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The Nationalised Industries

The Nationalised Industries

*An Analysis of the Statutory
Provisions*

by

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Introduction

In the introduction to the first edition of this booklet two rather different matters were mixed up—they were the nationalised industries and certain public corporations. The confusion is significant because it shows how closely the two matters are associated in contemporary thought. In part this accounts for the fact that the booklet contained no reference to the General Post Office which with its postal, telegraph, and telephone services is the oldest existing nationalised industry and also omitted Cable and Wireless. It also explains the references to the Port of London Authority which is nowadays regarded as a prototype of the present accepted form of management though the Authority would not be included in the usual list of nationalised industries.

It should be made clear therefore that the purpose of the booklet is to analyse as simply as possible the Acts which were passed by the Parliament of 1945-50, whereby certain major industries were “nationalised.” The British Broadcasting Corporation is included as being obviously of the same species even though it was established as a public corporation in 1927. And as the form of organisation and management adopted in these Acts was that of the public corporation the booklet is primarily an analysis of the public corporation in Great Britain. But I have excluded many bodies which might claim to be public corporations, e.g., the National Assistance Board and the Central Land Board, because they do not manage industrial undertakings included in the nationalisation legislation.

THE LEGISLATION

First a word needs to be said about the form of the “nationalisation” Acts which were passed by Mr. Attlee’s first Government (1945-50). The Acts fall into four groups :—

- (i) The main group, in order of the passage of the Act through Parliament, comprises the Coal Industry Nationalisation Act, 1946 ; Electricity Act, 1947 ; Transport Act, 1947 ; Gas Act, 1948 and Iron and Steel Act, 1949. Each Act involved the transfer to one or more public corporations of a considerable number of individual firms or statutory undertakings. The Coal Industry Nationalisation Act is the model for these Acts and they are drafted in a fairly standard form.

The first part of each Act deals with the statutory position of the Board. Its functions and duties are prescribed, the main features of its constitution are laid down, as are the main powers of the Minister in relation to the Board and other constitutional matters are dealt with. The next part is concerned with the terms of compensation and the arrangements for taking over the firms and undertakings being nationalised. This is usually the longest part of the Act and also gives rise to a large amount of delegated legislation. One third of the Coal Industry Nationalisation Act was taken up with questions of transfer and compensation and one of the statutory Orders issued dealing with this matter under the Act contained more than 100 pages. Then follows a section on finance—borrowing, reserve funds, accounts, audit, etc., followed by a section of miscellaneous provisions.

- (ii) The Bank of England Act, 1946, and the Cable and Wireless Act, 1946. These were very short Acts, the main purpose of which was to transfer the capital of the Bank of England and of Cable and Wireless Ltd. to Government nominees. Though the Bank of England Act does contain certain provisions governing the constitution of the Court of the Bank as a public corporation the main powers and provisions are found in the new Royal Charter (the Bank was established originally by Royal Charter in 1694). The Cable and Wireless Act makes no reference to constitution and powers because these were already contained in the Memorandum and Articles of Association under which Cable and Wireless Ltd. was incorporated as a limited liability company. In other words the Cable and Wireless Act did not use the public corporation form of management. The later changes introduced by the Commonwealth Telegraphs Act, 1949, make the ownership and management arrangements even more peculiar and without parallel in the other nationalised industries.
- (iii) The Civil Aviation Act, 1946, (now replaced by the Air Corporations Act, 1949) must be considered apart from the other Acts dealt with in this book. It did not involve the same kind of major change as did, for example, the Coal Industry Nationalisation Act of the same year. Indeed in so far as it re-enacted a good deal of the British Overseas Airways Act, 1939, it is a link between the pre- and post-war conceptions of public management.

At the end of 1938 Mr. Neville Chamberlain's Government announced that they had reached the conclusion that the most satisfactory instrument for the development

of overseas civil aviation would be provided by the amalgamation of Imperial Airways Ltd. and British Airways Ltd. in a single public corporation. The British Overseas Airways Act, 1939, therefore, provided for the acquisition by agreement of the assets of the two companies just mentioned by the British Overseas Airways Corporation (B.O.A.C.). The 1939 Act did not give B.O.A.C. a monopoly and towards the end of the war certain shipping companies started to operate air services to South America through British South American Airways Ltd. and certain internal services were restarted and developed by various private companies. The Civil Aviation Act, 1946, did two main things : (i) it established two additional public corporations for air transport—British European Airways and British South American Airways, (ii) it gave a monopoly of internal and British overseas air transport to these three corporations. The then existing private operators were bought out by the Corporations during 1946 and 1947. In 1949 the British South American Airways Corporation was merged into B.O.A.C. by the Airways Corporations Act of that year.

- (iv) Finally, the Cotton (Centralised Buying) Act, 1947, and the Overseas Resources Development Act, 1948, can be taken together. They differ from groups (i) and (ii) in that neither Act acquired the property or capital of existing private firms.

In the case of the first Act the sole right of importing raw cotton had been taken by the Chamberlain Government at the outbreak of war in 1939 under its emergency powers. After that, raw cotton like most other raw materials was bought and sold only by the Government, the Liverpool Cotton Market ceased to operate and many of the cotton brokers and their staffs became Government employees. It was generally thought to be a wartime measure and that the market would re-open upon return to normal conditions. The Labour Government, however, decided to formalise and make permanent the wartime arrangements, hence the Act of 1947. Had there not been the temporary Government monopoly under the emergency powers or had the market already reverted to the private brokers the Act might have had to deal with the acquisition of existing interests. As it was it merely arranged for the transfer of the stocks of raw cotton from the Board of Trade to the newly established Raw Cotton Commission. But for the denial of the implication that the Liverpool Cotton Market would re-open the Act could be said to be largely a change in

the form of Government ownership and management—from the normal Department to the public corporation.

The Overseas Resources Development Corporation Act, 1948 is also not a nationalisation Act in the normal use of the term. True the Ministry of Food was using a private company as its agent to develop one of the ground nut growing areas and the scheme then passed into the hands of the Overseas Food Corporation. But the Act did not make this transfer mandatory on the Corporation nor is the Act confined to this particular scheme. In effect the Act represents an extension of Government economic activity in colonial territories and the choice of the public corporation instead of the normal Department as the public agency.

THE ANALYSIS

The statutory provisions governing the following public corporations are included in this booklet :

POST-1945 CORPORATIONS

BRITISH BROADCASTING CORPORATION.

BANK OF ENGLAND.

COAL : NATIONAL COAL BOARD.

COLONIAL DEVELOPMENT CORPORATION.

CIVIL AVIATION : British Overseas Airways Corporation.
British European Airways Corporation.

ELECTRICITY : British Electricity Authority and the 14 Area Boards.
North of Scotland Hydro-Electric Board (see note below)

GAS : 12 Area Boards and the Gas Council.

IRON AND STEEL CORPORATION OF GREAT BRITAIN (see note below)

OVERSEAS FOOD CORPORATION

RAW COTTON COMMISSION

TRANSPORT : British Transport Commission. The six Executives :
Docks and Inland Waterways, Hotels, London Transport,
Railway, Road Haulage, and Road Passenger Transport.

PRE-1939 CORPORATIONS

CENTRAL ELECTRICITY BOARD (now replaced by the British Electricity Authority).

LONDON PASSENGER TRANSPORT BOARD (now replaced by the British Transport Commission—London Transport Executive).

PORT OF LONDON AUTHORITY (still in existence)

The provisions are analysed under different heads, so that any differences between the corporations selected can be seen more readily. No comment has been added and no reference has been made to any statements in the House of Commons or elsewhere as to how the provisions were likely to be interpreted in practice. It was thought that such an analysis would be useful for students and also facilitate discussion of this important and comparatively new development in the machinery of British government.

It was thought desirable to deal separately with the post-war and the three pre-war examples, because of the big differences which have occurred in the statutory provisions governing these bodies since 1945. The B.B.C. has been included in the post-war group because of its new Charter and Licence in 1946, but the changes which have occurred since the first Charter was granted in 1926 are given at pages 86-88.

NORTH OF SCOTLAND HYDRO-ELECTRIC BOARD

The Electricity Act, 1947, established the British Electricity Authority and 14 Area Boards responsible for the generation and distribution of electricity in all parts of Great Britain except the North of Scotland. The excluded district is the responsibility of the North of Scotland Hydro-Electric Board originally established by the Hydro-Electric Development (Scotland) Act, 1943. The 1947 Act modified the provisions of the 1943 Act so as to bring the North of Scotland Board more into line with the position of the British Electricity Authority as regards constitution, ministerial control, financial management, etc. Strictly speaking, however, the North of Scotland Board is not a post-1945 Corporation and the provisions governing it bear the marks of earlier ideas. Some of the significant changes are discussed below.

IRON AND STEEL

The Iron and Steel Act, 1949, had passed through all its legislative stages by the 24th November, 1949, but two provisions prevented the whole of the Act from coming into immediate effect.

- (i) the proposed Iron and Steel Corporation of Great Britain could not be appointed before the 1st October, 1950 ; and

- (ii) the securities of the companies to be nationalised could not be vested in the proposed Corporation before the 1st January, 1951, "or such later date, but not more than twelve months later, than the date aforesaid, as the Minister may by order substitute . . ."

On the 14th September, 1950, the Minister of Supply announced in the House of Commons that appointments to the Iron and Steel Corporation were to be made on Monday, 2nd October, 1950. He added that he proposed to consult the members of the new Corporation about the earliest convenient date for taking over the securities of the various iron and steel companies named in the Third Schedule of the Act. Vesting date was subsequently fixed for February 15th, 1951.

In view of the present political uncertainty it was thought preferable to analyse the provisions of the Iron and Steel Act in a separate section.

CABLE AND WIRELESS

The statutory provisions governing the ownership and management of the Commonwealth's Cable and Wireless telegraph service are quite different from those found in any other nationalised industry. They are therefore analysed in a separate section. In any case they do not lend themselves to the standard form adopted in other parts of the book.

TWO MAIN QUESTIONS

The analysis prompts two main questions. First, are there any major trends discernible between the early and later Corporations? Second, are there any significant differences in the provisions governing the constitutions, etc., of the existing bodies?

DIFFERENCES IN PRE- AND POST-WAR LEGISLATION

There are three obvious differences between the statutory provisions governing the public corporations established prior to 1939 and those established since the advent of the Labour Government in August, 1945 :

(a) There has been a considerable increase in the powers of the Minister to control and to interfere in the working of the corporation. There is, for example, no instance in the pre-1939 corporations of a Minister having the power to issue general directions. This is definitely a post-1945 development. No such power was included in either the British Overseas Airways Act,

1939, or even in the Act of 1943 which established the North of Scotland Hydro-Electric Board. Strangely enough, there would appear to be more powers of Departmental control over the Port of London Authority established by an Act of 1908 than over the C.E.B. and the L.P.T.B. established by the Acts of 1926 and 1933.

(b) The Chairman and members of the post-war Boards are usually in a more dependent statutory position. In the three pre-1939 corporations, for example, either the actual or the minimum term of office of a person appointed to the board was specifically stated in the Act. The normal pattern for the post-1945 corporation leaves the Minister free to deal with the question of tenure by way of regulation. The regulations so far issued normally fix a maximum period (five years) but no minimum, and also enable the Minister to dismiss the member if, in his opinion, the member becomes "unfit to continue in office . . .", a term capable of very wide interpretation.

The standard letter of appointment used by the Minister of Supply for the Iron and Steel Corporation was given in full to the House of Commons on the 19th September, 1950. Paragraph 2 of the Minister's letter contains the words "your office may be declared by me to be vacant at any time if, in my opinion, you are for any cause whatsoever unable or unfit to discharge the functions of a member ; and upon my giving to you notice in writing of the fact your office shall become vacant and your appointment determined".

(c) The post-1945 corporations have less financial independence than their predecessors. The National Coal Board cannot even raise its own stock, while so far as disposal of surplus revenue and use of reserve funds are concerned, the normal post-1945 pattern is to give the Minister power to interfere and issue specific directions.

In this contrast between pre- and post-war legislation the British Overseas Airways Act, which received its second reading debate on the 10th July, 1939, is of special interest. It was passed in an overwhelmingly Conservative House of Commons. It contained many more references to Ministerial control than did, for example, the London Transport Act, 1933. The Act provided for Ministerial approval for certain types of action which B.O.A.C. might have wished to take, e.g., operating an internal air service, or acquiring or constructing an aerodrome. Some of the main provisions for Ministerial control were to apply only so long as the Government were subsidising the Corporation, or making payments under a Treasury guarantee, e.g., Ministerial control was required for capital expenditure in this period. But in at least

three ways this Act differed from the Civil Aviation Act, 1946, which replaced it :—

- (i) There was no power in the 1939 Act for the Minister to issue directions of a general character to the Corporation. The provision in Section 4 of the 1946 Act is clearly part of the post-war spirit of Ministerial control of the public corporation.
- (ii) The Minister had no power in the 1939 Act to direct the Corporation in the use of its general reserve fund whereas he is given such power by the 1946 Act.
- (iii) In the 1939 Act the auditors were appointed by the Corporation with the approval of the Minister whereas in the 1946 Act they are appointed by the Minister.

On the other hand it is worth noting that under the 1939 Act the Chairman, Deputy Chairman or any other member of the Board of B.O.A.C. was appointed to “ hold and vacate office in accordance with the terms of the instrument appointing him ” and could be dismissed if the Minister was satisfied that the member was “ unable or unfit to discharge the functions of a member.” This is a definite link with post-war ideas.

Another link between the pre-1939 and the post-1945 legislation is to be found in the Hydro-Electric Development (Scotland) Act, 1943, which received the Royal Assent on the 5th August, 1943. The North of Scotland Hydro-Electric Board was continued by the Electricity Act, 1947, but the provisions governing its constitution, etc., were modified in certain important instances :—

- (i) There was no provision in 1943 Act for the Minister to issue directions of a general character ; this power was added by the 1947 Act. It is also noticeable that the 1947 Act inserted the words “ subject to any directions of the Secretary of State ” after the words in Section 2 of the 1943 Act which read “ it shall be the duty of the Board ” and then prescribes certain duties. The 1947 Act also made the subsequential alteration to the 1943 Act provisions governing the Board’s annual report by requiring the Board to set out any directions given by the Minister unless he has notified the Board that it is against the interests of national security to do so.
- (ii) The provision in the 1943 Act that the Deputy Chairman of the North of Scotland Board should devote his whole time to his duties and be the chief executive officer of the Board was repealed.

- (iii) The 1943 Act limited the amount of the principal and interest which the Treasury could guarantee but this limit was removed by the 1947 Act. Instead the limit was placed on the total borrowing of the Board, thus bringing the Act into line with the provisions in the other post-war Acts.
- (iv) The 1943 Act required the Board to prepare annual statements of accounts containing such particulars as the Secretary of Scotland may prescribe. The 1947 Act added the now common form words that the accounts must "conform with the best commercial standards" and required them to give separate information about generation, distribution and the main other activities of the Board and to show the financial and operating results of each such activity.
- (v) The 1943 Act contained no provisions for a Consultative Council to deal with consumers' complaints, etc. The 1947 Act established such a Council for the North of Scotland District.

At the same time there is at least one provision in the 1943 Act which in somewhat different words was to find a place in most of the post-war legislation. Section 10 of the Hydro-Electric Development (Scotland) Act, 1943, requires that the prices to be charged are to be determined by the North of Scotland Board so that "the proceeds of the sale of electricity together with other revenues of the Board may so far as can be estimated equal over a term of years to be approved by the Electricity Commissioners (altered to the Secretary of State by the 1947 Act) the sums required for meeting any expenditure which the Board may properly charge to revenue." This point is dealt with more fully at pages 72-73.

It is also noticeable that the members of the Board were not given any statutory minimum period of office as were members of the then existing Central Electricity Board which may be taken as the comparable body. Instead the 1943 Act provides that a member "shall hold office for such term, and on such conditions, as the Ministers . . . may determine at the time of his appointment." This provision was not changed by the 1947 Act.

There are many other differences between the pre-1939 and the post-1945 corporations which will be apparent from a comparison of the data analysed in this monograph.

DIFFERENCES IN THE POST-WAR LEGISLATION

As already explained there is a considerable degree of uniformity among the main nationalisation Acts—coal, electricity, gas, iron

and steel, and transport. In large part this must be taken as a triumph for the framers of the first major Act—the Coal Industry Nationalisation Act, 1946,—a remarkable achievement considering the limited time and experience they had at their disposal. In part the uniformity may be due to the Government finding it easier to go on producing the same legislative structure and wording than to think out each Bill afresh.

Nevertheless there are significant differences. Some of these are due to the character and history of the industry being nationalised. Thus it was to be expected that the organisation adopted for electricity would be more centralised than that for gas in view of the existence of the Central Electricity Board and its electricity grid system. Again the Transport Act is the only one of the Acts to provide for an independent tribunal with the power to control prices, a provision which must be due to the fact that Transport was the only industry in which such a body was already in existence. The very different statutory organisations adopted, however, for iron and steel and for coal can hardly be said to have been dictated by the economic characteristics of the two industries, though history may have been an important factor.

Sometimes the differences are not of great importance, for example, differences in the statutory size of the board of management. But even here differences may not be without significance, particularly as a small body may imply full-time members and a larger body imply a certain number of part-time members. Sometimes there may be quite small differences in the wording of the governing Act: for example, the members appointed to the National Coal Board, and to the British Electricity Authority or its Area Boards, need only have had “experience” in industrial, commercial and financial matters, etc., whereas the members of the British Transport Commission must have had “wide experience.” That difference may not be of any significance, but the use of the words “national security” instead of “national interest” may be of considerable constitutional importance: the National Coal Board must set out in their annual reports any direction given them by the Minister unless he “has notified to the Board his opinion that it is against the national interest so to do”; whereas in the cases of the British Electricity Authority, British Transport Commission, the Area Gas Boards and Gas Council the Minister must notify the Board concerned “it is against the interests of national security to do so.” Other differences concerned with such matters as the power to issue stock, the conditions governing the appointment and tenure of office of members of the board, the particular powers of the Minister to issue directions or control the policy of the Corporation, and the powers of the Consultative or Advisory Councils, are of more obvious significance.

It is not easy to discern any marked trend in the statutory provisions contained in the Acts of 1945-9. Indeed, in view of the different types of industries dealt with, it may be dangerous to rationalise differences between Acts into a formal pattern or trend. Moreover it is worth remembering that there are only three years between the second reading debates of the first (Bank of England) and last (Iron and Steel) nationalisation measure of this period. The coal industry was not actually taken over until the 1st January, 1947 and the railways not until the 1st January, 1948. There was therefore very little time to gather experience as the basis for changing the form and content of even the last nationalisation measures of the 1945-50 Parliament.

If, however, one had to make a shot at indicating the trend one would call attention to three aspects. First, the process of tightening up the wording of the legislation particularly on the more contentious points. One example of this has just been given, the use of the words 'national security' instead of the vaguer words 'national interest.' Two other changes which point in this direction are (a) the provision in most of the later Acts, but not in the Coal Act, that the Minister must notify Parliament of the salaries and pensions to be paid to members of the Boards; and (b) the provision in the Iron and Steel Act that a meeting of the Consumers' Council may be held at which the two representatives of the British Iron and Steel Corporation on the Council may be excluded.

Second, it is possible to see a greater awareness of the need for decentralised organisation. I have developed this point in an article in the *Political Quarterly* for April-June, 1950. At one extreme—in time and in content—the Coal Industry Nationalisation Act, 1946, set up only one national board and made no statutory provision for decentralised management. At the other extreme the Iron and Steel Act, 1949, though establishing a single national board also keeps in existence the various iron and steel companies, the board being a huge holding company. Moreover the Iron and Steel Act provides that the British Iron and Steel Corporation must so exercise their powers as "to secure the largest measure of decentralisation consistent with the proper discharge by the Corporation of their duties . . ."

Third, it is interesting to notice the occasional requirement in later Acts for statutory consultation between the Boards of two or more nationalised industries where these activities overlap. Thus section 47 of the Iron and Steel Act provides that in the planning and carrying out of capital development or re-organisation of activities relating to carbonisation the Iron and Steel Corporation must consult with the National Coal Board (and vice versa) and with the Gas Council and the appropriate Area Gas Board.

USE OF THE LIMITED LIABILITY COMPANY

Mention has already been made of two instances in which public ownership is being carried out through a form of organisation—the limited liability company registered under the Companies Act—which is the form used by a large sector of private enterprise. In addition to Cable and Wireless Ltd. and the publicly owned Iron and Steel Companies, there are the companies operating road passenger services, the shares of which are owned by the British Transport Commission. These companies retain most of the outward characteristics which they would have in the hands of private shareholders—their name includes the compulsory word “ Limited,” they have Memoranda and Articles of Association, registered offices, etc. and, except insofar as they are exempted by the nationalising Act, they have to conform to the provisions of the Companies Act, 1948, as to the holding of meetings, form of accounts, etc. and are subject in all these matters to the jurisdiction of the Board of Trade or the Registrar of Joint Stock Companies.

The outward signs are, however, misleading for there is in effect only one shareholder, the Government in the case of Cable and Wireless Ltd., and the Iron and Steel Corporation of Great Britain in the case of the publicly owned iron and steel companies. The Directors are not, as is often the case, large shareholders with a financial stake in the business, but a group dependent on the voice of the one shareholder.

The use of the limited liability company by the Government is not peculiar to the nationalised industries. This form of organisation and management has been used in other spheres, for example, by the Ministry of Food. It is too early as yet to say whether the form can be used in this way or whether it is proper so to use it in view of the confusion which may arise in the public mind between limited companies which are and those which are not publicly owned.

The post-1945 Corporations

A. CONSTITUTION

(Excluding constitutions of any Area Boards or Executives.)

(1) Appointment

Members (including Chairman and Deputy Chairman) are normally appointed by the Minister of the appropriate Department ; except

B.B.C.—appointed by King in Council ; and

BANK OF ENGLAND—appointed by His Majesty.

(2) Number of Members

B.B.C. : Chairman, Vice-Chairman and five others (but number may be varied by King in Council).

BANK OF ENGLAND : Governor, Deputy Governor and 16 Directors (of whom the Governor and Deputy Governor must, and not more than four Directors may, be full time).

COAL : Chairman and not less than eight nor more than eleven other members (one of whom is to be Deputy Chairman). The Minister may appoint a second Deputy Chairman from among the members. Apart from the Chairman not more than eight of the members of the Board may render whole-time service.

COLONIAL DEVELOPMENT : Chairman, Deputy Chairman and not less than four nor more than ten other members.

CIVIL AVIATION : Each of the two (*) Corporations has : Chairman, Deputy Chairman and not less than five nor more than eleven Directors as the Minister may from time to time determine.

B.O.A.C. may have two Deputy Chairmen.

* Viz. : British Overseas Airways Corporation (B.O.A.C.) and British European Airways Corporation. (B.E.A.C.).

ELECTRICITY (†) : Central Authority i.e., British Electricity Authority : Chairman and not less than nine nor more than 11 other members.

NORTH OF SCOTLAND ()** : Chairman, Deputy Chairman and not less than three nor more than seven other members.

GAS : Gas Council : Chairman and deputy Chairman and each of the Chairmen of the Area Boards. It is important to appreciate that the Area Boards are shown under B very largely for ease of reference for in status they really correspond to the main or central corporation in other nationalised industries.

OVERSEAS FOOD : Chairman, Deputy Chairman and not less than four nor more than ten other members.

RAW COTTON : Chairman, one or two independent members, and not more than ten part-time members.

TRANSPORT : British Transport Commission : Chairman and not less than four nor more than eight other members (of whom the Chairman and not less than four others must be whole-time).

(3) Qualifications of Members

No specific statutory qualifications for B.B.C., Bank of England or Civil Aviation.

COAL : “ persons appearing to him (i.e., the Minister) to be qualified as having had experience of, and having shown capacity in, industrial, commercial or financial matters, applied science, administration or the organisation of workers.”

COLONIAL DEVELOPMENT : “ persons appearing to him to be qualified as having had experience of, and having shown capacity in, matters relating to primary production, industry or trade, finance, science, administration, organisation of workers or welfare, and in making such appointments, the (Minister) shall have particular regard to the need for securing that adequate experience of those matters obtained in colonial territories is at the disposal of the Corporation.”

† In the Electricity Act, 1947, the British Electricity Authority (B.E.A.) is referred to as the “ Central Authority.” This Authority together with the Area Boards and the North of Scotland Board are referred to as “ Electricity Boards.”

** The Secretary of State for Scotland is jointly responsible with the Minister of Fuel and Power for the appointment of the North of Scotland Electricity Board.

ELECTRICITY (B.E.A.) : Almost same wording as for coal for not more than six nor less than four of the members but the Electricity Act inserts the words "the generation and supply of electricity" before the word "industrial." Four of the members must be Chairmen of an Area Board and the Chairman of the North of Scotland Board is a member *ex-officio*. (For the qualifications of these five members see under Area Boards). No qualifications are prescribed for the North of Scotland Board.

GAS : Chairman and deputy Chairman of the Gas Council must have same statutory qualifications as for coal except that "gas supply" is added to the list.

Other members (*ex officio*) are the Chairmen of the several Area Boards. The Deputy Chairman of an Area Board may attend and vote in place of his Chairman should the latter be unable to attend owing to illness or absence from Great Britain.

OVERSEAS FOOD : Same as for Colonial Development except that there is no reference to experience obtained in colonial territories

RAW COTTON : Independent members must have had experience of, and have shown capacity in, industrial, commercial or financial matters, or in administration, or have special knowledge of the cotton industry or some branch of it, of the business of merchanting raw cotton or of the business of a raw cotton broker. Not less than two of the "part-time" members must have special knowledge of the interests of operatives employed in the cotton industry; the others are to be chosen from persons with the qualifications already mentioned for the "independent" members, except that in this case not more than two may be chosen because of their experience, capacity in industrial, commercial or financial matters or in administration, unless they also have special knowledge of the cotton industry, etc.

TRANSPORT (B.T.C.) : Almost same wording as for coal, but in the Transport Act the word "transport," is added before "industrial" and the Act also requires "wide" experience. But experience of and capacity in applied science is not a qualification prescribed for membership of the Commission.

(4) Disqualifications

GENERAL : Membership of the House of Commons disqualifies a person from being a member of the Court of the Bank of England; National Coal Board; Raw Cotton Commission; British Transport Commission and any Transport Executive; British Electricity Authority and Gas Council and the respective Area Boards; the North of Scotland Board; and the Colonial Development and

Overseas Food Corporations. A member of the House of Commons cannot be appointed to any of the three Civil Aviation Corporations.

B.B.C. : A governor of the Corporation shall *ipso facto* cease to be a governor if :

(a) he holds any office of profit in which his interests may, in the opinion of the Postmaster General, conflict with the interests of the Corporation ;

(b) he becomes of unsound mind or bankrupt or compounds with his creditors ;

(c) he absents himself from the meetings of the Corporation continuously for three months without the consent of the Corporation and the Corporation resolves that his office is vacated.

BANK OF ENGLAND : additional disqualifications are :

(a) being a Minister of the Crown or a person serving in a Government Department in employment in respect of which remuneration is payable out of moneys provided by Parliament ;

(b) being an alien ;

(c) being subject to any disqualifications imposed by the Charter of the Bank, i.e. (i) found lunatic or becoming of unsound mind ; (ii) becoming bankrupt, suspending payment or compounding with one's creditors ; (iii) convicted of an offence, and the Court of the Bank with the approval of the Chancellor of the Exchequer resolves that the office is vacated ; and (iv) being absent from meetings of the Court for six months without the Court's consent and the Court, with the Chancellor's approval, declares the office to be vacated.

COAL : additional disqualifications (in S.R. and O. No. 1094 of 1946) are : the Minister may declare the office of the member to be vacant upon the member :

(a) engaging in any trade or business, becoming or continuing to be a director or officer of any corporate body or an officer or servant of an organisation of workpeople except in so far as the Minister may approve ;

(b) absenting himself from meetings of the Board for more than six months consecutively except for some reason approved by the Minister.

CIVIL AVIATION : no additional disqualification, but Minister may remove a member in certain circumstances (see A.6 below).

ELECTRICITY (B.E.A.): Similar to coal (S.R. & O. 1750 of 1947). In case of the North of Scotland Board the Minister is required to declare the office vacant if a member absents himself

from meetings of Board for six months consecutively except for reasons approved by the Minister. Undischarged bankrupts and persons who have entered into a deed or composition with their creditors are also disqualified from the North of Scotland Board.

GAS : Similar to Coal (see S.R. and O. 2233 of 1948).

RAW COTTON : additional disqualification for person being appointed an independent member is having such financial or commercial interest as is likely to affect him in the discharge of his functions as an independent member.

TRANSPORT (B.T.C.) : additional disqualification is that no member can have "such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member."

(5) Terms of Appointment and Tenure

Only fixed statutory term is for Bank of England—five years for Governor and Deputy Governor and four years for the other members (four retire each year).

B.B.C. : "shall not exceed a period of five years."

COAL : Minister may make regulations with respect to "the appointment of, and the tenure and vacation of office by the members of the Board." S. R. and O. 1094 of 1946 states "not exceeding five years."

CIVIL AVIATION : to "hold and vacate office . . . in accordance with the terms of the instrument appointing him to be a member."

COLONIAL DEVELOPMENT : Similar to Coal.

ELECTRICITY (B.E.A.) : Minister may make regulations with respect to "the appointment of, and the tenure and vacation of office by the members of the Central Authority and any Area Board." S. R. and O. 1750 of 1947 states "not exceeding five years."

Members of the North of Scotland Board "hold office for such term and on such conditions as the Ministers . . . may determine at the time of their appointment."

GAS : Similar to coal and electricity, S.R. and O. 2233 of 1948.

OVERSEAS FOOD : Similar to Coal.

RAW COTTON : Board of Trade may make regulations with respect to tenure and vacation of office by members of the Commission.

TRANSPORT (B.T.C.) : To “ hold and vacate his office in accordance with the terms of his appointment . . . ”

(6) Dismissal

Note :—See under Disqualifications. Retirement or dismissal follows if a Member suffer a disqualification during his period of office.

B.B.C. : Governorship may be terminated by King in Council.

BANK OF ENGLAND : No specific statutory provision for dismissal. A member must vacate office if he becomes subject to any disqualification (see 4 above).

COAL : If in the opinion of the Minister a member becomes “ unfit to continue in office or incapable of performing his duties ; the Minister may declare the office of such a member to be vacant . . . ”

CIVIL AVIATION : “ If the Minister is satisfied that a member of the Corporation :

(a) has been absent from meetings of the Corporation for a period longer than three consecutive months without permission of the Corporation ; or

(b) has become bankrupt or made an arrangement with his creditors ; or

(c) is incapacitated by physical or mental illness ; or

(d) is otherwise unable or unfit to discharge the functions of a member ; the Minister may declare his office as a member of the Corporation to be vacant and shall notify the fact in a such a manner as the Minister thinks fit ; and thereupon the office shall become vacant.”

ELECTRICITY (B.E.A.) : Similar to coal.

GAS : Similar to coal (see S.R. and O. 2233 of 1948.)

TRANSPORT : (B.T.C.) : No specific statutory provision for the dismissal of members of the Commission.

(7) Salaries

The normal statutory provision is that the salaries and pensions on retirement or death of members are determined by the Minister with Treasury approval. But the salaries of Governors of the B.B.C. and of Governors and Directors of the Bank of England are stated in the Charter and are :

B.B.C. : Chairman, £3,000 ; Vice-Chairman, £1,000 ; Governors, £600.

BANK OF ENGLAND : Governor, £2,000 ; Deputy Governor, £1,500 ; each Director £500 (Governor, Deputy Governor and not more than four directors giving their exclusive services to the Bank may receive additional payments and a pension or capital grant).

Salaries of the Staff of the Boards are determined by the Boards themselves.

Note :—Section 1 (8) of the Transport Act, 1947 requires the Minister to lay a statement before each House of the salary, fees and allowances paid to members of the Commission (but not apparently to members of the Executives). A similar provision is to be found in S.5 (7) of the Gas Act, 1948 in respect of the salaries etc. of members of the Area Gas Boards and the Gas Council and, in addition, subsequent changes in the salaries, etc. must be notified to each House.

B. AREA BOARDS AND EXECUTIVES

COAL : None prescribed by statute.

ELECTRICITY :

(A) 14 Area Boards are named in the First Schedule to the Act, but the Minister may, after consultation with the Central Authority and after giving each Area Board concerned an opportunity to make representations, vary the boundaries and even form a new, i.e. additional area.

(B) The Chairman of each Board and not less than five nor more than seven other members are appointed by the Minister, after consultation with the Central Authority, from amongst persons with same qualifications as are laid down for membership of the Central Authority, excepting that the words “the generation and” are deleted and “local government” . . . “agricultural . . .” are added. The Chairman of the Consultative Council for the area is *ex officio* a member. The Chairmen of four of the Area Boards are appointed by the Minister in rotation to serve part-time on the Central Authority for a period of three years.

(C) The relations between the Central Authority (i.e. the British Electricity Authority) and the Area Boards are broadly as follows :

(i) Functions : The primary duty of the Central Authority is to develop and maintain an efficient, co-ordinated and economical system of electricity and for that purpose to generate or acquire supplies of electricity, to provide bulk supplies for the Area Boards, to co-ordinate the distribution of electricity by the Area Boards and to exercise a general control over the Boards. It is the duty of the Area Boards to acquire bulk supplies from the Central Authority

and to plan and carry out an efficient and economical distribution of those supplies in their area (by agreement and with the approval of the Central Authority, an Area Board may acquire bulk supplies from another Board). The Central Authority must conduct research, but an Area Board may do so only at the Authority's request. The Central Authority, but not the Boards, has the power to manufacture electrical plant and electrical fittings. There are other duties or powers which are shared, or which are assigned only to the Central Authority.

(ii) Four of the members of the B.E.A. must be appointed by the Minister in rotation from amongst the Chairmen of the Area Boards.

(iii) The B.E.A. must be consulted by the Minister before he defines or varies the boundaries of the Area Boards.

(iv) The B.E.A. may give such directions to Area Boards as appear to the Authority to be necessary or expedient for the purpose of co-ordinating the distribution of electricity and exercising a general control over the policy including financial policy of the Boards.

(v) The Area Boards may be directed by the B.E.A. to submit for its approval periodic estimates of revenue and expenditure and obtain the approval of the Authority for programmes of development involving capital expenditure, and in other classes of cases where it is desirable in the opinion of the Authority to secure co-ordination between different Area Boards in matters involving expenditure.

(vi) Whilst both the B.E.A. and the Area Boards may borrow temporarily by way of overdraft or otherwise only the Authority may issue British Electricity Stock, which is the method of financing the capital requirements of the Authority and all the Boards. The Authority apportions the liabilities in respect of stock etc. between itself and the individual Boards, but in doing so must act on general principles settled from time to time with the approval of the Minister.

(vii) There is to be a central reserve fund contributed to by the Central Authority and by the Area Boards as determined by the Authority. An Area Board may establish its own general reserve fund but contributions thereto are subject to the approval of the Authority and must be from its surplus revenue. Thus no Area Board can make contributions to its reserve fund a prior charge on its revenue. The B.E.A. may with approval of the Minister give such a Board directions as to the establishment and management of but not the application of such a fund.

(viii) The surplus revenue earned by an Area Board in any year may be applied by the Board to such of their purposes as the Board may, with the approval of the Central Authority, determine.

(ix) The B.E.A. fix the tariff for the supply of electricity in bulk to the Area Boards, but subject to the Authority's directions, the Area Boards fix the tariffs for the electricity sold by them. If the B.E.A. think the tariffs charged by any Area Board should be varied they may direct the Board to submit proposals and after consultation with the Board the Authority may approve the proposals with or without amendment, which must then be put into operation.

(x) The B.E.A. may require any Area Board to contribute towards the satisfaction of the Authority's obligations in respect of stock, borrowed moneys or the special compensation to Local Authorities. In doing so they must act on general principles settled with the approval of the Minister. Contributions may be required from Area Boards under other Acts, e.g. War Damage (Public Utility Undertakings, etc.) Act, 1949.

(xi) An Area Board must send to the B.E.A. an audited statement of its annual accounts together with any report made by the auditor on those accounts.

(xii) The B.E.A. is responsible for entering into agreements about terms and conditions of employment of all persons employed by the Authority and the Area Boards, but must consult the Area Boards.

(D) North of Scotland Electricity Board. For most purposes this Board is in complete charge of its own area. It is, for example, responsible for both the generation and distribution of electricity ; it is under no compulsion to take supplies from the B.E.A. although the B.E.A. are bound to purchase from the Board such supplies as they offer at a price to be determined under the provisions of the 1943 Act, as amended by the 1947 Act. It has the same powers as the B.E.A. in respect of research, manufacture of plant and fittings, and the sale and hire of plant. It may also issue its own stock, promote Bills in Parliament and in various other ways is the equivalent to the British Electricity Authority in status. It is not a party to the central guarantee fund. In one or two matters, however, the B.E.A. has jurisdiction. It is the B.E.A. which is responsible for handling wages and conditions, pensions and similar matters for negotiation with representatives of the employees. It is B.E.A. stock which has been issued to the holders of securities in the undertakings acquired in the North of Scotland district. Approval of the B.E.A. is required to construction schemes prepared by the Board. Recommendations of either the Amenity or the Fisheries Committee for the Board's area in respect of such constructional schemes go to the B.E.A. for information.

For most purposes the Secretary of State for Scotland and not the Minister of Fuel and Power is the responsible Minister.

GAS :

NOTE—The Area Gas Boards are similar in status in most respects to the central body in the other nationalised industries and are dealt with here largely for ease of reference.

(A) 12 Area Boards are named in the First Schedule to the Act. But the Minister, after consultation with the Gas Council, and after giving each Area Board concerned an opportunity to make representations may vary the boundaries and even form a new, i.e. additional area.

(B) The Boards are composed of a Chairman and not less than five nor more than seven other members all appointed by the Minister from amongst persons having the same statutory qualifications as are prescribed for the Gas Council (see A.2 above) except that “ local government ” is an additional, alternative qualification. The Chairman of the Area Consultative Committee is *ex officio* a member.

(C) The relations between the Area Boards and the Gas Council are broadly as follows :

(i) General. The Gas Council is very largely a common meeting ground and a central representative council for the 12 Area Boards. The acquired undertakings are vested in the Boards, and only the Boards have the statutory powers to manufacture and supply gas. The Boards are thus not subordinate to the Gas Council in the sense that the Executives are subordinate to the British Transport Commission.

(ii) Functions. The Area Boards have all the powers, duties and responsibilities relevant to the manufacture and supply of gas with one or two exceptions on the financial side whereas the manufacturing functions of the Gas Council are confined to the manufacture, sale, and repair of plant required by the Area Boards and the manufacture and sale of gas fittings, except for export.

It is the duty of every Area Board to develop and maintain an efficient, co-ordinated, and economical system of gas supply for their area, to develop and maintain the efficient, coordinated, and economical production of coke and to develop and maintain efficient methods of recovering by-products obtained in the process of manufacturing gas.

It is the duty of the Gas Council to advise the Minister on questions affecting the gas industry and matters relating thereto and to promote and assist the efficient exercise and performance by Area Boards of their functions.

If authorised by all the Area Boards or a group of them, the Gas Council may perform services for, or act on behalf of the Boards concerned in relation to matters of common interest to those Boards.

(iii) If an Area Board desires to supply gas, coke, or fittings in the area of another Area Board and cannot get the agreement of that Board to do so the Gas Council may give such authority.

(iv) Research. It is the duty of the Council to settle from time to time in consultation with the Minister a general programme of research into matters affecting gas supply and carbonization and other matters affecting the functions of the Area Boards and of the Council. It is also the Council's duty to secure the carrying out of that programme and for this purpose it may make arrangements with any person, including any Area Board. Area Boards can conduct research in accordance with such arrangements or may, after consultation with the Council, conduct research outside this programme.

(v) Training and Education. The training and education of their employees is the duty of the Area Boards but each Board must submit programmes to the Council on being so required, and it is the function of the Council to co-ordinate these programmes of training and education and to settle the general programme after consultation with the Minister. The Area Boards must give effect to the programmes so settled.

(vi) Reorganisation and Works of Development (involving substantial outlay on capital account). Area Boards must act in accordance with a general programme settled by them from time to time with the approval of the Minister who must consult the Council before giving his approval.

(vii) Finance

(a) Only the Gas Council, and not the Boards, has the power to issue British Gas Stock.

(b) Each Area Board has to submit to the Council periodical estimates of the sum it needs to borrow by the issue of Gas Stock and give information as to the purposes for which such a sum is required. Before proceeding to issue Gas Stock for the purpose of defraying expenditure by a Board on reorganisation and development, the Council must satisfy itself that the reorganisation and development is in accordance with the general programme approved by the Minister.

(c) The Council must from time to time settle with the Minister a scheme whereby the ultimate responsibility for meeting obligations arising out of the issue of Gas Stock is allocated between the Area Boards and the Gas Council. Each Area Board must pay to the

Council the sums by way of interest, redemption, sinking fund or issue expenses for which it is responsible under this scheme.

(d) The Council must establish and maintain a central guarantee fund to be used only in the events of an Area Board or the Council being unable to discharge their obligations for interest or redemption or for repaying to the Treasury any sums they had expended in fulfilling their guarantee. Each Board must pay into the reserve fund a sum each year determined by the Council with the approval of the Minister and the Treasury. The Council must also pay into the Fund in respect of its activities in the manufacture of plant or gas fittings. The central guarantee fund must not exceed £5 million at any time and the aggregate annual contribution (excluding sums to make good any payments under the guarantee) must not exceed £1 million.

(e) Where any Area Board fails to discharge its obligations, or the capital obligations for which it is responsible (see (c) above), or to pay its contributions to the central guarantee fund the Gas Council may, with the approval of the Minister, give that Board directions with respect to the management or policy of the Board, including tariffs and other financial matters, during such period as the Minister in consultation with the Council and the Board concerned may determine, being at least a period until the obligations have been met and the required contributions made to the fund. The Area Board must comply with the directions.

(f) Each Area Board and the Gas Council (if it uses the power to manufacture plant and gas fittings), must establish and maintain its own general reserve fund for its own purposes.

(g) The expenses of the Gas Council (other than those in respect of the manufacture of plant and gas fittings) are to be met by such contributions of the Area Boards as the Council, with the approval of the Minister, may determine.

(h) Wages and conditions of employment. Unless it is satisfied that adequate machinery exists it is the duty of the Gas Council in consultation with any appropriate organisation to arrange for machinery for the settlement by negotiation of the terms and conditions of employment of persons employed by the Area Boards and the Council, with provision for reference to arbitration in default of such settlement.

(i) Returns and Statistics. An Area Board must provide the Council with returns, accounts and other information with respect to the property and activities of the Board, afford the Council facilities for the verification of such information and for obtaining information.

An Area Board must furnish to the Council for its information periodical estimates of the Board's revenue and expenditure.

TRANSPORT :

(A) Unless Minister by order provides otherwise, there are to be five Executives : Railway, Docks and Inland Waterways, Road Transport, London Transport, and Hotels.

(B) Executives are to be composed of a Chairman and not less than four nor more than eight other members appointed by the Minister after consultation with the Commission from amongst people with the same statutory qualifications as for the Transport Commission.

(C) Members hold and vacate office in accordance with terms of appointment.

(D) Same disqualifications as for main Commission.

(E) The general relation between the Transport Commission and the Executives is that the latter are agents of the former exercising such functions as the Commission may delegate under a scheme approved by the Minister. The scheme cannot empower an Executive to borrow except temporarily for the current business of the Executive and with the authorisation of the Commission. As respects matters for the time being falling within the scope of any such scheme of delegation, any rights, powers and liabilities of the Commission shall be treated as the rights, powers and liabilities of the Executive and the Executive shall be treated as the employer of any officers or servants of the Commission so long as they are by virtue of the delegation under the control of the Executive. Any scheme of delegation, including any instrument varying or revoking a scheme must be published in the London, Edinburgh and Belfast Gazettes. (If the full scheme is not published in the Gazette the notice must state where copies of it may be purchased).

C. ADVISORY AND CONSUMERS' COUNCILS

B.B.C. : Corporation must appoint a Regional Advisory Council in each of its Regions for the purpose of advising the Corporation on all matters affecting the programme policy of the Region. Members of such bodies must be persons chosen for their individual qualities who are broadly representative of the general public of the Region.

Corporation may appoint other advisory committees to advise it with regard to all or any matters connected with the broadcasting services and the business operations and affairs of the Corporation.

BANK OF ENGLAND : None provided by Statute.

COAL : (A) Consumers' Councils must be established as follows :

(i) Industrial Coal Consumers' Council ; covers consumers of coal, coke and manufactured fuel for industrial purposes or other purposes involving supply in bulk, and persons engaged in organising or effecting the sale or supply of such coal whether for home or export.

(ii) Domestic Coal Consumers' Council : consumers of coal etc. for domestic purposes or for other purposes not falling within (i).

Composed of such number of persons as the Minister thinks fit and appointed after consultation with bodies representative of the interests concerned.

(B) Duties : To consider any matter affecting the sale or supply of coal, coke and manufactured fuel, which (a) is subject of representation made by consumers ; (b) appears to the Council to require consideration ; or (c) is referred to them by the Minister.

(C) Councils notify their conclusions to the Minister and if it appears to the Minister after consultation with the Board that a defect is disclosed in the Board's *general* arrangements for production, sale or supply, " he may give to the Board such directions as he may think requisite for remedying the defect."

(D) Regional Consumers' Councils may be appointed and dismissed by the Minister—and if appointed take over prescribed functions of the National Council in that region.

COLONIAL DEVELOPMENT : The Corporation must have particular regard to the interests of the inhabitants of any territory in which they carry on, or intend to carry on, their activities, and must appoint committees " charged with the duty of studying and keeping the Corporation informed as to the circumstances and requirements of the inhabitants in cases in which the appointment of such a committee appears to the Corporation to be needed for the proper discharge of (this) duty . . ." Such a committee must include persons being or having been inhabitants or residents of the territory concerned unless it appears to the Corporation to be impractical.

CIVIL AVIATION : An Air Transport Advisory Council may be constituted by Order in Council of His Majesty.

(A) The Chairman is appointed by Lord Chancellor (and must be a barrister, advocate or solicitor of not less than seven years' standing) ; plus not less than two nor more than four members

appointed by the Minister, of whom at least one must have experience of the operation of air transport services and at least one must have experience of operation of other transport services. No member of and no person employed by any one of the three air corporations may be a member.

(B) Duties : (i) “ to consider any representation from any person with respect to the adequacy of the facilities provided by any of the three corporations, or with respect to the charges for any such facilities ” ; but Council may ignore “ frivolous or vexatious ” representations, representations already sufficiently considered, or matters covered by international agreement.

(ii) to consider any question referred to it by the Minister in respect of facilities or charges or improvement of air transport services.

(C) The Council must be provided by the Minister with such information and assistance as he thinks expedient.

(D) The three Corporations must keep the Council informed of all services provided by them or which they intend to provide and of their charges.

(E) The Council must make an annual Report to the Minister, who must lay it before Parliament (each House) with a statement of action taken by him in consequence of recommendations made by the Council.

(F) Each of the three Corporations must appoint such advisory or executive committees as are necessary for the efficient discharge of its functions and, in particular “ for the purpose of securing that those functions are exercised with due regard to the circumstances and requirements of particular areas.”

ELECTRICITY : (A) Minister must appoint a Consultative Council for each Area composed of not less than 20 nor more than 30 persons, of whom

(i) not less than half nor more than three-fifths must be from a panel of persons being members of Local Authorities in the area nominated by such associations as appear to Minister to represent those Authorities ; and

(ii) the remainder must be appointed after consultation with such bodies as the Minister thinks fit to represent agriculture, commerce, industry, labour and the general interests of consumers of electricity and other persons or organisations interested in the development of electricity in the area.

In making such appointments Minister is to have particular regard to persons “ having both adequate knowledge of the requirements of the interests to be represented and also the ability

to exercise a wide and impartial judgment on the matters to be dealt with by the Council generally.

An M.P. cannot be Chairman but may be a member of a Consultative Council.

(B) Duties : to consider any matter affecting the distribution of electricity in the area, including the variation of tariffs and the provision of new or improved services and facilities within the area being a matter which is the subject of representation made to them by consumers or other persons requiring supplies of electricity within the area, or which appears to them to require consideration or is referred to them by the Area Board.

An Area Board must consider any Reports, conclusions or representations by the Council for its Area. A Council may, after consultation with the Board, make representations to the Central Authority. If Central Authority is satisfied, after consultation with the Board and the Council, that a defect is disclosed in the Board's general plans and arrangements, the Central Authority may give the Board such directions as they think fit for remedying the defect, and the Board must give effect to them.

A Council may, after representation to the Central Authority make representations to the Minister on any matters arising out of their representations to the Authority, and if after consultation with the Board and the Council it appears to the Minister that a defect has been disclosed in the Area Board's general plans and arrangements, he may notify the defect to the Central Authority, and the Authority must then give the Board such directions as it thinks necessary to remedy the defect, and the Board must give effect to such directions.

(C) Each Council must be informed by the Area Board of that Board's general plans and arrangements for exercising and performing their functions and may make representations thereon to the Board.

(D) Each Council must prepare and submit to the Minister a scheme for the appointment by them of committees or individuals to be local representatives of the Council. Their duty shall be to consider the particular circumstances and requirements of their localities with respect to the distribution of electricity and to make representations to the Council, and also to be available for receiving on behalf of the Council, representations from consumers in those localities.

(E) North of Scotland Board. This Board is treated as an Area Board for the purpose of the provisions establishing the Consultative Councils but the Secretary of State for Scotland is

the responsible Minister and representations are made to him and not to the British Electricity Authority. Otherwise the provisions just outlined in A to D apply to the North of Scotland Board. In addition this Board has two special advisory committees established by the Hydro-Electric Development (Scotland) Act, 1943, viz. an Amenity Committee and a Fisheries Committee, both appointed by the Secretary of State. Both Committees must be consulted by the Board in respect of the Constructional Schemes which it has to prepare under the terms of the 1943 Act. Schemes deal with such matters as the construction of new hydro-electric works. Each Committee may make recommendations to the Board which sends copies to the Secretary of State and to the British Electricity Authority saying whether it agrees to implement the recommendations. If not, the Secretary of State may require the Board to give effect to the recommendations. The Committees may also make recommendations at any other time on matters falling within their terms of reference which are broadly indicated by their respective titles.

GAS : Substantially the same as for Electricity—but upper limit to proportion appointed from panel of Local Authority nominees fixed at three quarters ; agriculture not mentioned as an interest to be represented ; representations from the Area Consultative Councils are made direct to the Minister and not first to a central body ; and if a Consultative Council represents that there is a defect in a Board's general plans and arrangements and after consultation with the Gas Council it appears to him there may be such a defect the representation must be referred by the Minister for inquiry and report by a person nominated by him after consultation with the Lord Chancellor (or the Secretary of State in case of the Scottish Gas Board) and only after considering this report may the Minister give the Area Board directions for remedying the defect.

OVERSEAS FOOD : Same as for Colonial Development.

RAW COTTON : none provided by Statute.

TRANSPORT : (A) Consultative Committees :

(i) There must be (a) a Central Transport Consultative Committee for Great Britain ;

(b) Transport Users' Consultative Committees for both goods and passenger traffic for Scotland and for Wales ; and

(c) a Transport Users' Consultative Committee for goods traffic and for passenger traffic either separately or jointly for areas to be determined by the Minister so that every part of Great Britain is within the area of a Committee.

(ii) The Minister may determine the number of persons to be appointed on each Committee. Each must have an independent Chairman and members appointed by the Minister (a) after consultation with bodies representative of agriculture, commerce, industry, shipping, labour and local authorities ; and (b) from among persons nominated by the Transport Commission who must include at least one member of the Commission in the case of the Central Committee ; and (c) two others if the Minister thinks fit.

(iii) Members of any Committee hold and vacate office according to the terms of their appointment.

(iv) Duties : Substantially the same as for coal but there is also a specific reference to matters being referred to the Committee by the British Transport Commission.

(v) The Central Transport Consultative Committee must make an annual report to the Minister who must lay a copy of it before each House of Parliament.

(B) The Transport Tribunal : The Railway Rates Tribunal established under the Railways Act, 1921 becomes the Transport Tribunal with substantially the same constitution (the former railway panel becomes a transport panel). The Tribunal takes over powers from the Railway and Canal Commission and replaces the Appeal Tribunal under the Road and Rail Traffic Act, 1933. The general relations between the Tribunal and the British Transport Commission in respect of the control of charges are as follows :

(i) The Commission must from time to time submit to the Tribunal a draft " charges scheme " dealing with the charges which are to be made by the Commission and any such draft scheme must be published.

(ii) Any body representative of any class of users (including any public body carrying on a nationalised industry which is a user and any Local Authority *re* passenger transport services) may object and shall be heard at the inquiry held by the Tribunal. In addition the Tribunal may hear any body concerned with providing services or facilities for hire or reward similar or comparable to those in the scheme which objects that the charges are unduly low.

(iii) Tribunal after holding an enquiry and hearing objections may refuse or confirm the draft scheme or approve it subject to amendments. When confirmed it is published and becomes operative from the date specified.

(iv) Applications to alter the scheme may subsequently be made to the Tribunal by the Commission or by bodies representative of

transport users, public bodies carrying on an industry under national ownership or control, or other persons whose interests will be affected by the alterations, and unless the Tribunal refuses to entertain the application it must be published and an inquiry be held at which the applicant and objectors must be heard. The Tribunal may also hear any body concerned with providing services or facilities for hire and reward similar to or comparable with the services or facilities to which the scheme relates who contend that the charges under it are unduly low. The Tribunal cannot entertain any such representations until twelve months after the coming into force of the scheme, or, if in their opinion the subject of the representation either has been considered by them within the previous twelve months, or is of such magnitude as to be treated by an amending scheme, or as part of a general review. After hearing the representations and the objections the Tribunal can make an amending order.

(v) The Minister may require the Tribunal to review the operations of any charges scheme where the usual classes of objectors have a right to make representations.

(vi) Neither the Commission nor the Tribunal must do anything concerning charges or charges schemes which in their opinion will prevent the Commission from securing the revenue sufficient to meet expenditure properly chargeable to revenue taking one year with another, or from giving effect to a direction of the Minister under the Act.

D. MINISTERIAL CONTROL

1. General

B.B.C. : (A) The sums paid by the Postmaster General to the B.B.C. (see page 43) must be applied and administered by the Corporation in accordance with any terms or conditions attached by Parliament or the Treasury.

(B) The B.B.C. must send out at its own expense from all or any station any announcement or other matter requested by a Department, providing that the B.B.C. may at its discretion announce that a named Department has ordered it to do so.

(C) The Postmaster General may by Notice in writing require the B.B.C. to refrain from sending any broadcast matter (either particular or general) specified in the Notice. Any such Notice may specify whether the B.B.C. may at its discretion announce that a Notice has been given.

(D) B.B.C. must send overseas programmes to such countries, in such languages and at such times as, after consultation with it,

are prescribed by any Department specified by the Postmaster General in writing, and with the approval of the Postmaster General and the Treasury.

(E) B.B.C. must "observe and perform such stipulations, conditions and restrictions and do such acts and things in relation to the Television Broadcasting Stations or the Television Service as from time to time may be prescribed by the Postmaster General in writing."

(F) Whenever in the opinion of the Postmaster General an emergency has arisen in which it is expedient for the public service that the Government shall have control over transmission from the stations; the Postmaster General may take possession of the stations (or any one or part of one) and prevent the B.B.C. from using them, and also cause the stations (or any one or part of one) to be used for His Majesty's service or take such steps as he may think fit to secure control over the stations and may authorise a person to take possession of them, including the offices and works of the Corporation, and to use them that way.

BANK OF ENGLAND : Treasury may give such directions to the Bank as, after consultation with the Governor of the Bank, they think necessary in the public interest.

COAL : S.3 of the Coal Industry Nationalisation Act provides :

"(1) The Minister may, after consultation with the Board, give to the Board directions of a general character as to the exercise and performance by the Board of their functions in relation to matters appearing to the Minister to affect the national interest, and the Board shall give effect to any such directions.

"(2) In framing programmes of reorganisation or development involving substantial outlay on capital account, the Board shall act on lines settled from time to time with the approval of the Minister.

"(3) In the exercise and performance of their functions as to training, education and research, the Board shall act on lines settled as aforesaid.

"(4) The Board shall afford to the Minister facilities for obtaining information with respect to the property and activities of the Board, and shall furnish him with returns, accounts and other information with respect thereto and afford to him facilities for the verification of information furnished, in such manner and at such times as he may require."

COLONIAL DEVELOPMENT : Substantially same wording as in S.3 (1) of Coal Nationalisation Act (see above) except that the words "to concern the public interest" are substituted for the words "to affect the national interest."

Section 9 (4) of the Overseas Resources Development Act, 1948 is very similar to Section 3 (4) of the Coal Industry Nationalisation Act, 1946, but the requirement extends to "proposed activities" and also covers "others" who carry on or propose to carry on activities with the assistance of or in association with the Corporation " (being information which is in the possession of the Corporation or can be obtained by them with reasonable facility or being returns giving such information)."

CIVIL AVIATION : Subsection (1) of the Coal Act quoted above, is reproduced substantially in S.5 of the Air Corporations Act, 1949.

ELECTRICITY : In general similar to coal for both the British Electricity Authority and the North of Scotland Board.

GAS : (A) The Minister may give to Area Boards generally or to a particular Area Board or to the Gas Council such directions of a general character as to the exercise or performance of their (its) functions as appear to the Minister to be requisite in the national interest and they (it) must give effect to any such directions. But before giving any such direction, the Minister must consult the Gas Council and before giving any direction to any individual Board the Minister must consult that Board.

(B) for schemes of reorganisation and development see page 29.

(C) for training, education and research see page 29. Schemes for training, education and research have to be settled after consultation with the Minister but not with his approval as is required for coal, electricity and transport.

(D) facilities for information—substantially the same as subsection (4) of section 3 of the Coal Industry Nationalisation Act quoted above but applying to both the Area Boards and the Gas Council.

OVERSEAS FOOD : Same as for Colonial Development.

RAW COTTON : Substantially the same wording as for coal but without subsections (2) and (3).

TRANSPORT : Subsections (1) to (3) of Section 3 of the Coal Industry Nationalisation Act (quoted above) are substantially reproduced in subsections (1) to (3) of Section 4 of the Transport

Act, 1947. S.4 (6) requires the Commission to furnish the Minister with "such returns, accounts and other information with respect to their property and activities as he may from time to time require."

2. Special Powers of Direction or Control

(See also under Finance : Borrowing ; Accounts and Audit ; and Annual Reports).

B.B.C. : Both the Charter and the licence contain many instances in which the approval of the Postmaster General is required before the B.B.C. may take certain action, e.g. to organise, provide or subsidise public entertainments ; to acquire any licence, concession, right or privilege from or enter into any arrangements with the Government of any Dominion or colony or any foreign country ; to broadcast any commercial advertisement or sponsored programme, etc. The Postmaster General may also prescribe the conditions under which non-British subjects shall be employed by the Corporation in the conduct of the services, etc. There are several provisions *re* the actual technical operation of the stations, e.g. height of masts, the frequencies and types of waves emitted, etc.

COAL : Minister may give (with Treasury approval) directions (a) in any matter relating to the establishment or management of the reserve fund ; and (b) as to the application of any surplus revenue, notwithstanding in either case the directions may be of a specific character.

COLONIAL DEVELOPMENT (A) The Minister may give the Corporation directions as to the disposal of capital assets and, with Treasury approval, as to the application of the proceeds of such disposals notwithstanding that the directions may be of a specific character.

(B) The Corporation cannot establish, or assist or participate in the establishment of, a new undertaking in any territory until such measures for consultation with the Government of the territory as appear to the responsible Minister to be appropriate have been taken.

(C) Substantially the same as Coal *re* establishment and management of reserve fund.

(D) The Corporation may apply any surplus revenue for such purposes as they may determine with the approval of the Minister given with Treasury consent.

CIVIL AVIATION : (A) The Minister may give directions to secure that aircraft used by the Corporation are registered in some part of His Majesty's Dominions.

(B) The Minister may by Order limit the powers of any one of the Corporations by providing that any power specified in the Order shall not be exercised except in accordance with a general or special authority given by him. The purpose of this is to secure that the public are properly informed as to the general nature and scope of the activities in which the Corporation may engage and the order cannot prejudice the generality of the Corporation's powers.

(C) The Minister by regulations shall provide for one or more pension schemes.

(D) The Minister, with the approval of the Treasury, and subject to the provisions of the Air Corporations Act, 1949, may by regulation prescribe conditions under which stock shall be issued, transferred, dealt with and redeemed.

(E) Substantially the same as coal *re* reserve funds, but treatment of surplus revenues differs. Surplus must be applied in manner Minister directs, after consultation with Chairman of the Corporation concerned and with Treasury approval. (Proviso—the Minister may not order a Corporation to pay into the Exchequer more than it has received by way of Exchequer grant under the Civil Aviation Act, 1946 or the Air Corporations Act, 1949).

ELECTRICITY : (A) Minister may define and vary areas.

(B) Minister may issue directions *re* use or disposal of any assets not connected with the generation, transmission or distribution of electricity. (Applies also to Area Boards).

(C) Minister has powers to authorise compulsory acquisition by the Area Boards of land and to consent to the promotion and opposition by Boards of Bills in Parliament.

(D) Substantially the same as for Coal *re* reserve fund and disposal of surplus revenue.

NORTH OF SCOTLAND BOARD. For many purposes the statutory relations between the North of Scotland Board and the Minister are the same as those prescribed for the British Electricity Authority and the Minister, though the the Minister concerned is usually the Secretary of State for Scotland and not the Minister of Fuel and Power. But there are certain important differences.

The North of Scotland Board, for example, must prepare Constructional Schemes which require the confirmation of the Secretary of State. The prices to be charged by the Board must be in accordance with regulations made by the Secretary of State after consultation with the B.E.A. Approval of the Secretary of State is required before the Board may apply surplus revenue in payment of expenses chargeable to capital account.

GAS : (A) Minister may define and vary areas.

(B) Minister may, after consultation with the Gas Council and the Area Board concerned, give any Area Board directions as to use or disposal of any assets vested in the Board not connected with the exercise of the Board's powers under Section 1 of the Act.

(C) Minister has power to authorise compulsory acquisition of land by the Area Boards ; to consent to the promotion and opposition by Boards or the Council of Bills in Parliament ; to make regulations *re* pension rights, compensation of officers who suffer loss of employment, etc.

(D) Minister is usually required to approve schemes prepared by the Council in respect of the financial relations between the Area Boards and the Council.

(E) Substantially the same as Coal *re* general reserve fund, but not as regards disposal of surplus revenue.

OVERSEAS FOOD : Same as for Colonial Development.

RAW COTTON : Substantially the same as coal *re* reserve fund.

TRANSPORT : (A) Minister has powers *re* acquisition by Transport Commission of certain types of transport undertaking ; acquisition of undertakings by agreement ; consent *re* compulsory acquisition of land ; consent *re* promotion and opposition of Parliamentary Bills ; schemes for road passenger transport, etc.

(B) The Minister's approval is required for schemes made by the Commission of delegation to any Executive.

(C) Minister may, after consultation with the Commission, "direct the Commission to discontinue any of their activities, dispose of any part of their undertaking, dispose of any securities held by them, etc., call in any loan made by them or exercise any power they may possess to revoke any guarantee given by them " if he is satisfied that such activity etc. on part of the Commission is unnecessary for the proper discharge of their duties.

(D) Substantially the same as Coal *re* reserve fund.

E. FINANCE

1. General Financial Position

B.B.C. : For purpose of home broadcasting services (sound and television) the Postmaster General must pay B.B.C. in respect of the last fifteen months of the term of the present licence, 100 per cent of the net licence revenue. For purpose of overseas broadcasting services and other services performed at the request of any Department, Postmaster General must pay B.B.C. such sums as Treasury authorise. (Net licence revenue equals total receipts from broadcasting receiving licences less a percentage, to be fixed by the Postmaster General, adequate to cover any expenses incurred by him in relation to broadcasting (including cost of collection.) The figure for 1946-49 was 6 per cent which was raised to 7½ per cent in 1950.

COAL : Policy of the Board must be directed to securing, consistently with the proper discharge of their duties, that the revenues of the Board shall not be less than sufficient for meeting all their outgoings properly chargeable to revenue account (including interest and contributions to reserve fund) on an average of good and bad years.

CIVIL AVIATION : Provision is made for Exchequer grants up to a limit of £8 million per annum to be paid until April, 1956 to meet deficits. (For 1946/7 and 1947/8 the maximum was £10 million).

COLONIAL DEVELOPMENT : The Corporation must so exercise and perform their functions as to secure that their revenues are not less than sufficient to meet all sums properly chargeable to their revenue account (including repayment of and interest upon loans and the establishment of a reserve fund) taking one year with another.

ELECTRICITY : "It shall be the duty of the Central Authority so to exercise and perform their functions under this Act, including their functions in relation to Area Boards, as to secure that the combined revenues of the Central Authority and all the Area Boards taken together are not less than sufficient to meet their combined outgoings properly chargeable to revenue account taking one year with another." (Section 36 (1)).

The corresponding section of the Hydro-Electric Development (Scotland) Act, 1943, as subsequently amended, which governs the North of Scotland Board requires that the "prices to be charged . . .

shall be determined by them in accordance with regulations made by the Secretary of State after consultation with the British Electricity Authority, so however that the proceeds of the sale of electricity together with other revenues of the Board may so far as can be estimated equal over a term of years to be approved by the Secretary of State the sums required for meeting any expenditure which the Board may properly charge to revenue." (See also North of Scotland Hydro-Electric Board (Charges) Regulations, 1946 (S.R. & O.1946, No. 1555/S.58)).

GAS : Each Area Board must exercise and perform its functions under the Act as to secure that its revenues are not less than sufficient to meet its outgoings properly chargeable to revenue account, taking one year with another. The Gas Council must also do the same in respect of its powers to manufacture plant or gas fittings.

OVERSEAS FOOD : Same as for Colonial Development.

RAW COTTON : Substantially same wording as for Coal.

TRANSPORT : " All the business carried on by the Commission, whether or not arising from undertakings or parts of undertakings vested in them by or under any provision of this Act, shall form one undertaking, and the Commission shall so conduct that undertaking and, subject to the provisions of this Act, levy such fares, rates, tolls, dues and other charges, as to secure that the revenue of the Commission is not less than sufficient for making provision for the meeting of charges properly chargeable to revenue, taking one year with another." (Section 3 (4)).

2. Borrowing

B.B.C. : May borrow up to a limit of £1 million outstanding at any one time (but in doing so they must not mortgage property or rights held exclusively for the overseas service).

COAL : (a) Minister may make advances to the Board for the purpose of defraying capital expenditure, including provision for working capital—limited to £150 million in first five years from commencement of the Act.

(b) Board may (with consent of Minister or in accordance with any general authority given by him) borrow temporarily by

way of overdraft or otherwise for meeting their obligations and discharging their functions—limited to £10 million outstanding at any time.

CIVIL AVIATION : Each Corporation may, with Treasury consent, borrow temporarily or, for stated purposes, by issue of stock.

The statutory maxima for the amount outstanding at any one time of stock and temporary loans are :

B.E.A.C.	£20 million
B.O.A.C.	£60 million

(The maxima exclude borrowing to redeem stock or to pay off a temporary loan).

COLONIAL DEVELOPMENT : The Corporation may borrow with the Minister's approval, given with Treasury consent as to the amount, sources and terms, up to £10 million outstanding at any one time for temporary loans and up to £100 million outstanding at any one time for other loans. The Minister, with Treasury consent, can make advances to enable the Corporation "to defray expenditure properly chargeable to capital account, including defraying initial charges and provision of working capital" up to the maximum of £100 million outstanding at any one time.

ELECTRICITY : The B.E.A. and any Area Board may borrow temporarily with consent of Minister and with the approval of the Treasury "such sums as the borrowing Authority or Board may require for meeting their obligations or discharging their functions under this Act." The B.E.A. may with Minister's consent and Treasury approval issue British Electricity Stock for stated purposes up to limit of £700 million outstanding at any time (including temporary loans but excluding original compensation and any sums required to redeem stock or repay temporary borrowings).

The North of Scotland Board may issue its own stock and borrow subject to approval up to limit of £100 million, including temporary borrowing but excluding stock issued to the B.E.A. in return for compensation paid to acquired undertakings.

GAS : Substantially the same as for Electricity with the Gas Council having the power to issue British Gas Stock up to a maximum of £250 million for the total outstanding at any one time of Gas Stock (otherwise than for the original compensation) and of temporary loans raised by the Council and the Area Boards.

OVERSEAS FOOD : Same as Colonial Development except that maxima are fixed at £5 million and £50 million for temporary and for other borrowings respectively.

RAW COTTON : Substantially the same as for coal, but limit for advances from Board of Trade is placed at £75 million plus the net value of property, rights and liabilities constituting the initial advance to the Commission (for meeting outgoings on revenue account) and at £10 million (for meeting outgoings on capital account) with a limit of £10 million for temporary borrowing.

TRANSPORT : The Commission, with consent of the Minister and of the Treasury may borrow temporarily up to £25 million and issue British Transport Stock for stated purposes up to £250 million (excluding original compensation and redemption of any British Transport Stock).

3. Treasury Guarantee

CIVIL AVIATION : Treasury may guarantee redemption or repayment of, and payment of interest on, any stock issued and also temporary loans.

COLONIAL DEVELOPMENT AND OVERSEAS FOOD : Treasury may guarantee in such manner, and on such conditions as they think fit the payment of principal and interest on any authorised borrowings of the Corporations.

ELECTRICITY, GAS AND TRANSPORT : Principal of and interest on stock issued as compensation for original acquisition must be guaranteed by Treasury : subsequent stock or temporary borrowing may be guaranteed.

GENERAL NOTE : In any case where a Treasury guarantee is given the Treasury must immediately lay a statement before each House, and again should any sum need to be paid out of the Consolidated Fund under the guarantee. In the case of the two airways Corporations, the Colonial Development and the Overseas Food Corporations, and the North of Scotland Hydro-Electric Board, the latter statement must continue to be made annually to both Houses until the payment has been discharged.

4. Taxation

BANK OF ENGLAND : In charging the profits and gains of the Bank for the purposes of income tax for any year of assessment, the sums paid by the Bank to the Treasury in lieu of dividends on Bank Stock in that year shall be allowed as a deduction.

COAL : "Nothing in this Act shall be deemed to exempt the Board from liability for any tax, duty, rate, levy or other charge whatsoever, whether general or local."

CIVIL AVIATION : Similar to Coal.

COLONIAL DEVELOPMENT AND OVERSEAS FOOD : No reference in the Overseas Resources Development Act, 1948.

ELECTRICITY AND GAS : Same as for coal except Section 52 of the Finance Act, 1946 (which exempts from stamp duty certain documents connected with nationalisation schemes) is made to cover transfers of property between the Electricity Boards or between the Gas Boards (including the Gas Council).

TRANSPORT : Similar to coal.

F. ACCOUNTS AND AUDIT

B.B.C. : The Corporation must prepare an annual Account of its income and expenditure and a balance sheet. These and the accounts of the Corporation must be audited by chartered accountants approved by the Postmaster General. The Account and the Balance Sheet must be submitted to the Postmaster General for his consideration and presentation to Parliament.

The Corporation must allow the Postmaster General or his nominees to examine its accounts and furnish them with "all forecasts, estimates, information and documents which they may require with regard to the financial transactions and engagements of the Corporation."

The Corporation's accounts of expenditure on the Overseas Services are to be open to inspection by the Comptroller and Auditor General (see Treasury Minute given at page 6 of the 7th Report of Select Committee on Estimates, 1947).

BANK OF ENGLAND : None prescribed by 1946 Act.

COAL : Section 31 prescribes :

"(1) The Board shall keep proper accounts and other records in relation thereto, and shall prepare in respect of each financial year of the Board a statement of accounts in such form as the Minister may direct, being a form which shall conform with the best commercial standards and which shall distinguish the colliery activities and each of the main ancillary activities of the Board.

(2) The accounts of the Board shall be audited by auditors to be appointed annually by the Minister.

(3) So soon as the accounts of the Board have been audited, they shall send a copy of the statement of accounts referred to in subsection (1) of this section to the Minister together with a copy of any report made by the auditors on that statement or on the accounts of the Board.

(4) The Minister shall lay a copy of every such statement and report before each House of Parliament."

CIVIL AVIATION : Substantially the same as for Coal, but accounts required to distinguish " between provision of air transport facilities upon scheduled journeys, the provision of air transport facilities otherwise than upon such journeys, and the carrying out of aerial work which does not consist of the provision of air transport facilities."

COLONIAL DEVELOPMENT : Substantially same as for Coal but

(A) The Minister requires Treasury approval for the form of accounts he prescribes, and

(B) The auditor appointed must be a member of one or more of seven named Societies of professional accountants.

ELECTRICITY : Substantially the same as for Coal, but applying to both the Central Authority and the Area Boards and " giving separate information as respects the generation of electricity, the distribution of electricity and each of the other main activities of the Board concerned and to show as far as may be the financial and operating results of each such activity."

Also the auditor appointed must be a member of one or more of six named Societies of professional accountants.

Substantially same provisions apply to the North of Scotland Board except that the auditor appointed need not be a member of a prescribed Society of professional accountants.

GAS : Substantially the same as for Coal, but applying to both the Area Boards and the Gas Council and requiring the " provision of separate information as respects each of the main activities of the Board concerned or of the Council and to show as far as may be the financial and operating results of each such activity."

Also the auditor appointed must be a member of one or more of seven named societies of professional accountants.

OVERSEAS FOOD : Same as for Colonial Development.

RAW COTTON : Substantially the same as for Coal.

TRANSPORT : Substantially the same as for Coal. Separate information must be given in respect of the principal activities of the Commission.

G. ANNUAL REPORTS

B.B.C. : B.B.C. must submit annual report to Postmaster General, who must present it to Parliament.

BANK OF ENGLAND : None prescribed by 1946 Act or Charter.

COAL : S.54 of the Act provides :

“(1) The Board shall, as soon as possible after the end of each financial year of the Board, make to the Minister a report on the exercise and performance by them of their functions during that year and on their policy and programmes, and the Minister shall lay a copy of every such report before each House of Parliament.

(2) The report for any year shall set out any direction given by the Minister to the Board during that year unless the Minister has notified to the Board his opinion that it is against the national interest so to do.”

In addition both the Industrial and the Domestic Coal Consumers' Councils must make an annual report to the Minister, who must lay them before each House of Parliament.

CIVIL AVIATION : Substantially the same as for Coal. But in addition each Corporation must submit before the beginning of each planning period (i.e. each three year period beginning 1st April, 1947) a programme of the air transport services which the Corporation proposes to provide and of any other activities in which it proposes to engage during that period as well as an estimate of the receipts of the Corporation and its expenditure on revenue and capital account during the period.

COLONIAL DEVELOPMENT : Substantially same as for Coal but

(A) The adjective “ full ” is inserted before “ report ” ;

(B) there is no requirement about “ policy and programmes, ” and

(C) The words “ national security ” are substituted for “ national interest.”

ELECTRICITY : Substantially the same as for Coal, the important differences being :

(A) the phrase “ national security ” is used instead of “ national interest ” in the equivalent of subsection (2).

(B) there is no statutory provision requiring Consultative Councils to submit an annual report ;

(C) every Area Board must submit an annual report to the Central Authority which in turn transmits these with its own report to the Minister who must submit the whole to Parliament.

(D) The Minister must lay before each House a report with respect to the exercise of his functions during the year under the Act and under the Electricity Acts, 1882—1936.

GAS : Substantially same as S.54(1) and (2) as for coal but (A) “ national security ” is used instead of “ national interest ” : (B) the duty is placed individually on every Area Board and the Gas Council ; (C) the Minister may give directions as to the form of the reports to be made ; (D) a Gas Consultative Council must submit an annual report to the Area Board for its area and the Board must include the report in its own report for the year, and ; (E) the Minister must at the same time as he lays the reports of the Boards and the Council before each House of Parliament also lay “ a report with respect to the exercise of his functions during that year under this Act except as regards matters which in his opinion it is against the interests of national security to disclose.”

The Minister must also lay before each House a statement of the remuneration and allowances payable to members of the Gas Council and Area Boards and also notify each House of all subsequent changes.

OVERSEAS FOOD : Same as for Colonial Development.

RAW COTTON : Substantially the same as S.54 of the Coal Act already quoted.

TRANSPORT : Substantially the same as for Coal but : (A) the phrase “ national security ” is used instead of “ national interest ” in subsection (2) ; (B) the Report must include a statement of the salaries, fees and emoluments of the members of the Commission ; (C) the Transport Commission must render to the Minister periodical statistics and returns of their principal activities and Minister must lay a copy before each House.

H. LABOUR RELATIONS.

In each of main nationalisation Acts there is a section placing certain duties on the Board to establish machinery for negotiation and consultation on matters concerning conditions of employment, etc.

COAL : Section 46 of the Coal Industry Nationalisation Act, 1946 reads as follows :—

“ 46.—(1) It shall be the duty of the Board to enter into consultation with organisations appearing to them to represent substantial proportions of the persons in the employment of the Board, or of any class of such persons, as to the Board's concluding with those organisations agreements providing for the establishment and maintenance of joint machinery for:—

- (a) the settlement by negotiation of terms and conditions of employment, with provision for reference to arbitration in default of such settlement in such cases as may be determined by or under the agreements ; and
- (b) consultation on :—
 - (i) questions relating to the safety, health or welfare of such persons ;
 - (ii) the organisation and conduct of the operations in which such persons are employed and other matters of mutual interest to the Board and such persons arising out of the exercise and performance by the Board of their functions.

(2) The Board shall deposit with the Minister and the Minister of Labour and National Service copies of any such agreement as aforesaid entered into by the Board and of any instrument varying the terms of any such agreement.

CIVIL AVIATION, ELECTRICITY, GAS AND TRANSPORT : The more usually worded section is found in Section 20 of the Air Corporations Act, 1949 (reproducing Section 19 of the Civil Aviation Act, 1946):—

20.—(1) It shall be the duty of each of the corporations, except in so far as the corporation are satisfied that adequate machinery exists for achieving the purposes of this subsection, to seek consultation with any organisation appearing to the

corporation to be appropriate with a view to the conclusion between the corporation and that organisation of such agreements as appear to the parties to be desirable with respect to the establishment and maintenance of machinery for :—

- (a) the settlement by negotiation of terms and conditions of employment of persons employed by the corporation, with provision for reference to arbitration in default of such settlement in such cases as may be determined by or under the agreements ; and
- (b) the discussion of matters affecting the safety, health and welfare of persons employed by the corporation, and of other matters of mutual interest to the corporation and such persons, including efficiency in the operation of the corporation's services.

(2) Where any of the corporations conclude such an agreement as is mentioned in the last preceding sub-section, or any variation is made in such an agreement, the corporation concerned shall forthwith transmit particulars of the agreement or the variation to the Minister and the Minister of Labour and National Service.

Substantially the same wording, suitably modified to suit the circumstances of the industry, is found in S.53 of the Electricity Act, 1947 ; S.57 of the Gas Act, 1948, and S.95 of the Transport Act, 1947. (In these three Acts the reference is to “ the promotion and encouragement of measures affecting the safety, etc.” and not to “ the discussion of matters affecting the safety, etc.”).

It will be noticed that the wording in the Coal Act differs from the wording in the other Acts in two ways :—

- (i) whereas the other Acts refer to “ any organisation appearing to them to be appropriate,” the Coal Act refers to “ organisations appearing to them to represent substantial proportions of the persons in the employment of the Board or of any class of such persons . . . ”
- (ii) the Coal Act refers to consultation on “ the organisation and conduct of the operations in which such persons are employed . . . ”, whereas in the other Acts this aspect of consultation is brought in at the end of a sub-section dealing with safety, health and welfare by the words “ including efficiency in the operation of the Commission's services.”

COLONIAL DEVELOPMENT AND OVERSEAS FOOD CORPORATIONS :
Section 8 of the Overseas Resources Development Act, 1948,
reads :—

“ 8.—(1) The Corporation shall take all practicable steps to secure :—

(a) the safety, health and welfare of persons in their employment or in the employment of others in activities carried on with the assistance of the Corporation or in association with them ; and

(b) the benefit of practical knowledge and experience of such persons in the organisation and conduct of the activities in which they are employed.

(2) In the performance of their duty under the preceding subsection, and in dealing with matters affecting terms or conditions of employment, the Corporation shall seek consultation :—

(a) with persons or bodies appearing to them to represent, or to have qualifications to speak on behalf of, substantial numbers of the employees affected ;

(b) where the matter in question arises in connection with the carrying on of activities in a colonial territory, with the Government of the territory.

BANK OF ENGLAND, B.B.C. AND RAW COTTON COMMISSION :
There are no similar provisions in respect of the Bank of England, the British Broadcasting Corporation or the Raw Cotton Commission.

Iron and Steel

The Iron and Steel Act, 1949 had passed through all its legislative stages by the 24th November, 1949 but two provisions prevented the whole of the Act from coming into immediate effect :

- (i) the proposed Iron and Steel Corporation of Great Britain could not be appointed before the 1st October, 1950 ; and
- (ii) the securities of the companies to be nationalised could not be vested in the proposed Corporation before the 1st January, 1951 “ or such date later, but not more than twelve months later, than the date aforesaid, as the Minister may by order substitute . . . ”

On the 14th September, 1950, the Minister of Supply announced in the House of Commons that appointments to the Iron and Steel Corporation were to be made on Monday, 2nd October, 1950. He added that he proposed to consult the members of the new Corporation about the earliest convenient date for taking over the securities of the various iron and steel companies named in the Third Schedule of the Act. Vesting date was subsequently fixed for February 15th, 1951.

The provisions of the Act analysed in the manner adopted for the other industries are as follows :—

A. CONSTITUTION

(1) APPOINTMENT

Members of the Iron and Steel Corporation are appointed by the Minister of Supply.

(2) NUMBER OF MEMBERS

Chairman and not less than six nor more than 10 other members.

(3) QUALIFICATIONS OF MEMBERS

“ Persons who have had wide experience of, and shown capacity in, the production of iron ore or iron or steel, industrial, commercial, or financial matters, administration or the organisation of workers.”

IRON AND STEEL

(4) DISQUALIFICATIONS

- (a) Membership of the House of Commons.
- (b) financial or other interest likely to affect prejudicially the exercise or performance of the functions of a member (any member who is interested directly or indirectly in any contract made or proposed to be made by the Corporation must disclose the nature of his interest at a meeting of the Corporation, the disclosure must be recorded in the minutes and the member must take no part in any deliberation or decision by the Corporation in the contract).

(5) TERMS OF APPOINTMENT AND TENURE

Every member "shall hold and vacate his office in accordance with the terms of his appointment . . ."

The standard letter of appointment used by the Minister of Supply for the Iron and Steel Corporation was given in full to the House of Commons on the 19th September, 1950. Paragraph 2 of the Minister's letter contains the words "your office may be declared by me to be vacant at any time if, in my opinion, you are for any cause whatsoever unable or unfit to discharge the functions of a member ; and upon my giving to you notice in writing of the fact your office shall become vacant and your appointment determined."

(6) DISMISSAL

No specific statutory provision for dismissal but see Terms of Appointment and Tenure.

(7) SALARIES

Salaries of members of the Corporation and their pensions on retirement or death are to be fixed by the Minister, with the approval of the Treasury. Statement giving the remuneration and allowances of the members ; the subsequent changes made in these payments and the payment of any pension must be laid before both Houses of Parliament.

B. AREA BOARDS AND EXECUTIVES

(a) PUBLICLY-OWNED COMPANIES.

Unlike the case of most of the other nationalisation Acts, e.g. coal, the Iron and Steel Act when in operation will not abolish

the identity of the companies to be nationalised ; these companies continue in existence and are not merged into the Corporation. Moreover these companies continue to be limited liability companies registered under the Companies Act, 1948, with their own share capital, memoranda and articles of association, boards of directors, etc. The Ninth Schedule of the Iron and Steel Act modifies the application of certain provisions of the Companies Act, 1948 to these publicly-owned companies. These modifications are largely consequential upon the transfer to public ownership or are designed to facilitate control by the Corporation. For example, directors of these publicly-owned companies are not required to have a specified share qualification ; the number of shareholders may be less than seven without bringing the company under the provisions of the Companies Act concerned with private companies ; and meetings of the companies may be called by the Corporation and held in such manner as the Corporation may determine and there is a quorum if the Corporation is represented. In other words the Iron and Steel Corporation is to be a holding company holding all the securities in these publicly-owned companies and controlling their affairs in broadly the same way as would a private holding company in similar circumstances. The Corporation will thus elect all the directors of the publicly-owned companies.

96 companies are listed in the Third Schedule of the Act and these will constitute the first publicly-owned companies but the number may be changed by the processes of winding-up, amalgamation, capital re-organisation carried out by the Corporation in the way prescribed by the Companies Act, 1948 subject to any modifications made by the Iron and Steel Act. The Act however requires the Corporation to exercise their powers so as "to secure the largest measure of decentralisation consistent with the proper discharge by the Corporation of their duties." It is the Corporation and not the publicly-owned companies which is the statutory body. The Minister deals with the Corporation and it is the Corporation and not the companies which is given power to acquire land compulsorily. It is the Corporation which has power to issue Stock but the publicly-owned companies are given power to borrow temporarily. Both the Corporation and the companies will have to keep accounts, the latter under the Companies Act, 1948 ; the Corporation has to present a consolidated statement of accounts to the Minister for submission to Parliament while the companies will also have to file their accounts, auditors' reports, etc., with the Registrar of Companies in accordance with the law governing all limited liability companies. By a special provision the Corporation is made liable for the debts of the publicly-owned companies, i.e., the whole of the resources of the Corporation and not just its capital holding in the company are liable.

C. CONSUMERS' COUNCIL

An Iron and Steel Consumers' Council has to be established.

The Council is to be composed of an independent Chairman appointed by the Minister ; not less than 15 nor more than 30 other persons appointed by the Minister after consultation with such bodies as he thinks fit to represent the interests of consumers of the products of any of the principal activities of the Corporation and the publicly-owned companies ; and two members of the Corporation nominated by the Corporation. The Chairman of the Council cannot also be a member of the House of Commons. Members hold office in accordance with the terms of their appointment. The Chairman may receive a salary or fees for his work and all members are entitled to payment of expenses, and for loss of remunerative time.

The Council is to consider any matter affecting the interests of consumers, including prices, either upon representations of any of the consumers, the Corporation, the Minister or on its own initiative. Where the Council thinks action by the Corporation is necessary it reports to the Corporation. It may also make representations to the Minister and of course where the matter has been referred to it by either the Minister or the Corporation it reports to the Minister or Corporation. In any case copies of reports or representations to the Minister are to be sent also to the Corporation and copies of reports to the Corporation must also go to the Minister. The Minister may give directions to the Corporation on any matter arising out of the Council's conclusions or representations.

The Council is to make an annual report to Minister on the exercise of its functions and the Minister must then lay the report before Parliament.

There are two features special to the Iron and Steel Consumers' Council :

- (i) At the request of not less than six members of the Council the Chairman must call a meeting at which the nominees of the Corporation shall not be entitled to be present. But no report or representation upon the matters discussed can be made to the Minister unless approved at a meeting of the Council at which the Corporation's nominees were entitled to be present.
- (ii) Certain small scale iron and steel activities are not subject to nationalisation and can be carried on by private concerns provided the Minister grants a licence. An applicant for a licence may make representations to the Consumers' Council who must consider them and make recommendations to the Minister.

D. MINISTERIAL CONTROL

1. GENERAL

The main powers of the Minister in relation to the Corporation combine the main features of the general ministerial powers found in one or other of the nationalisation Acts, but as the precise wording is significant Section 4 of the Iron and Steel Act, 1949, is reproduced in full :—

“ 4.—(1) The Minister may, after consultation with the Corporation, give to the Corporation directions of a general character as to the exercise and performance by the Corporation of their functions (including the exercise of rights conferred by the holding of interests in companies) in relation to matters which appear to him to affect the national interest, and the Corporation shall give effect to any such directions.

“(2) In carrying out any such measure of reorganisation or any such work of development as involves substantial outlay on capital account, and in securing the carrying out by publicly-owned companies of any such measure or work, the Corporation shall act in accordance with a general programme settled from time to time with the approval of the Minister.

“(3) In making or securing provision for the training and education of persons employed by the Corporation or any publicly-owned company, and for research, the Corporation shall act in accordance with a general programme settled as aforesaid.

“(4) Without prejudice to the preceding provisions of this section, the Minister may, after consultation with the Corporation, direct the Corporation :—

- (a) to discontinue or restrict any of their activities or to dispose of any part of their assets ; or
- (b) to secure the discontinuance or restriction of any of the activities of a publicly-owned company, or the disposal of the whole or any part of the assets of any such company, or the winding up of any such company ;

and the Corporation shall give effect to any such direction :
Provided that :—

- (i) the Minister shall not give any direction under this subsection unless he is satisfied that it can be given effect to without prejudice to the proper discharge of the duties of the Corporation under this Act ; and
- (ii) after the expiration of five years from the general date of transfer, a direction under this subsection shall only be given by order.

“(5) The Corporation shall furnish the Minister with such returns, accounts and other information with respect to their property and activities, and the property and activities of the publicly-owned companies, as he may from time to time require.

“(6) Without prejudice to the provisions of the last preceding subsection, the Corporation shall, as soon as possible after the end of each financial year of the Corporation, make to the Minister a report on the exercise and performance by the Corporation of their functions during that year and on their policy and programme, and the report shall include a general account of the activities of the publicly-owned companies, and the Minister shall lay a copy of every such report before each House of Parliament.

“(7) The report made under the last preceding subsection for any year shall set out any direction given by the Minister to the Corporation during that year unless the Minister has notified to the Corporation his opinion that it is against the interests of national security to do so or the Minister accepts the contention of the Corporation that it is contrary to the commercial interests of the Corporation to do so.”

2. SPECIAL POWERS OF DIRECTION AND CONTROL

The Minister has power (subject to Treasury approval) to give directions to the Corporation about the management or application of the general reserve fund which the Corporation has to establish. The purposes of this general reserve are prescribed in the Act : to check undue fluctuations in prices and to finance works properly chargeable to capital.

For the Minister's power of direction in respect of recommendations by the Consumers' Council see page 57 ; for his powers *re* audit and accounts see pages 60-61 ; and *re* borrowing see page 60.

The Minister's consent is required by the Corporation before it may promote a Bill or compulsorily acquire land.

E. FINANCE

(The provisions are virtually the same as those found in the Electricity, Gas and Transport Acts but are set out below for sake of convenience).

1. GENERAL FINANCIAL POSITION

The Corporation is to exercise these functions so as to secure that the combined revenues of the Corporation and all the publicly-owned companies taken together shall not be less than sufficient

to meet their combined outgoings properly chargeable to revenue account, taking one year with another.

Under Section 5 of the Act, however, the Minister, with Treasury approval, may pay to the Corporation a subsidy in respect of imported iron and steel where the imports have been acquired with the Minister's approval and their cost, including transport and import duties, exceeds the price at which such imported materials or iron and steel are sold in Great Britain by the Corporation (Payment would of course still be subject to Parliament appropriating money for this purpose).

2. BORROWING

The Corporation, with the consent of the Minister and the approval of the Treasury, and the publicly-owned companies with the consent of the Corporation may borrow temporarily by way of overdraft or otherwise. The Corporation may (subject to Ministerial consent and Treasury approval) issue British Iron and Steel Stock for stated purposes up to a limit of £350 million outstanding at any one time (including temporary loans raised by the Corporation and the publicly-owned companies but excluding money raised for the purpose of repaying existing Stock or loans and the Stock issued as compensation to the shareholders of the acquired companies.

3. TREASURY GUARANTEE

Principal of and interest on stock issued as compensation for original acquisition must be guaranteed by the Treasury. Subsequent stock or borrowing may be so guaranteed. If a guarantee is given the Treasury must immediately lay a statement before both Houses of Parliament notifying them of that fact. If the Treasury have to pay out any sum as a result of the guarantee this must be notified to both Houses.

4. TAXATION

The Corporation and the publicly-owned companies are liable to taxation, national or local, in the normal way.

F. ACCOUNTS AND AUDIT

The statutory provisions governing accounts and audit are very similar to those governing the other nationalised industries. The Corporation must keep proper accounts and other records in such form as the Minister, with Treasury approval, shall direct, being a form conforming with the best commercial standard. The accounts are to be audited by an auditor appointed by the

Minister and the auditor must be a member of one or more of seven specified bodies of professional accountants. Copies of the accounts and auditor's report must be sent to the Minister who must lay them before both Houses of Parliament.

But there are provisions peculiar to iron and steel. The publicly-owned companies being companies registered under the Companies Act, are also subject to the provisions of that Act governing the form of audit and publication of accounts. This means among other things that each publicly-owned company will have to have its own profit and loss account and balance sheet and these will have to be sent annually with other information to the Registrar of Joint Stock Companies.

G. ANNUAL REPORTS

For the general provisions see subsections 6 and 7 of Section 4 of the Iron and Steel Act, 1949, quoted in full earlier under Ministerial Control at page 59.

For the annual report of the Iron and Steel Consumers' Council see page 57.

For the annual account and auditor's report see page 60.

In addition the Corporation must "compile and publish periodical statistics and returns relating to each of the principal activities of the Corporation and publicly-owned companies" and the Minister may give directions as to their form and manner of publication.

H. LABOUR RELATIONS

Section 39 of the Iron and Steel Act is substantially the same as Section 53 of the Electricity Act and the corresponding sections in certain other national Acts (for which see pages 51-53 above). It covers the Corporation and the publicly-owned companies and the Corporation may carry out the obligation under the Section either directly or by exercising control over the publicly-owned companies.

Cable and Wireless

The Cable and Wireless Act, 1946, provided for the compulsory transfer to the Government of that part of the share capital of Cable and Wireless Ltd. which was not already thus owned. The transfer took place on the 1st January, 1947. The Commonwealth Telegraphs Agreement of May, 1948, subsequently resulted in further changes in the distribution of the ownership of the Company's assets. Both these developments arose out of Conferences between Governments of the Commonwealth.

The present position can be seen best against a background of the position in 1946 and the changes brought about by the 1946 Act.

POSITION IN 1946. Cable and Wireless Ltd. was originally incorporated in 1929 as a result of the recommendations of the Imperial Wireless and Cable Conference, 1928. It was established to operate various telecommunication services (wireless and cable) including those between members of the Commonwealth. Certain telecommunication undertakings in the Commonwealth were not acquired immediately by the new Company, but during the 1930's the Company extended its range of interests in the Dominions and India. In 1946, therefore, it operated directly, or through its subsidiary companies, most of the cable and external wireless telegraph services in the Commonwealth.

Cable and Wireless Ltd. is a limited company registered under the Companies Acts in the same manner as other limited companies. It has an authorised and issued capital of 30,000,000 shares of £1 each, each fully paid. There were, however, certain provisions contained in an agreement (known as the Treasury Agreement of 1929) between the Company and the British Government which gave the concern the character of a semi-public utility company. They were :—

- (1) The Chairman and one other Director were to be approved by the British Government.
- (2) The Company were required to consult, in regard to questions of policy as distinct from ordinary business and management the Imperial Communications Advisory Committee (known as the Commonwealth Communications

Council after 1944) a body comprised of representatives of the United Kingdom, the Dominions, India and the Colonies.

- (3) The Committee were given certain regulatory powers as to increases in rates proposed by the Company. The Committee's expenses were to be met out of a grant from the Company.
- (4) Any net revenue earned by the Company in excess of a standard revenue was to be allocated as to 50 per cent to the Company for its own purposes and 50 per cent to reduction of rates or such other purposes as the Imperial Communications Advisory Committee might approve. (The standard revenue was fixed at £1,865,000 a year in the 1929 agreement, but was reduced to £1,200,000 in 1938).
- (5) By the Imperial Telegraphs Act, 1938 the British Government acquired by agreement 2,600,000 of the £1 shares. This holding represented the Company's payment for the freehold of the beam wireless telegraph stations which it had acquired from the British Post Office. The Company had previously held a lease of these stations at a rent of £250,000 a year.

CHANGES BROUGHT ABOUT BY THE CABLE AND WIRELESS ACT, 1946. The Act of 1946 provided for three events: the transfer of the 27,400,000 shares of £1 each from their existing holders to the British Government; for the assessment of compensation by an independent tribunal and for certain minor changes in the application of the Companies Acts to the Company. As a result on the 1st January, 1947, the Government became the owners of the whole of the 30,000,000 equity shares. The shares were transferred to four named civil servants—two from the Treasury and two from the Post Office (S.R. & O. 2137 of 1946).

In other words the Company remained a limited company registered under the Companies Acts and subject to virtually all the provisions of those Acts (e.g. *re* Memorandum and Articles of Association, election of directors, filing of accounts and returns with the Registrar of Companies, holding of annual and special meetings, keeping of shareholders' register, etc.). The four shareholders are the instrument (in terms of company procedure) through which the Government directs the Company in those matters which require shareholders' resolutions. By this process are appointed the Directors. Five Directors (including a Chairman and a Managing Director) have been so appointed, one of whom is part time. The Company's Articles of Association provide for a maximum of ten directors.

CHANGES SINCE THE COMMONWEALTH TELEGRAPHS AGREEMENT, MAY, 1948. This Agreement between the Commonwealth Governments was concerned with distributing the Commonwealth assets of the Company and its subsidiaries among the Governments according to the respective territories in which the assets were situated whilst at the same time providing for an inter-governmental body for co-ordinating and developing inter-Commonwealth telegraphs.

The Commonwealth assets of Cable and Wireless Ltd. and of its subsidiary companies were to be divided broadly on the basis of each Commonwealth Government taking over the assets operated in its territory. Each partner Government was to name the National Body which was to become its agency. In the United Kingdom, New Zealand and South Africa the respective Post Offices became the body whilst the Australian and Canadian Governments established special public corporations for the purpose. Thus the Australian Government took over the balance of the shares of Amalgamated Wireless (Australasia) Ltd. and any assets of Cable and Wireless Ltd. in Australia.

In the United Kingdom, Cable and Wireless Ltd., following on the provisions of the Commonwealth Telegraphs Act, 1949, transferred on the 1st April, 1950, most of its property in this country to the Post Office. These transfers to the respective Commonwealth Governments (or the National Bodies named by such Governments) still leave Cable and Wireless Ltd. operating its foreign and colonial overseas services, and owning its submarine cables and cable fleet.

The Post Office now operates all the British telegraph and telephone services, both by wireless and cable, from the United Kingdom. To secure full co-ordination with world-wide services an external Telecommunications Board has been set up within the Department, on which Cable and Wireless Ltd. is represented. The 1949 Act provided for a new pooling agreement between the Post Office and the Company.

The co-ordinating body for telegraph services between members of the Commonwealth is the Commonwealth Telecommunications Board established by the Commonwealth Telegraphs Act, 1949. The Board is composed of a Chairman, appointed jointly by the Partner Governments and one member by each of the Partner Governments, i.e. the United Kingdom, Canada, Australia, New Zealand, South Africa, India and Southern Rhodesia. A further member is appointed by the United Kingdom to represent British Commonwealth and Empire territories not directly represented by other members. The functions of this Board include—making recommendations on the formulation and execution of the joint

telecommunication policy of the Partner Governments ; co-ordination and development of the cable and wireless systems ; extensions to and alterations of these systems ; and provision and apportionment of capital expenditure and co-ordination of research.

It is a co-ordinating, not an operating body. The operating concerns are the National Bodies of the various Partner Governments, but their activities are co-ordinated by the Board.

OFFICIAL PAPERS

Report of the Imperial Wireless and Cable Conference, 1928	Cmd. 3163
Cable and Wireless Ltd., Treasury Agreement, 1929		Cmd. 3338
Cable and Wireless Ltd., Changes in Arrangement, 1938	Cmd. 5716
Imperial Telegraphs Act, 1938	
Cable and Wireless Ltd., Proposed Transfer to Public Ownership, April, 1946	Cmd. 6805
Commonwealth Telegraphs Agreement, 11 May, 1948		Cmd. 7582
Cable and Wireless Act, 1946		
Commonwealth Telegraphs Act, 1949		
Cable and Wireless Ltd., Accounts for 1946 (Cmd. 7181) ; 1947 (Cmd. 7467) ; 1948 (Cmd. 7743) ; 1949/50 (Cmd. 8019).		

Note on the Price Policy indicated by the Nationalisation Acts

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So much has been written by economists about the theoretical considerations which should govern the price policy to be followed by the managements of the various nationalised industries that it will at least be a change to look at the actual legislation and see what is contemplated in practice.

Each of the Acts usually lays upon the Board which is to manage the particular industry the duty of supplying the commodity or service in a manner variously described as 'efficient', 'economical', 'adequate' (the Transport Act uses all these three), and 'co-ordinated' (or 'properly integrated' for Transport). The National Coal Board, for example, has among its duties 'making supplies of coal available, of such qualities and sizes, in such quantities and at such prices, as may seem to them best calculated to further the public interest in all respects, including the avoidance of any undue or unreasonable preference or advantage.' This is a very large umbrella capable of covering many different schools of thought, for all are concerned with furthering the public interest in all respects, though those who wish to take special advantage of different elasticities of demand may be a little chilled by the last eleven words. There is thus not much guidance here.

During the discussions on the various Bills it emerged that everybody was concerned with securing greater supplies at much lower prices—more and cheaper was clearly the slogan. But there was little or no discussion on what was meant by the various adjectives. In the Committee stage of the Gas Bill Mr. Hugh Gaitskell (then Minister of Fuel and Power) had an entertaining exchange with a member of the Opposition on the meaning of efficient and cheap when resisting an amendment to replace the reference to co-ordinated, efficient, and economical gas supplies by the simpler words 'To provide a cheap and abundant supply of gas.' One member pointed out that a Rolls Royce was efficient but not cheap, at which no doubt the Minister remembered his days as a teacher of economics. As for the phrase 'furthering the public interest' Mr. Shinwell (on the Coal Bill) was good enough

to say 'It means exactly what it says,' but went on to explain for the benefit of lesser minds : 'Furthering the public interest depends on the circumstances. It may be appropriate, in certain circumstances, in order to further the public interest, not to export coal, but to utilise coal in such a fashion as will enable us to export other commodities. On the other hand, there may be such a superabundance of coal in given circumstances as would enable us to supply, more than adequately, the needs of coal consumers overseas.'¹

In the same discussion Mr. Shinwell made the important statement that 'everybody here with the most elementary knowledge of economics knows that one is bound to relate price levels to the cost of production.'² But he was tantalising enough not to say what he meant by 'cost of production.' The Acts, however, appear to lean heavily in favour of the supporters of average costs. The government's general policy is to be found in section 36 (1) of the Electricity Act, 1947, the important words being : 'It shall be the duty of the [British Electricity Authority] so to exercise and perform their functions . . . as to secure that the combined revenues . . . are not less than sufficient to meet their combined outgoings properly chargeable to revenue account taking one year with another.' Other Acts vary the wording somewhat. For example, though it is now usual to use the phrase 'taking one year with another' the Coal Act uses the phrase 'on an average of good and bad years.' But the general purpose is always the same : the boards need not cover³ their outgoings on revenue account every year but they must do so over some not very well-defined period.⁴

The first important point to notice is that the wording applies to the whole of each board's affairs, whether viewed geographically or functionally. In the first instance, with the same kind of economic interests, e.g. producing coal, the board may make a loss year after year in some areas providing it covers its total outgoings over a period. There is nothing in this section which would prevent the National Coal Board running the South Wales coalfield per-

¹ Standing Committee C, 12 Feb. 1946, col. 1004.

² Col. 1028.

³ The rule is that revenue shall not be *less* than (not merely equal to) outgoings, i.e. continuous profits are legal but not continuous losses.

⁴ The Coal Act contains the limiting phrase 'consistently with the proper discharge of their duties under sub-section (1)', i.e. of making supplies of coal available, etc., and of securing the efficient development of the industry.

manently at a loss providing other coalfields offset this loss in the national accounts.¹ A similar policy could be followed by the boards operating electricity and transport and by the proposed Iron and Steel Board. In the case of iron and steel it is proposed that though most of the existing companies should continue under their own name, as publicly owned companies, the individual concerns will be under no statutory obligation to cover their total costs so long as the Iron and Steel Corporation balances its accounts over all its companies, 'taking one year with another.' The only exception is found in the Gas Act, for here each of the twelve Area Gas Boards is treated as a separate financial and management entity and the general rule applied to each of these boards. The Regional Coal Boards are, of course, purely administrative and not statutory bodies, and though the Area Electricity Boards are statutory they have little or no measure of financial independence and the rule in this case is applied to the total accounts of the British Electricity Authority.

In the second instance the general law implies that where a board supplies several kinds of product the rule about covering outgoings applies to the total of these products and not to each form of product.² Thus the National Coal Board besides the production and sale of coal also produces and sells bricks, coke, motor benzol, and certain other products. There is nothing in the Act to prevent the board selling all or any of such products below their average cost providing the loss can be made up on coal sales or on other activities. A more significant example is transport. Here, though each of the main forms of transport (including hotels) are managed by different executives appointed by the Minister (and not by the board), the rule about revenue being not less than outgoings applies to the total of all the executives' accounts and not to the accounts of each executive. Thus, providing the British Transport Commission could recoup its losses from the operations of one or both of the two Road Executives, there is nothing to prevent the Railway Executive following a price policy which led to its accounts showing a large loss. Again, whereas previously the London Passenger Transport Board had to cover its own costs the executive which replaced it has no such statutory obligation. It is the total financial effect, not the effect of any particular activity of the Transport Commission, which is governed by the rule.

¹ It may be argued that such action would be incompatible with the board's statutory duty of 'securing the efficient development of the coal-mining industry.'

² The Gas Act, 1948, is a partial exception in that the manufacture of plant and gas or coke fittings (taken together) is treated separately from the other activities of the board.

I am here concerned only with the words of the various Acts. How the boards will act within the limits of their discretion is a different question. It should be noticed that the accounts which have to be published by the various boards must show the financial results of the different activities. The normal rule here is again to be found in the Coal Industry Nationalisation Act. The Accounts of the National Coal Board 'shall conform with the best commercial standards and . . . shall distinguish the colliery activities and each of the main ancillary activities of the Board.' In the case of electricity the accounts of the central authority and of each area board must be shown separate and separate information must be given for generation, distribution, and for each of any other main activities, e.g. selling appliances. For iron and steel it is proposed that the publicly owned companies should continue to be subject to the provisions of the Companies Acts as regards accounts and that in addition the proposed corporation (or holding company) should publish a statement of accounts of each company.

The Minister of Transport (Mr. Barnes) drew a distinction between the keeping of separate accounts and the separation of the individual activities for purposes of financial and price policy. He said : ' This Bill (i.e. the Transport Bill) is to integrate all forms of inland transport in this country, and if we were to proceed on the physical break-up of each section . . . we should defeat the aim in view. If (the) whole case rests upon the need for publication of the accounts so that public opinion can see . . . the contribution to the general pool which each section has to make, that is another matter . . . (which) will undoubtedly be met.¹ A minute or two later he went on to say ' the whole purpose of this Bill is . . . to unify the services, so that the average cost of transport will be economic and will be efficient,' but I do not hazard an opinion as to what is implied by this statement. The fact that the accounts of the various activities must be shown separately is bound to encourage boards to treat such activities separately for the purpose of the receipts-outgoings rule. There are other interesting aspects of the rule that revenue must not be less than outgoings taking the board's activities as a whole. For one thing, the range of activities covered by the rule in each case is partly a matter of chance, partly a matter of choice. Because some colliery companies owned brickworks and coke ovens the National Coal Board can merge the costs of these with the costs of producing coal. Had the government decided to have a National Fuel and Power Board and had it treated coal, gas, and electricity in the same way as the Minister of Transport has treated railways, road transport, and canals (i.e. as executives subordinated to the one board), the rule would

¹ Standing Committee B, 19 Feb. 1947, col. 1441/2.

have enabled the board to offset losses on one kind of fuel by gains on another. I am not arguing that one or other system is right, but only pointing out that the application of the rule to the 'firm' and not to the 'product' has certain possibly accidental consequences. Incidentally, on the different treatment of fuel and transport some words of the then Minister of Fuel and Power (Mr. Hugh Gaitskell) have a special interest. On the Second Reading of the Gas Bill he said :

'It is not our view—let me make it perfectly plain—that we should dictate to consumers what fuel they should use. To do this and to ignore consumers' preferences would not in our view give the best results, and freedom for consumers to choose is something which, as a long-term proposition, I regard as an essential part of civilized society. . . . Nor should we overlook the value of retaining competition between electricity and gas. It has been a stimulant in the past and it can bring benefits to the community in the future, provided it is subject to certain safeguards ; but this does not mean that there should be no co-ordination whatever in this field . . . while the consumers should be free their choice should be influenced by reference to costs . . . charges for different fuels should reflect the true cost of production and distribution to the community . The principle must be that charges can and should correspond to real costs.'¹

A different question may arise where the board has a complete monopoly for one part of its activities but is in competition with either private firms or with another nationalised board for the other part. The fear that a board might subsidise its competitive activity at the expense of its monopoly activity was expressed several times by the Opposition during the discussion of the various Bills. Mostly it tended to get mixed up with a rather different but still substantial fear that a board might give preferential terms to a government department or to the board of another nationalised industry at the expense of its private customers.² For that reason words are usually included by which a board is usually required to avoid undue or unreasonable preference (the wording varies from Act to Act). But undue preference has never been an easy phrase to interpret and in any case it has no application to one activity being subsidised by another.

The point about discrimination came up very prominently in the discussions on the Iron and Steel Bill and these are worth reading. During its passage through the Commons various amendments were made to meet the Opposition's fears on this point.³ These rather vague words 'to satisfy the public interest' were changed to 'to satisfy the reasonable demands of the persons

¹ *H.C. Deb.* 10 Feb. 1948, vol. 447, cols. 237-8.

² Cf. Mr. Shinwell's reply to this. 'There is no reason at all why a National Coal Board should discriminate unfairly in favour of one customer against another.' but then he went on to say that discrimination might be required in favour of the export trade. Standing Committee C, 13 Feb. 1946, col. 1068.

³ See *H.C. Deb.*, 27 Apr. 1949, vol. 464, cols. 187-234.

who use these products for manufacturing purposes and to further the public interest in all respects.' Also a new sub-clause was added preventing unfair or undue discrimination, 'but without prejudice to such variations in the terms and conditions on which those products are supplied as may arise from ordinary commercial consideration or from the public interest.'

Further amendments were made to this clause in the House of Lords, of which one was rejected by the Commons. The Lords cut out the last five words in the sub-clause just quoted. The Commons gave as their reason for disagreeing with the Lords on this point 'the words to be left out are necessary to furtherance of the export trade and to give a margin of discretion in meeting the demands of the home market.'

Two other points need touching upon briefly—the meaning of 'outgoings' and of 'taking one year with another.' In some of the Acts the items chargeable to revenue are specifically prescribed. Thus section 93 of the Transport Act, 1947, reads: 'The Commission shall charge to revenue in every year all charges which are proper to be made to revenue, including in particular proper allocations to general reserve, proper provision for depreciation or renewal of assets and proper provision for redemption of capital. . . .' Similar obligations are placed on the boards' management in the coal, gas, and electricity industries. Only the Iron and Steel Act makes no reference to the redemption of capital. In other words, the boards mentioned are required to charge prices which will enable them not only to cover ordinary operating costs, depreciation, and interest on capital but also actually to pay off part of their capital each year.

There is little or no guide to the meaning of 'taking one year with another.' None of the Acts contains any interpretation of the phrase. The general impression gained from reading the discussions, however, is that some comparatively short period is intended and indeed the main stress is on the accounts being balanced annually. Mr. Hugh Gaitskell, who, as might be expected, is usually clearer and more explicit on many of these points than some of his fellow Ministers, in dealing with the particular point said:

'We say that over a period of years the accounts must balance. . . . There may be circumstances which may involve them for a time in loss. . . . Private companies make losses and recoup them later. There might even be occasions when the Government might feel, if there was a heavy slump and a lot of unemployment, that it might be desirable on the whole not to insist on costs being covered. I agree that may be a rather remote contingency, but it is the kind of thing referred to in the Coalition White Paper on Employment Policy, and we have, therefore, provided for it here. I would emphasize that I attach a great deal of importance to the principle that normally we should expect area boards to cover their costs each year.'¹

¹ Standing Committee D, 29 April, 1948, col. 1145.

SUPPLEMENTARY NOTE

Though the phrases 'taking one year with another' and 'on an average of good and bad years' are not found in the pre-1945 legislation there is something similar in Acts concerning electricity supply passed in 1922, 1926, and 1943.

Section 18(1) of the Electricity (Supply) Act, 1922 deals with the prices to be charged by the Joint Electricity Authorities which could be set up under the Act. Their prices had to be "so fixed . . . that, over a term of years to be approved by the Electricity Commissioners, their receipts on income account shall be sufficient to cover their expenditure on income account (including interest and sinking fund charges), with such margin as the Electricity Commissioners may allow."

The same principle was applied by the Electricity (Supply) Act, 1926 (Section 11(1)) to the prices to be charged by the Central Electricity Board to authorised undertakers (other than the owners of selected stations).

It next appears in Section 10 of the Hydro-Electric Development (Scotland) Act, 1943. The prices to be charged by the North of Scotland Hydro-Electric Board are to be determined by the Board in accordance with regulations made by the Secretary of State for Scotland. "so, however, that the proceeds of the sale of electricity together with other revenues of the Board may so far as can be estimated equal over a term of years to be approved by the Electricity Commissioners (altered to the Secretary of State by the Electricity Act, 1947) the sums required for meeting any expenditure which the Board may properly charge to revenue." In 1946 the Secretary of State after consultation with the Electricity Commissioners and the Board issued the North of Scotland Hydro-Electric Board (Charges) Regulations (S.R. and O. 1555/S.58 of 1946). These regulations prescribed a maximum price per unit whilst allowing the Board to make a small annual minimum charge irrespective of whether electricity was consumed or not; laid it down that the tariffs fixed for different classes of ordinary consumers must be uniform throughout the North of Scotland District; and dealt further with the relation between total costs and receipts.

The regulations divided consumers in the Board's area into three types: (a) ordinary consumers; (b) authorised undertakers; and (c) large power users. Regulation 2 lays down the basic price policy for ordinary consumers:

"Subject to the maximum price hereinafter specified . . . the prices to be charged for electricity supplied by the Board to ordinary consumers shall be so determined from time to time, that,

over the approved term of years, the receipts from and incidental to the sale of electricity to such consumers, together with any net surplus from the sale of electricity to the Central Electricity Board, authorised undertakers and large power users (or such proportion thereof as may from time to time be approved by the Secretary of State), shall, so far as can be estimated, equal the cost to the Board, so far as chargeable to revenue, of purchasing, generating, transmitting and distributing the supply, together with any expenditure incidental thereto and the appropriate proportion of the general expenses of the Board."

Regulations 7 and 8 deal with prices for authorised undertakers (now merged in the Board by the 1947 Act) and large power users. The basis for sales to authorised undertakers was broadly the same as for ordinary consumers but an interesting distinction was drawn between these two categories and large power users. For ordinary consumers prices must *equal* costs but for large power users prices must "*not be less than* is sufficient to meet the cost." It is this latter form of words which is now found in the nationalisation Acts.

It would appear that 7 to 10 years has been the period for electricity supply. Ten years was broadly the period approved by the Electricity Commissioners for the Central Electricity Board Tariff under the 1926 Act and seven was the period approved by the Secretary of State for Scotland for the North of Scotland Hydro-Electric Board under the 1943 Act.

It is worth noting, however, that the phrase 'over a term of years' may be used to cover two different kinds of situation. On the one hand, there is the position of the concern which has to incur heavy capital expenditure in the early years of a scheme in advance of the growth of an annual income adequate to meet operating costs and interest charges. In this case the 'term of years' refers to the period while demand is growing to the level sufficient to cover current costs and to pay off any deficits incurred. On the other hand the phrase may cover a period of fluctuating demand, due for example, to years of good and bad trade. It is probable that both concepts were in the minds of the framers of the electricity legislation just described.

The point has so far probably been unimportant because of the continuous rise in the demand for electricity and the long uninterrupted run of prosperity of the industry.

Public Corporations Established prior to 1939

A. CONSTITUTION

1. Appointment

C.E.B. By Minister of Transport (subsequently Minister of Fuel and Power), (*) after consultation with such representatives or bodies representative of the following interests as the Minister thought fit, i.e. local government, electricity, commerce, industry, transport, agriculture and labour.

L.P.T.B. By "Appointing Trustees," consisting of—Chairman of London County Council, a representative of the London and Home Counties Traffic Advisory Committee, Chairman of the Committee of London Clearing Bankers, President of the Law Society, President of the Institute of Chartered Accountants; and in the case of appointments to fill vacancies after the first constitution of the Board, the Chairman of the Board or some other member of the Board nominated by the Board for the purpose. The appointing Trustees appointed after consultation with such persons as they thought fit.

PORT OF LONDON. Chairman and Vice-Chairman are appointed by the Authority itself, and need not be taken from the members. 18 elected members: 17 to be elected by payers of dues, wharfingers and owners of river craft and one by wharfingers. Each payer of dues, wharfinger and owner of river craft has a number of votes varying according to the total amount of dues, rateable value of premises occupied or number of craft owned respectively. The statutory scale prescribes a maximum of 50 votes for payers of dues and of 10 each for wharfingers and owners of river craft. The maximum for wharfingers, however, is based on each individual property occupied. A person may also have votes under more than one category if he is so qualified. Vacancies in the number of elected members are filled by co-option by the remaining elected members, the co-opted member remaining in office for the remainder of the period for which the vacating member was elected. 10 appointed members: two each by Minister of Transport† and the

* The Minister of Transport was responsible for Electricity Supply until 1941 when his powers were transferred to the Minister of Fuel and Power.

† At the time of the passing of the Port of London Act, 1908, the President of the Board of Trade was the Minister concerned but his general powers were transferred to the Minister of Transport in 1919.

Corporation of the City of London ; 1 each by the Admiralty and Trinity House, and four by the London County Council.

2. Number of Members

C.E.B. Chairman and seven members.

L.P.T.B. Chairman and six members.

PORT OF LONDON. Chairman, Vice-Chairman, 18 elected and 10 appointed members.

3. Qualifications of Members.

C.E.B. None prescribed, but see A.1 (Appointment) *re* consultation with certain specified representative interests.

L.P.T.B. : “ Persons who have had wide experience, and have shown capacity, in transport, industrial, commercial or financial matters or in the conduct of public affairs and, in the case of two members, shall be persons who have had not less than six years’ experience in local government within the London Passenger Transport Area.”

PORT OF LONDON : One of the members appointed by the Minister of Transport and one appointed by the London County Council must be appointed after consultation with such organisations representative of labour as the Ministry (or London County Council) think best qualified to advise them upon the matter. The appointees of the London County Council and of the Corporation of the City of London must be equally divided between members and non-members of the respective councils.

4. Disqualifications

C.E.B. : (A) Being a member of the House of Commons.

(B) Chairman and any full-time member could not have any securities in any electricity supply concern or any company making or selling plant for generation and transmission of electricity.

(C) Absence from meetings of C.E.B. for more than six months consecutively, except for reason approved by the Minister of Transport.

L.P.T.B. : (A) Being a member of the House of Commons.

(B) Being absent from meetings of the Board for more than six months consecutively, except for some reason approved by the Minister.

(C) Becoming bankrupt or making a composition or arrangement with one's creditors.

(D) Holding any securities for his own benefit in any company carrying on any passenger transport undertaking in the London Passenger Transport Area or any transport stock issued under the Act. If he became entitled to any such securities he was to sell them within three months.

(E) Not disclosing any direct or indirect interest in any contract made or to be made by the Board and taking part in any deliberation or decision of the Board in respect of that contract.

PORT OF LONDON : (A) Not being a British subject resident in the United Kingdom.

(B) Holding paid office under the Port Authority (save as permitted by the Act).

(C) Being concerned with any bargain or contract entered into with the Port Authority or participating in the profit of any such bargain or contract or any work done under the authority of the Port Authority (but being interested in sale or lease of lands or loaning money to the Authority, or in any newspaper containing advertisements of the Authority, or in any contract or bargain made in ordinary course of Authority's dock or warehousing business are not disqualifications).

(D) Being convicted of any crime and sentenced to imprisonment with hard labour, without option of a fine, or to any greater punishment.

(E) Being adjudged bankrupt, or making a composition or arrangement with his creditors.

(F) Being absent from meetings of the Authority for more than six months consecutively, except for some reason approved by the Authority.

(G) Ceasing to be qualified as eligible for appointment by London County Council or Corporation of the City of London.

5. Terms of Appointment and Tenure

C.E.B. : Not less than five years nor more than ten years, as determined by the Minister before his appointment.

L.P.T.B. : Not less than three years, nor longer than seven, as the Appointing Trustees determined at the time of his appointment.

PORT OF LONDON : Three years.

6. Dismissal

C.E.B. : See A.4 (Disqualifications)—In these cases the Minister may declare office vacant.

L.P.T.B. : Minister, after consultation with the Appointing Trustees, could “remove any member of the Board from his office for inability or misbehaviour.” Also Minister declared office vacant if Chairman or member suffers from any of the disqualifications listed in A.4.

PORT OF LONDON : Port Authority must declare office of Chairman, Vice-Chairman or other member vacant when such a person becomes disqualified for holding such office (see A.4). Otherwise no statutory provision for dismissal.

7. Salaries

C.E.B. : “Such salaries or fees and allowances as the Minister of Transport (Fuel and Power) may determine.”

L.P.T.B. : “Such salaries, or fees and allowances for expenses as the Minister after consultation with the Appointing Trustees and with the consent of the Treasury may determine.”

PORT OF LONDON : The Chairman, Vice-Chairman and chairman of any committee may be paid a salary determined by the Port of London Authority.

B. AREA BOARDS

None prescribed for any one of the three corporations.

C. ADVISORY AND CONSUMERS' COUNCILS

C.E.B. : Board could appoint one or more consultative technical committees consisting of engineers employed by undertakings owning selected stations, which shall give advice and assistance on such matters as may be referred to the committee by the Board.

L.P.T.B. : Railway Rates Tribunal had important powers *re* the fares and facilities offered by the Board (see below under E.1, General Financial Position). For the purpose of these powers the Tribunal was reinforced by two additional members appointed by the Minister—one having experience in matters of London local government (appointed after consultation with the Advisory Committee) and the other having experience in financial matters.

In addition the London and Home Counties Traffic Advisory Committee (first established by the London Traffic Act, 1924), was reconstituted and its duties extended. The Advisory Committee could make representations to the Board *re* the services and facilities provided and could, *inter alia*, consider, report to and advise the Minister on any matter relating to traffic within the London Traffic Area. Joint meetings between the Committee and the Board had to be convened by the Chairman of the Committee at least three times a year, unless otherwise agreed by both bodies. The Committee could, by order, require any person to attend as a witness at an inquiry, give evidence and produce documents relating to the subject matter of the inquiry, subject to a fine on summary conviction not exceeding £5. The membership of the reconstituted Advisory Committee was : 24 members appointed by various local authorities in the Board's area ; three by the Home Secretary (two of these to represent specified police forces) ; four by the Minister (three of these after consultation with a variety of specified interests) ; five by the Minister of Labour (to represent the interests of labour engaged in the transport industry within the Board's area) ; two by the Board ; and two by the Amalgamated Railway Companies (40 members in all).

PORT OF LONDON : No statutory provision.

D. MINISTERIAL CONTROL

1. General

C.E.B. : Minister had no general powers, but Electricity Commissioners had a number of powers.

L.P.T.B. : Minister had no general powers of direction or control.

PORT OF LONDON : (A) On complaint being made to the Minister by any person interested that the Port Authority are acting in a manner unfairly oppressive to him by reason of the mode in which they carry on their dock or warehousing business, including charges made in respect of such business, the Minister, if he thinks that there is a reasonable ground of complaint, shall call upon the Port Authority for an explanation and shall endeavour to settle amicably the differences between the complainant and the Port Authority, and shall from time to time submit to Parliament such reports with regard thereto as he thinks fit.

(B) An order of the Minister of Transport is required to authorise the Port of London Authority to construct and equip

any dock, quay, wharf, etc., or to purchase land, or to levy and collect dues, rates, tolls, etc., or to charge interest on borrowed money as part of capital cost of any construction or land. Before making such an order the Department must hold an inquiry and appoint an impartial person, not in the employment of any Government Department, to hold the inquiry on their behalf.

(C) The Minister of Transport fixes maximum port rates. But rates so specified must be sufficient, in the opinion of the Minister, along with other receipts on revenue account, to meet the expenditure of the Port Authority and provide a reasonable margin for contingencies.

2. Special Powers of Direction or Control

C.E.B. : The Electricity Commissioners had a number of powers involving an element of control, among the more important (other than those referred to under other headings of this analysis) being :

(A) Approving arrangements made between the C.E.B. and owners of selected stations.

(B) Being satisfied before allowing the C.E.B. to operate a selected station themselves.

(C) Approving schemes for the standardisation of frequency.

(D) Determining disputes between the Board and authorised undertakings as to the terms and conditions of supply.

(E) Ordering the closing down of generating stations in certain events.

L.P.T.B. : Minister of Transport had some powers of control in a few instances (see other headings of analysis). The Minister could, after consultation with the Metropolitan Police Commissioner give directions to the Metropolitan Traffic Commissioner requiring him to attach specified conditions as to construction of vehicles which the Board may use on certain routes. The Minister had also certain other limited powers *re* routes, number of passenger vehicles using certain streets, and for controlling road traffic generally in the area.

PORT OF LONDON : If the Authority wish to apply any part of the reserve fund to any purpose other than towards meeting any deficiency on revenue account in any year, authorisation of the Minister is required. (See also Borrowings, page 44).

E. FINANCE

1. General Financial Position

C.E.B. : Prices to be charged by the Board to authorised undertakings were fixed "so that over a term of years to be approved by the Electricity Commissioners the receipts on income account shall be sufficient to cover the expenditure on income account, including interest and sinking fund charges, with such margin as the Electricity Commissioners may allow." The order in which the revenue of the Board was to be applied is prescribed in the Act.

L.P.T.B. : Duty of the Board "to conduct their undertakings in such manner, and to fix such fares and charges in accordance with the provisions of the Act, as to secure that their revenues shall be sufficient to defray all charges which are by this Act required to be defrayed out of the revenues of the Board."

The Board took over the statutory price powers of the previous undertakings. It had to deposit with the Ministry of Transport, the fares in force on the Appointed Day—i.e. when the Board took over—and could not make any alterations in such fares without giving public notice. If a local authority or the Board, where it did not inherit the powers to amend the fare, applied to the Railway Rates Tribunal, the Tribunal could by order reduce or increase any fare. An application for a general revision of the Board's fares could not be made within twelve months after a previous general application has been heard, unless the Minister certified that there had been a material change in circumstances.

A local authority could apply to the Tribunal to secure modifications in the services and facilities offered by the Board, and the Tribunal could by order require the Board to modify its services or facilities. The Board would apply to the Tribunal to amend any one of the orders issued under this provision, but not within twelve months of the order having been made, unless the Minister certified a material change in circumstances.

Both in the case of fares and of facilities the Tribunal had to have regard to the desirability of the Board having an adequate reserve fund, and could not make an order incompatible with the Board's general financial responsibility or which would require the Board to raise additional capital without its consent.

PORT OF LONDON : The order in which the revenue of the Authority is to be applied is prescribed by statute. If revenue is available the Authority must maintain a reserve fund of £1 million to be applied only towards meeting any deficiency on revenue account in any year.

If the Minister is satisfied that receipts of the Authority on revenue account in any year are likely to be insufficient to meet the charges, or were insufficient in the preceding year, the Minister may make an order requiring the Authority to raise its charges, but not above the maxima.

“ If in each of two successive years, the aggregate amount received from port rates on goods exceeds one-thousandth part of the aggregate value of the goods imported into and exported from the Port of London from and to parts beyond the seas in the year, or, if the amount received from port rates on goods discharged from or taken on board ships not within the premises of a dock of the Port Authority exceeds one three-thousandth part of the said aggregate value, it shall be the duty of the Port Authority to take the necessary steps to prevent the continuance of the excess, including, if necessary an application to Parliament to provide them with further means of meeting their financial obligations.”

Subject to the observance of these and certain other statutory provisions, the Port of London Authority may charge such port rates as it may fix within the maxima prescribed by Provisional Order.

2. Borrowing

C.E.B. : The Board could borrow for specified purposes with consent of Electricity Commissioners and subject to regulations made by the Minister with the approval of the Treasury. Repayment had to be made within 60 years. Maximum that could be borrowed was originally £33·5 million, subsequently raised by special orders to £100 million. Could issue Central Electricity Stock according to regulations made by Minister with consent of Treasury.

L.P.T.B. : Could borrow for specific purposes and, subject to regulations made by the Minister with the consent of the Treasury, by issue of transport stock. The maximum amount, exclusive of the compensation payments made in satisfaction of the acquisition of the various undertakings, was originally fixed at the additional sums which the acquired underground railway undertakings could raise under the Acts plus £10 million. Could borrow temporarily by issue of bonds or otherwise up to £3 million maximum. The London Passenger Transport Acts of 1935 and 1936 gave the Board additional borrowing powers amounting to about £30 million.

Several kinds of stock were prescribed, of which the “ C ” stock was constitutionally the most important, for it contained an element of “ equity ” interest. The basic rate of interest on the “ C ” stock was $5\frac{1}{2}$ per cent (5 per cent for the first two years), but

additional interest up to $\frac{1}{2}$ per cent had to be paid if the revenue was available either that year or carried forward from the "C" Stock Interest Fund."

Powers of stock holders to take action in default of interest payment : Holders of "A," "B" or "L.A." stock if not less than 5 per cent of the total amount of that stock then outstanding could apply to the High Court for a receiver or a receiver and manager if Board defaulted on the payment on the stock for not less than three months. "C" stock holders had same right should the Board fail to pay interest on that stock at the standard rate for three consecutive years, of which the first year was to be not earlier than the one ending the 30th June, 1936.

Where an application was made for a receiver, etc., the Board had to convene meetings of the holders of each class of stock for the purpose of ascertaining and informing the Court about the wishes of the holders. After considering such wishes, Court could appoint a receiver or receiver and manager on such terms as they thought fit.

PORT OF LONDON : Authority may borrow in such manner as the Minister may by order direct and subject to the sanction of the Minister *re* manner of charging the interest and repayment of principal and *re* period of the loan. Port of London Stock may be issued in accordance with regulations made by an order of the Minister. Total amount of Port Stock shall not (unless otherwise determined by Parliament) exceed by more than £5 million the amount of Port Stock issued as the consideration for or in connection with the transfer of the undertakings of the dock companies.

NOTE : The Ministry's regulations *re* Port Stock must authorise the holders of Port Stock of an aggregate value of not less than £500,000 to apply to the high Court for the appointment of a receiver and manager of the revenues, property and undertakings of the Port of London Authority should the Authority default for not less than three months in the payment of interest on such stock.

3. Treasury Guarantee

C.E.B. : Treasury could guarantee payment of interest and principal of any loan raised by the Board, but the aggregate sum guaranteed could not exceed £33·5 million. Treasury was to report annually to both Houses of Parliament on any such guarantees and any transactions on Consolidated Fund account involved. No Treasury guarantee was ever applied for.

L.P.T.B. : No general provision in main Act, but the T.F.A. Stock, issued in place of certain $4\frac{1}{2}$ per cent debenture stocks of the

Underground Companies carried the same Treasury guarantee as by Underground Stock concerned. By powers obtained in an Act of 1942, the T.F.A. stock was redeemed and replaced by London Transport 3 per cent guaranteed stock which was also guaranteed by the Treasury as to principal and interest. The London Passenger Transport (Agreement) Act, 1935, empowered the Treasury to guarantee the principal of and the interest on securities up to a maximum of £40 million. This sum was to be raised by a company promoted for the purpose by the Treasury in order to lend money in certain agreed proportions to the L.P.T.B., the Great Western Railway Company and the London and North Eastern Railway Company. The money was to be used for a specified scheme of railway construction works within the period 1935-40. (The 1935 Act has attached to it a detailed agreement between the Treasury and the three transport concerns).

There was the usual provision about laying of statements before both Houses of Parliament if a guarantee is given, if payments were made out of or repayments made into the Consolidated Fund or if the agreement were to be amended.

PORT OF LONDON : No statutory provision.

F. ACCOUNTS AND AUDIT

C.E.B. : The Board had to cause proper books of accounts and other books in relation thereto to be kept and had to prepare an annual statement of accounts in such form and containing such particulars as the Minister directed. The accounts had to be audited by auditors of the Minister in accordance with regulations prescribed by him. Copy of audited accounts and any auditor's report to be sent to the Minister and to be published and on sale at a price not exceeding 1/-.

L.P.T.B. : Board had to cause proper accounts and other records to be kept and prepare an annual statement of accounts as prescribed by the Minister. Accounts had to be audited by auditors appointed annually by the Board after consultation with and approval of the Minister. Copy of audited accounts and any auditor's report thereon to be sent to the Minister and the accounts had to be published in such manner as the Minister prescribed and be on sale at a reasonable price.

PORT OF LONDON : Accounts to be kept in form prescribed by the Minister, and to be audited annually by auditors appointed by that Department. Minister may make an order requiring estimates to be submitted and the accounts to be made up and audited more than once a year.

G. ANNUAL REPORTS

C.E.B. : Had to make annual report to Minister of Transport in a form prescribed by him, and such report shall be laid before both Houses of Parliament.

L.P.T.B. : The Board had to make an annual report to the Minister, in a form he prescribed, dealing with their operations and "containing such detailed information with regard to the proceedings and policy of the Board as may properly be given without detriment to the interests of the undertaking . . . or of any of the amalgamated railway companies." The report had to be laid before both Houses of Parliament and be on sale at a reasonable charge at the offices of the Board. The Board had to furnish to the Minister such financial and statistical returns as was agreed between the Minister and the Board and, failing agreement, as determined by the Railway Rates Tribunal.

PORT OF LONDON : Must submit to Minister, at beginning of each financial year, an estimate of receipts and expenditure for that year. Minister may by order require such estimates to be submitted more frequently than once a year. Must make annual report to Minister, to be laid before Parliament and be on sale at a reasonable charge to the public at the offices of the Port Authority.

H. LABOUR RELATIONS

C.E.B. : No statutory provisions.

L.P.T.B. : The 1933 Act established a Negotiating Committee, a Wages Board and Joint Councils.

(a) The Negotiating Committee consisted of six representatives of the Board and six representatives of the employees. The employee's representatives were appointed by three Trade Unions (two by each) specified in the Act. The Act required any matter of pay and conditions of service which the Board and the trade unions concerned could not agree upon to be referred to this Committee. If the Negotiating Committee could not settle the issue it had to be referred to the Wages Board.

(b) The Wages Board consisted of an independent chairman nominated by the Minister of Labour, six representatives appointed by the Board, six representatives appointed, two each, by three named Trade Unions and four other persons appointed as to : one by General Council of the Trades Union Congress ; one by the Co-operative Union ; one by the Association of British Chambers of Commerce and one by the National Confederation of Employers' Organisations.

(c) The constitutions of the above Committee and Board could be varied by a scheme agreed between the six representatives of the Board and the six representatives of the three named Trade Unions.

(d) The Joint Councils were to consist of representatives of the Board and of the employees in accordance with schemes to be drawn up by a committee composed of six representatives of the Board, and six representatives of the three named Trade Unions (two from each). Any scheme was required "to secure, as far as practicable, that the arrangements in respect of these councils shall be no less favourable to the employees of the Board to whom this Part of the Act applies, and such of the trade unions as may be concerned, than the arrangements which existed on the twelfth day of March, nineteen hundred and thirty-one, in respect of the councils established in connection with the several undertakings which are in whole, or in part, transferred to the Board by this Act."

(e) The employees to whom these provisions applied were defined by the Act. They were such employees engaged on, or in connection with, the railways of the Board, or in the performance of such clerical, administrative, supervisory or technical duties as the above scheme-making Committee might include in any scheme but not employees covered by national agreements under the Railways Act, 1921 or weekly wage employees employed under shop conditions (on constructional, repair or maintenance work) or in connection with electricity generating stations. Employees who were formerly members of the London County Council Staff Association could not be included in a scheme if not less than 100 of them expressed the desire to be excluded.

(f) The Trade Unions named were : National Union of Railwaymen, Associated Society of Locomotive Engineers and Firemen, and Railway Clerks Association.

PORT OF LONDON : No statutory provisions were included in the 1908 Act about wage negotiating machinery or joint consultation, but the Authority were placed under the obligation "to diminish the evils of casual employment, and to promote the more convenient and regular employment of such workmen or any class thereof" either by themselves or by co-operation with other bodies or persons.

British Broadcasting Corporation ·

Changes in Constitutional Provisions Contained in the Three Charters and the Three Licences and Agreements

The legal provisions governing the British Broadcasting Corporation are contained in the Royal Charter and in the Licence and Agreement between the Postmaster General and the Governors of the Corporation. There have been three Royal Charters, coming into operation on the 1st January, 1927, 1937 and 1947*. A new Licence and Agreement is entered into on the occasion of a fresh Charter. In 1931 there was a supplemental Royal Charter and a Supplemental Agreement. There was a Supplemental Agreement made in 1938, mentioned in Cmd. 6177† but not published.

There are remarkably few changes in the main documents—the last Charter being very similar to the first, and much the same is true of the first and last Licences and Agreements. The main provisions of the present Constitution of the Corporation have already been given. The following information indicates the points in the analysis at which the previous Charters and Licences differed from the present documents. The differences are given in the order in which the current statutory provisions were analysed.

A. Constitution

DISQUALIFICATIONS : (a) the disqualification arising from a governor holding any office or place of profit in which his interests may, in the opinion of the Postmaster General, conflict with the interests of the Corporation was introduced in the second Charter ;

(b) the period during which a governor may absent himself from meetings of the Corporation without consent was reduced from six months to three months in the second Charter.

C. Advisory Councils :

The duty to appoint in each Region a Regional Advisory Council was introduced in the third Charter.

* The present Royal Charter is for five years, whereas the previous two Charters were each for ten years.

† Cmd. 6177 (presented to Parliament in February, 1940) is an agreement between the Postmaster General and the Minister of Information laying down the wartime financial arrangements for the B.B.C.

D. Ministerial Control :

(a) The stipulation that sums paid by the Postmaster General to the Corporation from licence fees and for expenditure on overseas services " shall be applied and administered by the Corporation in accordance with any terms and conditions which may be attached by Parliament or the Treasury " was introduced in the third Licence and Agreement.

(b) The obligation to send out any announcement or other matter at the request of a Government Department is in all the three Licences, but the proviso that the B.B.C. may announce such a fact when sending out the matter was introduced by the second Licence and Agreement.

(c) The provision that a notice from the Postmaster General requiring the B.B.C. to refrain from sending out broadcast matter may specify whether the B.B.C. may announce that such a notice had been given was introduced by the second Licence and Agreement.

(d) The provision *re* overseas programmes was introduced by the third Licence and Agreement.

(e) The provision *re* television was introduced by the second Licence and Agreement.

E. Finance

GENERAL : The first Licence and Agreement required the Postmaster General to pay the B.B.C. the following percentages of the sums he received from the sale of licences—90 per cent of the sums received for the first million, 80 per cent for the second, 70 per cent for the third, and 60 per cent for all additional licences, less $1\frac{1}{2}$ per cent on account of the cost of collection and administration.

In the second Licence and Agreement, this provision was altered to give the B.B.C. a sum equal to 75 per cent of the amount received in licences after a deduction had been made to cover any expenses incurred by the Postmaster General in relation to the broadcasting system. This deduction was stipulated as nine per cent for 1937 and 1938, and had to be fixed, in consultation with the Corporation, for each two years of the remaining eight years of the Licence and Agreement.

BORROWING : In the first Charter, the limit on borrowing was £500,000, not £1 million. The proviso *re* mortgaging the property and rights used exclusively for the overseas service was introduced by the third Charter.

F. Annual Report :

The provision that the Postmaster General must submit the Corporation's annual general report and statement of accounts to Parliament was introduced by the third Charter.

B.B.C.

*Date of coming
into operation*

Charter and Licence and Agreement

1st Jan., 1927 Cmd. 2756 and see also Cmd. 5091 Report of (Ullswater) Broadcasting Committee : Appendix B (Charter) ; Appendix C (Licence and Agreement) ; Appendix D (Supplemental Charter 1931) and Appendix E. (Supplemental Agreement 1931).

1st Jan., 1937 Cmd. 5329.

1st Jan., 1947 Cmd. 6974 (Charter).
 Cmd. 6975 (Licence and Agreement).

See also : Cmd. 6177 for wartime agreement between Postmaster General and the Minister of Information.

Legislation

Post-1945 Corporations

LIST OF MAIN ACTS, AND THE DATES OF THEIR PASSAGE THROUGH HOUSE OF COMMONS

<i>Title of Act</i>	<i>2nd Reading</i>	<i>3rd Reading</i>	<i>Royal Assent</i>
Bank of England ^a	29th Oct. '45	19th Dec. '45	14th Feb. '46
Cable & Wireless ^b	21st. May '46	11th July '46	6th Nov. '46
Civil Aviation ^c ..	6th May '46	11th July '46	1st Aug. '46
Coal Industry Nationalisation ^d	29th Jan. '46	20th May '46	12th July '46
Cotton (Centralised Buying)	6th May '46	11th July '46	21st May '47
Electricity	3rd Feb. '47	30th Jun. '47	13th Aug. '47
Gas	10th Feb. '48	16th June '48	30th July '48
Iron and Steel ...	15th Nov. '48	9th May '49	24th Nov. '49
Overseas Resources Development ...	6th Nov. '47	20th Jan. '48	11th Feb. '48
Transport	16th Dec. '46	5th May '47	6th Aug. '47

(a) See also Bank of England Charter. 1st March, 1946. Cmd. 6752.

(b) See also the Commonwealth Telegraphs Act, 1949.

(c) The Civil Aviation Act, 1946 (and the Airways Corporations Act, 1949) are now replaced by the Air Corporations Act, 1949 so far as the two corporations are concerned.

(d) See also the Coal Industry Act, 1949.

Pre-1939 Corporations

Port of London Act, 1908.

Electricity (Supply) Act, 1926.

London Transport Acts, 1933, 1935 and 1936.

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- Gas Supply Areas Cmd. 7313 and 7424 (1948)

The Annual Reports and Accounts of the various Boards are very full and are admirably produced.

The following articles in the Journal "Public Administration" are of particular interest :

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I	158	Contrast between admini- stration of business and public affairs	Sir Josiah Stamp
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XV	393	Some implications of the Statutory Corporation ..	F. A. Bland
XVI	137	Administration of Ports ...	A. T. V. Robinson, R. H. Jones and Basil Marsden-Smedley
XXII	137	The Public Corporation ...	Sir Henry Bunbury
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	221	The Consumer Councils for Gas and Electricity ...	J. W. Grove
	283	The Public Corporation in Canada	Prof. J. E. Hodgetts

The *Political Quarterly* devoted its April–June, 1950 issue (Vol. XXI, No. 2) to the nationalised industries. The articles were :

Organisation of the Nationalised Industries D. N. Chester

The Governing Board of the Public Corporation	W. A. Robson
Ministerial Control and Parliamentary Responsibility	Ernest Davies
Labour and Staff Problems	G. D. H. Cole
The Voice of the Consumer	J. A. G. Griffith
Price Policy	W. A. Lewis
Efficiency and its Measurement	P. Sargant Florence and G. Walker
The Crux of Nationalisation	Sir Arthur Salter

The Fabian Society have recently issued the following booklets dealing with various aspects of the nationalised industries :

National Coal Board	G. D. H. Cole
Miners and the Board	Margaret Cole
Labour in Nationalised Industry	Hugh Clegg
Workers' Control	E. White
Consultation or Joint Management	J. M. Chalmers, Ian Mikardo and G. D. H. Cole
Future of Broadcasting	Research Group Report
What is a Socialised Industry ?	Michael Young
Nationalisation and the Consumer	L. Freedman and G. Hemingway
British Railways—The Human Problem	Frank Pickstock

The Acton Society Trust have published the following booklets in their series on Nationalised Industry :

1. Accountability to Parliament
2. The Powers of the Minister
3. Problem of Promotion Policy

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