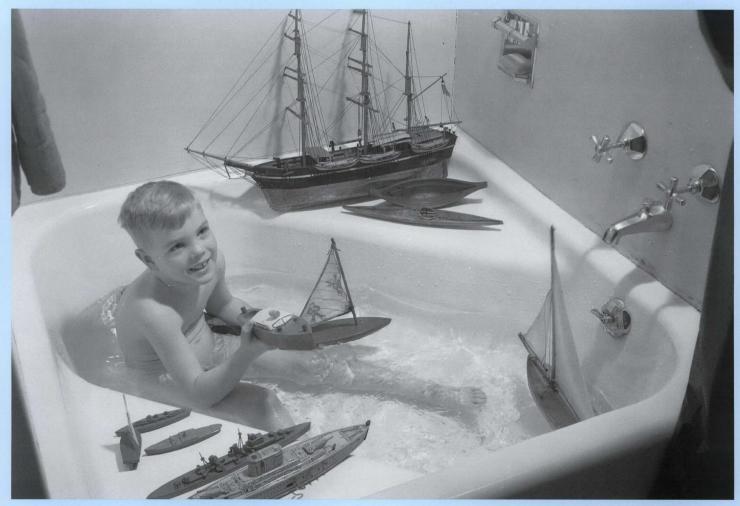
Water Battles

Municipal Authorities and the Destabilization of Local Governance in the Great Depression

By Dr. Nicholas G. Bauroth



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ensions ran high in Harrisburg as state Sen. G. Harold Watkins (R-Schuvkill) rose to address the press. It was the spring of 1943, and the state legislature was aware of accusations that municipal authorities, a new form of local government intended to fund infrastructure, were being used by unscrupulous financiers to shakedown townships for large sums of money. These financiers would purchase a private water system and then offer to sell it to the local township at an exorbitant price. If the township refused, the water company was then sold to a recently-formed authority instead.1 In this scheme, the township would lose all control over its water supply, which was no minor matter at a time when pollution from abandoned mines slowly contaminated aquifers and many communities still dumped untreated sewage directly into the nearest stream.2

In his press conference, Watkins took aim at the 1935 law permitting the creation of municipal authorities, saying that failure to act would "allow a Frankenstein to remain at large at the expense of ratepayers and taxpayers of Pennsylvania."3 He pledged to investigate what he believed to be the most serious problem facing state government.

Municipal authorities were intended to serve as a financial boon for local governments reeling from the Great Depression, yet boroughs inevitably suspected others of coopting their power, particularly county-led authorities. Municipal authorities somehow came to be seen as disreputable, a tool for dubious individuals looking for a quick score and county governments seeking to dominate local water services. The proliferation of such public authorities — special districts depending exclusively upon revenue bonds for their initial financing4 — led to radical changes in American federalism during the 1930s and '40s. While scholars have extensively documented many of these changes, little attention has been paid to the ways in which the existing local governments reacted. Faced with a reconfiguration of long-established systems of local governance, they scrambled for control of their resources.

This article focuses specifically on efforts by the Westmoreland County government to use the Municipal Authority of Westmoreland County (MAWC) as a means of securing regional resources and the attempt by boroughs within the county to scuttle those efforts. Some boroughs took advantage of the new circumstances and enhanced their position, while others saw their autonomy greatly diminished. Smaller boroughs particularly perceived public authorities as a threat to local control and either engaged in political warfare with the newly formed authorities or called for the creation of their own.

he most plentiful form of government in the United States today is the special district: "independent, limited-purpose local governments that exist as separate legal entities with substantial administrative and fiscal independence from general-purpose government."5 According to the U.S. Bureau of the Census, which excludes school districts from its definition, there were approximately 35,052 special districts across the nation in 2002.6 However, before the 1930s, they were a rare form of government that played only a minor role in the delivery of local services.7 It took the Great Depression of the 1930s and rapid suburbanization during the 1950s to spur their growth.

There is a longstanding debate over whether or not this increase in special districts actually improved local governance. One side asserts that government fragmenta-



The Municipal Authority of Westmoreland County's offices soon after its 1942 incorporation.

Municipal Authority of Westmoreland County "40 Years of Progress" brochure



The headquarters and operations center of the Municipal Authority of Westmoreland County, located two miles west of Greensburg, Pennsylvania. Municipal Authority of Westmoreland County

tion, brought about as a result of district proliferation, produced inefficient service delivery, whereas the consolidation of all forms of local government alleviated this situation.8 The other side claims fragmentation gave citizens greater choice in terms of services and that consolidation created unaccountable mega-governments.9 While this debate between fragmentation and consolidation has generated considerable literature, it tends to ignore the fact that, often, they occur simultaneously. Certainly, special districts grew rapidly with only limited oversight by most state governments, leaving room for an abuse of power. At the same time, many states experienced the creation of county-wide special districts that produced efficient service delivery from a disorganized patchwork of small municipalities.10 These various conflicting forces touched off a radical transformation of political relationships at the local level.

The Rise of Public Authorities

The 1920s saw unprecedented capital spending by local governments, which were responding to citizen demands for more

extensive infrastructure and services such as roads for cars. Sale of general obligation bonds funded most of these projects.11 Under the terms of these sales, governments promised to pay off their bonds on schedule no matter what circumstances arose, even if it meant cutting services or raising taxes. Existing state-imposed debt limits should have restricted this trend, but these limits were based upon formulas that placed money owed in relation to taxable base. Thus, as real estate markets experienced considerable inflation throughout the decade, many local governments greatly increased their debt without violating any limits.12 Unfortunately, the stock market crash of 1929 and the subsequent economic depression ended the real estate boom. As real estate assessments shrank to pre-1920 levels, most local administrators wanted to raise property tax rates drastically to meet their obligations. However, states generally capped local tax rates, so many local governments were forced into default. By 1936, some 3,159 municipalities, counties, school districts, and special districts across the nation were bankrupt.13

In 1934, the Roosevelt Administration, seeking to spur employment, offered to lend federal funds for use on capital projects. However, most local governments had to refuse these loans due to their state's debt restrictions. To break the fiscal logiam, President Roosevelt wrote a letter to the 48 governors describing the many difficulties his administration had encountered as it sought to assist their municipalities. He argued that a radical revision of long-established municipal financing procedures "was absolutely essential, at least for the duration of the existing emergency."14 Roosevelt recommended that the states make greater use of an esoteric form of local government, the public authority, to fund capital projects through the sale of revenue bonds.15 These bonds allowed authorities to sidestep debt restrictions while still maintaining the full confidence of the bond market. Pennsylvania was one of the first to take full advantage of the public authority format.

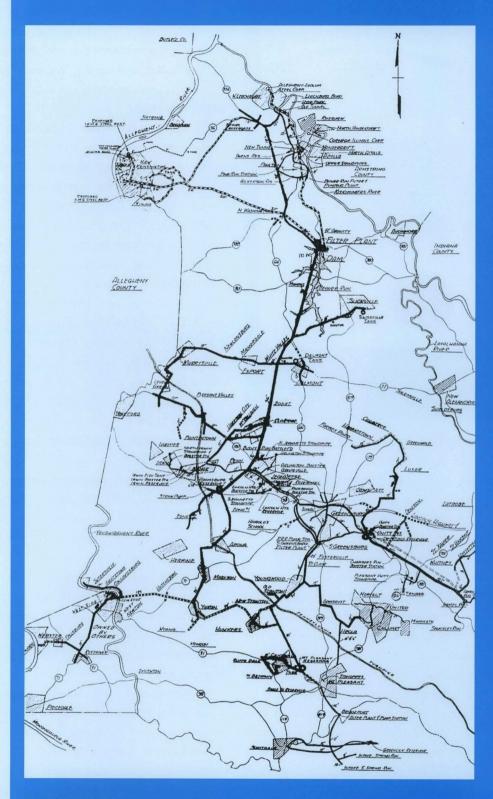
At the time of Roosevelt's letter, Pennsylvania had very strict debt limitations. The origins of these limits were found in the depression of 1839, which had driven the state into default.16 This experience convinced state officials that they needed to institute tight controls over all forms of public debt at each level of government. By the 1930s, Pennsylvania's outdated and counterproductive approach, which focused exclusively upon the value of real estate, particularly hurt local governments. The calculations behind the limits ignored such increasingly important revenue sources as earned income, fees, taxes, and grants by state and federal governments.17

High unemployment rates during the early 1930s led many academics, business people, and politicians to call for the creation of government-funded jobs programs, but little could be accomplished in Pennsylvania. Even local administrations with a sound revenue stream and good fiscal health could not implement labor-intensive capital projects so long as the real estate market remained in the doldrums.18 While Pennsylvania would not have the political will to revise its limits until 1972, it still wanted to give local governments some means of circumventing debt restrictions.19

The Pennsylvania legislature passed the Municipal Authorities Act of 1935, which was written to strongly encourage the use of public authorities. The act gave counties and municipalities the ability to incorporate a municipal authority without first seeking approval from the affected residents or coordinating its use with other local governments.20 Due to this generous ease of incorporation, officials did not have to concern themselves with the traditional distrust many citizens felt towards expanding governmental size and powers. Instead, a county or municipality simply adopted a resolution declaring its intention to form an authority and filed the articles of incorporation with the state secretary, who then issued a certificate of incorporation, and the authority began its new life. The straightforwardness of incorporation, as well as the fiscal benefits associated with the format, created the desired effect: the number of authorities in Pennsylvania grew from just 24 in 1939 to 1,302 by 1959.21

MAWC and the Fight for Local Control

The Municipal Authorities Act of 1935 defined municipal authorities as "bodies corporate and politic" established with the purpose of acquiring, constructing, and operating public transportation, bridges, highways, parking spaces, airports, parks, water systems, hospitals, and other types of facilities.22 These efforts were underwritten through the sale of revenue bonds that the authority paid back by charging fees to those who used its facilities, rather than a general tax upon all. Municipal authorities were governed by a board whose appointed members carried five-year terms.²³ The parent government exercised control over board composition, but these authorities were not a



By 1955, MAWC had plans in place for a wide-ranging construction and improvement program. The solid black line shows the filtered water supply that was installed or contracted at this time. Pennsylvania Municipal Authorities Association



subordinate agency or department.²⁴ Indeed, they could freely pursue policies that ran counter to the interests and desires of the parent government, so long as those policies remained in line with the statutes under which they incorporated.

from April 15, 1942.

The municipal authority format proved to be attractive for governments with limited resources but a strong desire to expand local infrastructure. At the very least, the construction of roads, bridges, and buildings would create badly-needed jobs during the worst economic crisis in American history. However, if the work was properly planned, the presence of such structures could position a region to take full advantage of any sustained economic recovery that might arise. Pennsylvania's Westmoreland County, the fifth most populous of the state's 68 counties, was one of the first to make use of the act. Located about 30 miles east of Pittsburgh, it had 303,411 residents in 1940.25 Despite its sizable population, the area was fairly rural and made up of numerous small boroughs serving limited geographic regions. The county's economy, which was largely based upon coal mining, steel production, and farming, continued to show the lingering effects of the Depression well into the 1940s.

In April 1942, the Westmoreland County Commission passed an ordinance creating the Municipal Authority of Westmoreland County (MAWC).²⁶ Its focus was to be on airports, bridges, and other projects of a "countywide interest."²⁷ Once the incorporation papers were filed with the state secretary, the commission quickly appointed five residents to MAWC's governing board.

Though its initial responsibilities were limited, MAWC positioned itself for a rapid expansion of its powers and responsibilities, including venturing into water systems. As was the case throughout much of Pennsylvania during this period, the citizens of Westmoreland County received their water through a network of facilities operated by the boroughs and private water companies.28 This network was patchy and inefficient during the best of times, but the recent economic traumas left portions on the verge of bankruptcy. "Deteriorated and been stripped of everything worthwhile" is how one borough council president described the community water system.29 With the local water systems in disrepair and most municipalities strapped for funds, county-wide government could move quickly to take control of the infrastructure.

However, whether large or small, most boroughs viewed control over basic services as the essence of their autonomy. Such control allowed local politicians to expand the infrastructure and adjust prices as they saw fit, which also helped them maintain the support of voters. The introduction of municipal authorities changed this dynamic since authority directors were more concerned with paying off bonds. One observer wrote that a municipal authority "acts as a kind of

Board of Directors in operating the water system for the benefit of bondholders,"³⁰ and not necessarily the voters. Consequently, local municipalities did not want to transfer their power over water supplies to the Westmoreland County government, despite the gross inadequacies of the existing system.³¹

In hindsight, local control over the water system was something of a delusion. In reality, a variety of private water companies owned and operated most facilities. While the boroughs had exclusive contracts and therefore could not be deprived of water, their agreements automatically transferred over to whatever entity bought up the companies. Even though the general belief was that the county government wanted to become the regional supplier of water, the boroughs still perceived themselves as protected from consolidation. But, as long as the county faced a poor economy and strict state restrictions on debt, it could not make a move on the individual components of the water system.

Thus, when the commission announced its plans to incorporate the Municipal Authority of Westmoreland County, the officials who ran the local municipalities, who already possessed a long-term general distrust of Westmoreland County government, suspicious of its actual purpose. Speculation arose that the construction of airports and bridges was not the real purpose behind the new authority. Many believed MAWC served purely as a proxy for county government and would soon attempt to take over the regional water system, passing on the costs to water consumers.32 It was general consensus that the county commission would fill MAWC's governing board with appointees devoted to its policies.

The municipalities' fears certainly seemed well founded: the new authority entered without delay into discussions with Citizens Water Company, whose facilities served the boroughs of Mt. Pleasant and Scottdale, and Latrobe Water Company, serving the borough of Latrobe.33 These boroughs immediately questioned the legality of MAWC's actions and threatened to take matters before the courts, as well as the state legislature. They ruefully noted that MAWC had been created ostensibly for the purchase of airports, yet had been secretly conferred the power to acquire water companies by the county commission.34

In fact, the boroughs' outcries were so strong that MAWC issued assurances that its discussions with the water companies had been misinterpreted and that its interests did not lie in purchasing all water facilities across the county. "We have been accused of getting a lot of money out of this, and we are trying to act for the benefit of the county," said a MAWC official. "If we have made any mistakes it was purely by accident."35 When these declarations proved insufficient, the Westmoreland County Commission revised the authority's mandate. By a 2-1 vote, it adopted a resolution stripping MAWC of any power to purchase water plants.36 While MAWC could still involve itself in other projects, such as the construction of roads and bridges, no efforts were made to do so. The statute effectively sent the authority into a period of dormancy.

However, when one of the county commissioners left his position to become a member of the governor's cabinet in 1943, the political situation in Westmoreland County changed once again.37 Once a replacement was chosen, the commission revised its approach to MAWC and quickly instituted an aggressive water policy, passing a new resolution, again by a 2-1 vote, that re-empowered the authority to "acquire, hold, construct, maintain and operate, own or lease" water facilities.38 Within days, the newly-sanctioned MAWC entered into negotiations with several water companies and initiated proposals for bond issues.

In its most provocative move yet, MAWC offered Citizens Water Company nearly \$1.9 million for its facilities, properties, and contracts.39 Such a purchase had ramifications that went well beyond Westmoreland County for, if successfully completed, this transaction would mark the first time a municipal authority had purchased a water system in Pennsylvania. Should other authorities imitate MAWC's aggressive behavior, then boroughs, towns, and municipalities throughout the state would face formidable competition for scarce funds and resources. The boroughs of Scottdale, Mt. Pleasant, and Latrobe objected strongly to this proposal, asserting that they wanted to purchase the various water facilities themselves. In fact, the boroughs claimed they had already been in negotiations with Citizens Water Company and were just reaching a resolution when MAWC got involved.

Scottdale and Mt. Pleasant issued two complaints. First, they claimed MAWC did not have the legal power to buy a water company that served the needs of other local governments. They took this grievance before the state courts in hopes of having MAWC's incorporation declared illegal, although these efforts ultimately proved futile.

Second, Scottdale and Mt. Pleasant officials pointed out that, throughout their negotiations, Citizens Water Company's asking price had been much higher than the actual value of the water facilities, which had been purchased from the United States Steel Corporation in 1929 for \$350,000. The company had spent very little over the intervening years on either maintenance or equipment upgrades.40 Frustrated, the boroughs instituted condemnation proceedings against Citizens Water's properties.41 With the resurrection of MAWC, the boroughs thought they understood why negotiations had been so difficult: they believed Citizens Water Company had anticipated that MAWC would put together a better counteroffer, even when MAWC did not have the legal power to make any deals. The boroughs' representatives were furious and

implied that collusion must have occurred. They proclaimed that any deal between Citizens Water and MAWC was suspect and called on the state government to investigate.

While Mt. Pleasant and Scottdale fought with MAWC and the Westmoreland County government, others took an alternative approach. Both Latrobe and Derry boroughs incorporated additional municipal authorities to oversee the purchase and management of all water facilities servicing their communities.42 As a result, Latrobe and Derry maintained at least an indirect influence over the water supply through their appointments to the authorities' governing boards. These efforts ultimately proved successful.

State Sen. John Dent (D) from Westmoreland County took the issues raised by Mt. Pleasant and Scottdale before the state senate, asserting that municipal authorities throughout the state were being manipulated by an "unnamed financial group" to dupe ratepayers out of thousands of dollars. Dent claimed that "the group acquires options on water companies and then sells them to authorities 'at greatly inflated prices' under managerial contracts designed to give the combine large profits for many years."43 He was apparently making reference to reports that the owner of Citizens Water Company had been involved in similar deals across Pennsylvania.44 Dent



By the mid-50s MAWC had a state-of-the-art filtration system in place at its Beaver Run Plant. Pennsylvania Municipal Authorities Association

urged the state to end such abuses by substantially revising the Municipal Authorities Act.

As a result of Dent's charges, a six-member senatorial committee formed ostensibly to investigate whether the Westmoreland Authority was using its power for personal and private gain. 45 However, the broader purpose of the investigation was to determine whether the Municipal Authority Act had given rise to a "Frankenstein" government that deprived local communities of control over basic infrastructure and services.46 "Counties, cities, boroughs, and townships are being persuaded one way or another to set up authorities," claimed state Sen. Watkins, a member of the committee. "Prices are rigged and forced on the municipality in which a water system owned by the financial combine happens to be located by threatening to sell the system to a nearby municipality."47 Over a two-week period, the committee heard statements from the commissioners of Westmoreland County, as well as officials from a number of municipal authorities.48

The senate committee made a number of recommendations limiting the powers of municipal authorities, none of which were passed into law at the time. The committee also proposed that a more extensive examination be undertaken by the state senate in preparation for a revision of the Municipal Authorities Act of 1935.49 Such an assessment did, in fact, take place, eventually leading to the passage of the Municipal Authorities Act of 1945. This later legislation clarified aspects of the 1935 Act, but did not radically change the structure and powers of municipal authorities. The 1945 Act still serves as the basis of municipal authority operations in Pennsylvania.

Despite its eventual influence upon municipal authorities in general, the senate hearings had little direct impact in Westmoreland County except to create more bad publicity for MAWC. The only remedy left to the com-

munities that felt threatened was to use the remaining political power they had left: the ballot. They organized to take advantage of the upcoming Westmoreland County Commission elections.

The city councils of Mt. Pleasant and Scottdale announced their total opposition to any candidate for commissioner who supported MAWC policies, no matter what that person's party affiliation. ⁵⁰ Sensing an electoral opportunity in what had been a predominately Democratic county, the local Republican Party campaigned on a platform that would end all MAWC efforts at buying



Morning Glory Overflow at Beaver Run Dam, owned by the Municipal Authority of Westmoreland County.

Municipal Authority of Westmoreland County

water facilities.⁵¹ As a result, a Republican candidate was swept into office. The Democratic Party split on the issue: all three seated county commissioners were Democrats, yet the most vocal critic of MAWC was the incumbent commissioner who had voted against its resurrection. MAWC became a central issue in the local elections and likely led to the defeat of a pro-MAWC Commissioner during the Democratic Party primary.⁵² Consequently, the county commission started 1944 with two of its members expressing strong anti-MAWC views.

Ultimately, the election results came too late to force any sweeping changes in MAWC's behavior. Despite the state senate

hearings and the attending political fallout, MAWC purchased the Mt. Pleasant and Scottdale water systems. The acquisition of the Westmoreland Water Company, serving the municipalities of Greensburg, Jeanette, and Irwin, quickly followed.53 MAWC now controlled the county's most important water facilities. With the contracts signed and bonds sold, the commissioners had little choice but to accept this sudden consolidation. They never made a serious effort to force MAWC into divesting itself of its holdings, and MAWC became a permanent feature of the local political system. Although the full benefits of consolidation would not become evident until years after the formation of MAWC, by this time after partial consolidation was in place, the newly constituted board of commissioners likely realized that a consolidated water system was in the county's best interest.

Transforming Local Politics in Pennsylvania

"The creation of new governments is not a natural consequence of something as straightforward as population increase," asserts Dr. Nancy Burns in The Formation of American Local Government.54 New governments arise as a result of institutional choices regarding "the limits of particular arrangements of political power, particular kinds of service provision, certain characteristics of political participation and political accountability, and certain arrangements for funding the work of local government."55 The economic turmoil of the 1930s forced the states into decisions that profoundly transformed American federalism. However, the state of Pennsylvania acted without fully considering the ramifications for its local governments, which were suddenly forced to work out the new arrangements largely on their own. As the events surrounding the Municipal Authority of Westmoreland County demonstrate, the creation of a new system of local governance could be a difficult and dangerous process for all involved.

Despite the control parent governments exercised over governing board appointments, municipal authorities did not always serve as their puppets. It would have been to the commission's immediate advantage if MAWC's board had toned down its single-minded pursuit of water rights. However, its members saw unique opportunities that would only be available temporarily, as most municipalities were strapped for cash and could not purchase components of the local water system. An economic recovery of any substance would have eliminated their upperhand.

The political turmoil caused by the introduction of municipal authorities in Pennsylvania in the early 1940s had counties and boroughs using untested strategies to remain competitive. Some of these tactics proved successful while others just added to the uproar. It would take more than a decade for the system of local governance in Pennsylvania to stabilize.

Nicholas Bauroth was born in Latrobe. Pennsylvania and received his BA in Communications from Temple University of Philadelphia. He earned his MA in Political Science at Loyola University of Chicago in 1997 and finished his doctoral dissertation, "The Role Played by Elections in Special District Policies," in May 2003. He was an assistant professor at Georgia Southern University and currently teaches in the Department of Criminal Justice and Political Science at North Dakota State University in Fargo, North Dakota.

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