very powerful opposition which strongly appeals to the public. (71)

By the time war had broken out in 1914, the goodwill of those being subjected to the building byelaws had all but evaporated.
Building regulations in general, and building byelaws in particular, were being subjected to attack from all sides.

Row upon row of narrow fronted, densely packed, brick boxes with slate lids, devoid of all inspiration, were the grim and depressing legacy of the building byelaw regime. Notwithstanding the fact this 'monotony of order' represented an advance on the 'monotony of chaos' which it succeeded, by the early twentieth century, building regulations were perceived as having created a form of development which was only marginally less objectionable.(72) The inadequacies of the established system of regulation were thrown into even sharper relief as the new freedom and opportunities offered by the town planning movement were disseminated.

These new ideas posed a fundamental challenge to the restrictive framework of byelaw control.(73) There developed an expanding gap between what was theoretically possible and what was practically attainable under the existing regulations; such that the existing system of regulation came to be regarded as an obstacle to the realisation of the new order.

Those attempting to build in accordance with the existing regulations found themselves in an unenviable position. They were subjected to an ever increasing mass of confusing and contradictory legislation, contained in innumerable national and local acts, and within byelaws authorised by the same. Moreover,
successive pieces of legislation did not match up to the new demands of an increasingly complex building world, whose novelty was always some way ahead of the cautious legislature. Thus, many of the new methods and materials were not recognised in law. Attempts by architects and builders to employ such materials as steel or concrete were often met with bureaucratic obstruction, or arbitrary rules which were unrelated to practical reality.

The involvement of professional groups in the process of revising local controls can be viewed as an attempt to reform the established system of regulation from within. But the inherent weaknesses of the system often militated against the production of mutually satisfactory sets of regulations. The regulators were locked into a cumulative spiral of control which was continually eroding the freedoms of those being regulated. Difficulties were often encountered with the predominantly 'lay' drafting committees of local authorities, when detailed technical controls were the subject of discussion. Moreover, the Local Government Board, distracted by its own internal problems, failed to provide authoritative central direction, and became increasingly regarded as lethargic and obstructive.

One cannot escape the conclusion that the engine of change, set in motion during the 1840s, was grinding to a halt.

One response to the widespread unpopularity of the building byelaws was the appointment of a Departmental Committee of the
Local Government Board to 'consider the control at present exercised in England and Wales over the erection of buildings and the construction of streets by means of byelaws and local regulations, and their effect upon building and development, and to make recommendations.'(78) However, it is suggested that this merely amounted to an 'internal review' of practice, and as such was limited by the tunnel vision of the central body under whose auspices it was conducted. This assertion is led credence by the circumspect general conclusions reached by the Committee; that no case had been made out for abandoning the system of control by byelaw established in 1858,(79) and that the time when the whole system of regulation should be completely overhauled in light of the application of town planning principles 'was not very near.'(80)

It is a matter for speculation whether the implementation of the Departmental Committee's recommendations would have breathed new life into the established system of regulation. However, such was the level of dissatisfaction, and so great were the administrative complications of the proposed remedial measures, that it is doubtful whether the modified system would have operated smoothly. It is likely that the situation would have deteriorated again, providing fresh ammunition for those calling loudly for reform.

The deliberations of the Departmental Committee were, in actuality, interrupted by the war, and its report did not appear
It is significant that by the time the report was published many of its recommendations had been superseded by events. In July 1917 the Local Government Board had set up, as part of the wider strategy of post-war planning, a committee to 'consider questions of building construction in connection with the provision of dwellings of the working classes.'(81) The ensuing 'Tudor Walters Report' had a revolutionary impact on the character of post-war housing,(82) The Tudor Walters Report was thorough, imaginative and innovatory,(83) and its recommendations were qualitatively different to anything which had gone before. The application of its recommendations combined the advantages of concepts of town planning with those of a more flexible system of byelaws which encouraged new ideas of planning and design.

It took a crisis as enormous as the first total war to precipitate a fundamental change in central and local government policy towards housing and development. Such was the increase in expectations that resulted from the war, that much of the pre-war housing was no longer regarded as merely unsatisfactory, but as positively intolerable. It is therefore suggested that this sea-change in the way in which the tangible products of the existing system of control were perceived, brought about a fifth phase in this particular area of government growth, that of the fundamental re-evaluation of the established principles and practice of regulation.
The contribution of the system of building regulation established in 1858 was the introduction and realisation of the concept of the sanitary house, with adequate standards of construction, water supply and drainage. However, the transformation of the sanitary house into a larger, lighter, better equipped, and more comfortable home that was situated within an environment well provided with local amenities was the product of the more enlightened and liberal attitudes of the twentieth century. The State's involvement in the subsidisation of mass housing from 1919 onwards, provided the opportunity for the ultimate realisation of the new concepts of house planning and estate layout that had been developed by the 'model employers' at the end of the nineteenth century, and by the town planning and garden city movements during the early years of the twentieth century.(84)
FOOTNOTES


(3) This paragraph is based on Hennock, 'Central/Local Relations', 40.

(4) Chapter Two, 51-2.


(6) ibid. 104.


(9) ibid. 86.


(11) ibid. xx.


(14) See Chapter Four.


Series I Cleansing of Footways etc.
Series II Nuisances: snow, filth, dust, ashes etc.
Series III Common Lodging Houses
Series IV New Streets and Buildings
Series V Markets
Series VI Slaughter Houses
Series VII Hackney Carriages
Series VIII Public Bathing
Series IX Baths and Washhouses


(18) ibid. xcviii.
(19) ibid, xcviii.
(21) Gaskell, Building Control, 48.
(24) For example, J. Burnett, A Social History of Housing, (Newton Abbot, 1978) (hereafter, Burnett, Housing) 154.
(25) ibid. 156.
(31) ibid. vol. 1, 213.
(33) ibid. 589.
(34) ibid. 481.
(35) Chapter Seven, 364.
(36) ibid. 365-66.
(37) ibid. 356-57.
(39) ibid. 466.
(40) Chapter Eight, 440-43.
(41) ibid. 441-43.
(42) ibid. 440-41.
(44) Local Government Board Departmental Committee on Building Byelaws, Report, P.P. 1918, VII, (hereafter, LGB, DC on Building Byelaws) 14.
(46) Hennock, 'Central/Local Relations', 42.
(47) Chapter Seven, 386-87.
(48) ibid. 390-92.
(51) ibid. 8.
(54) Chapter Eight, 440-43.
(56) ibid.
(59) ibid. My emphasis.
(60) ibid. 62.
(61) ibid.
(62) ibid.
(63) MacDonagh, Passenger Acts, 7-8.
(64) Chapter Three, 118-19.
(65) ibid. 118.
(66) ibid. 112-15.
(67) Chapter Five, 222.
(68) Seventh ARLGB, P.P. 1878 XXXVII, xcviii.
(69) For example, over the introduction of the rural series, Harper, Victorian Building Regulations, xxvii.
(70) Chapter Four, 183-87.
(71) R. Unwin, Town Planning in Practice: An Introduction to the Art of Designing Cities and Suburbs, (2nd edn. 1911) 389.
(74) ibid. 312.
(75) Chapter Eight, 446.
(76) MacLeod, Local Government Board, 52-4.
(77) Haw, 'The Local Government Board', 54.
(78) The Committee was set up on 30 April 1914, LGB, DC on Building Byelaws, Report, 3.
(79) ibid. 13.
(80) ibid. 44.
(81) Report of the Committee appointed to consider questions of building construction in connection with the provision of dwellings of the working classes in England, Wales and Scotland, (Tudor Walters Report) P.P. 1918, VII.
(82) Burnett, Housing, 218.
(83) ibid. 220.
(84) ibid. 307.
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