

A COMMISSION REPORT

*Alternative Approaches to
Governmental Reorganization
in Metropolitan Areas*



ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS
JUNE 1962
A - 11

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Wm. G. Colman, Executive Director

A COMMISSION REPORT

ALTERNATIVE APPROACHES TO GOVERNMENTAL REORGANIZATION
IN METROPOLITAN AREAS

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

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P R E F A C E

The Advisory Commission on Intergovernmental Relations was established by Public Law 380, passed by the first session of the 86th Congress and approved by the President September 24, 1959. Sec. 2 of the act sets forth the following declaration of purpose and specific responsibilities for the Commission.

"Sec. 2. Because the complexity of modern life intensifies the need in a federal form of government for the fullest cooperation and coordination of activities between the levels of government, and because population growth and scientific developments portend an increasingly complex society in future years, it is essential that an appropriate agency be established to give continuing attention to intergovernmental problems.

"It is intended that the Commission, in the performance of its duties, will--

"(1) bring together representatives of the Federal, State and local governments for the consideration of common problems;

"(2) provide a forum for discussing the administration and coordination of Federal grant and other programs requiring intergovernmental cooperation;

"(3) give critical attention to the conditions and controls involved in the administration of Federal grant programs;

"(4) make available technical assistance to the executive and legislative branches of the Federal Government in the review of proposed legislation to determine its overall effect on the Federal system;

"(5) encourage discussion and study at an early stage of emerging public problems that are likely to require intergovernmental cooperation;

"(6) recommend, within the framework of the Constitution, the most desirable allocation of governmental functions, responsibilities, and revenues among the several levels of government; and

"(7) recommend methods of coordinating and simplifying tax laws and administrative practices to achieve a more orderly and less competitive fiscal relationship between the levels of government and to reduce the burden of compliance for taxpayers."

Pursuant to its statutory responsibilities, the Commission from time to time singles out for study and recommendation particular problems, the amelioration of which in the Commission's view would enhance cooperation among the different levels of government and thereby improve the effectiveness of the federal system of government as established by the Constitution. One problem so identified by the Commission relates to the growing complexity of intergovernmental relations in the large metropolitan areas and the need for readjusting local government structure, functions and geographic jurisdiction to accommodate current and anticipated increases in population in these areas.

In the following report the Commission has endeavored to analyze the strength and weakness of various alternative approaches to local government reorganization in metropolitan areas and respectfully submits its conclusions and recommendations thereon to the State Governors and legislatures and to the local governments of the Country's growing urban centers.

This report was adopted at a meeting of the Commission held on June 29, 1962.

Frank Bane
Chairman

ACKNOWLEDGEMENTS

The staff work for this report was conducted by Albert J. Richter (Analyst, Metropolitan Areas). Mr. Richter benefited from information and advice provided by review of the major recommendations and conclusions in this report by a number of individuals including John Bebout, William Cassella, George Deming, Morton Grodzins, I. M. Labovitz, John Garvey, and Alastair McArthur.

The Commission and its staff express appreciation for this assistance but, of course, assume final responsibility for the staff work reflected herein.

Wm. G. Colman
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I. INTRODUCTION

A. Purpose and Scope of Report

The Commission's report on Governmental Structure, Organization, and Planning in Metropolitan Areas focused on the problems of local government structure that commonly characterize metropolitan areas, with two objectives in mind: "(1) to ascertain some possible courses of action by State governments which would permit governmental units and citizens in the metropolitan areas to bring about improved coordination between governmental structure and governmental functions in these areas; and (2) to develop possible courses of action by the National Government which would both encourage State and local efforts in behalf of metropolitan area development and insure that functional programs in the National Government facilitate rather than impede coordination efforts at the local level." ^{1/} In the course of considering and recommending possible State action in behalf of improved local government within metropolitan areas, the Commission report described many of the approaches to local government reorganization hitherto tried in the United States. The description was not intended to be all inclusive, nor did it purport to give a full analysis of their strength and weakness.

The present report is an effort to treat the alternative approaches to reorganization of local government in metropolitan areas more comprehensively, to supplement the earlier Commission report.

The report is designed to provide a concise review of the major approaches that have been used or given serious consideration, indicating their strength and weakness, and the factors that make them more or less likely to prove effective if adopted. This review is addressed to (a) the citizens and officials within metropolitan areas who are struggling with the question of how to overcome deficiencies in geographical jurisdiction and powers of their local governments which impede the effective handling of area-wide problems, and (b) Governors and State legislatures who are faced with the necessity of providing a combination of State assistance and regulation with regard to metropolitan area problems.

^{1/} U. S. House of Representatives, Committee on Government Operations, Governmental Structure, Organization, and Planning in Metropolitan Areas, Suggested Action by Local, State and National Governments, A Report by the Advisory Commission on Intergovernmental Relations (Washington, July, 1961), p.1. Hereafter this report is cited as Governmental Structure.

Judging from the response to its earlier report, the Commission believes that citizens and officials will find such a review useful, and that in providing it the Commission is taking another step in carrying out its function to help improve intergovernmental relations at National, State and local levels. The Commission takes no position with respect to the use of any one or more of the approaches analyzed, believing this is a decision for each community to make in the light of its own desires and conditions.

The second purpose of this report is to suggest to the State governments additional ways in which they can make these reorganization methods more available to citizens in metropolitan communities, and improve the likelihood of their success, if tried. Recommendations are submitted for State legislation relative to several of the reorganization approaches.

B. Definitions

For the purposes of this report, "local governments" include all units of government below the level of the State: namely, counties, towns, municipalities, and special districts except school districts.

"Reorganization of governmental structure in metropolitan areas" is intended to include: (1) changes in the geographical jurisdictions of local governments, and (2) reallocation of powers or functions among existing and new units of local government. It excludes reorganizations that do not modify the present distributions of powers among existing units of government, such as internal departmental realignments through city or county charter revisions. Such internal changes can have, of course, significant long-run effects on improving the ability of individual governmental units to deal with their problems.

The following are considered "approaches to reorganization of local government in metropolitan areas": the use of extraterritorial powers, intergovernmental agreements, voluntary "metropolitan councils," the urban county, transfer of functions to the State government, metropolitan special districts including multi-purpose districts, annexation and consolidation, city-county separation, city-county consolidation, and federation.

C. Sources and Method

Metropolitan area problems and the relationship of these problems to the areas and powers of local governments have been researched extensively by many individuals and by State and local governmental organizations. This has been particularly true since World War II as problems of suburban growth and extension have

become more intense. In reviewing alternative approaches to adjusting local governments' areas and powers, this report is largely a distillation of the experiences and observations of informed students and practitioners of local government, set forth in their writings and speeches. The major references are cited in the report. Responsibility for conclusions and recommendations in the report is, of course, that of the Commission.

II. REASONS FOR REORGANIZATION OF LOCAL GOVERNMENT IN METROPOLITAN AREAS

The need for changing the geographical jurisdictions and powers of local governments in many of our metropolitan areas arises because of the growing maladjustment between what these governments are called on to do and their ability to perform. More specifically, the present powers, jurisdictions, and structures of local governments, and the status of intergovernmental relations in the metropolitan areas, make it increasingly difficult for the local governments to perform independently many functions which are inevitably area-wide in nature.

A. The Importance of Metropolitan Areas

A high proportion of the nation's population and economy is encompassed in metropolitan areas, and the proportion is increasing. Although the figures in Table 1 are not exactly comparable, they serve to indicate the growth in number of metropolitan areas since 1900. There has been a significant increase not only in the number of smaller metropolitan areas, but also in the number of larger areas.

In the period 1940 to 1960, the population of the 212 areas now recognized as metropolitan increased by 55 percent, from 72.8 million to 112.9 million, while the rest of the United States grew only 12 percent, from 59.3 million to 66.4 million. The proportion of the total U. S. population in the 212 areas was 55 percent in 1940; 63 percent in 1960.

The metropolitan centers account for about three-fourths of the nation's total economic activity. As of June 1960 metropolitan areas accounted for 78.6 percent of all bank deposits in the United States. ^{2/} In 1958 they accounted for 76.8 percent of the value added by manufacture, contained 67.2 percent of the country's manufacturing establishments, accounted for 73.8 percent of the total number of industrial employees and 78.5 percent of all manufacturing payrolls. ^{3/} In 1959 and 1960, 69 percent of all "housing starts" occurred in these areas. ^{4/}

^{2/} U. S. Federal Reserve System, Distribution of Bank Deposits by Counties and Standard Metropolitan Areas. (Washington, December, 1960) (Information reflects 212 metropolitan areas.)

^{3/} U. S. Bureau of the Census, 1958 Census of Manufactures. (Information pertains to the 188 metropolitan areas then designated.)

^{4/} Construction Review VIII (March 1961) p. 15.

Table 1

Number of Metropolitan Areas, 1900-1960

| Population group | 1960 <u>A/</u> | 1950 <u>B/</u> | 1940 <u>B/</u> | 1930 <u>B/</u> | 1920 <u>B/</u> | 1910 <u>B/</u> | 1900 <u>B/</u> |
|------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| Over 3,000,000 | 5 | 5 | 3 | 3 | 2 | 1 | 1 |
| 1,000,000 to 3,000,000 | 18 | 9 | 8 | 7 | 6 | 5 | 4 |
| 500,000 to 1,000,000 | 30 | 23 | 13 | 9 | 10 | 8 | 5 |
| 250,000 to 500,000 | 48 | 41 | 36 | 33 | 26 | 20 | 14 |
| 100,000 to 250,000 | 89 | 69 | 65 | 63 | 50 | 37 | 29 <u>C/</u> |
| Under 100,000 | <u>22</u> | <u>15</u> | <u>5</u> | <u>4</u> | <u>1</u> | <u>1</u> | <u>0</u> |
| | 212 | 162 | 130 | 119 | 95 | 72 | 53 <u>C/</u> |

A/ Standard Metropolitan Statistical Areas (SMSA's) as defined and reported in 1960 Census. This column is not comparable with other columns.

B/ SMA's by decades according to criteria used in 1950 Census. Taken from Donald J. Bogue, Population Growth in Standard Metropolitan Areas 1900-1950 (Washington, D. C.: Housing and Home Finance Agency, 1953), Appendix Table 1. Bogue combines the 18 New England SMA's into 12 county equivalents. See Appendix Table 2-B.

C/ Includes St. Joseph, Missouri.

SOURCE: International City Managers' Association, Municipal Year Book 1961 (Chicago: 1961), p. 35. Reprinted by express permission of the publisher.

Metropolitan areas account for a large share of the costs of local government in the United States. When the 1957 Census of Governments was taken, there were only 174 standard metropolitan statistical areas, compared with the 212 such areas at the time of the 1960 Census of Population. Yet in 1957 local governments within SMSA's accounted for over 70 percent of all local tax revenue, had 74 percent of all local government debt, and made 66 percent of all local government expenditures. With 52 percent of all public school enrollment, they made 61 percent of all local expenditures for education. Their proportion of local expenditures for other governmental functions was even higher, averaging 70 percent, and exceeded 80 percent of the national total for such functions as parks and recreation, fire protection, and sanitation. 5/

All indications are that the relative importance of the metropolitan areas in the nation will continue to increase.

B. Growth of "Metropolitan Problems"

The growth of metropolitan communities is the "natural end product of over a century of industrialization accompanied by increased agricultural productivity." 6/ Among the major forces working in this process were the changing technology (the automobile, the septic tank, the elevator, the power pump, modern communications devices), the economics of mass housing, the lack of room in the central city and older suburbs, government housing policies, and the search for individual homes surrounded by acreage. The resultant congestion and sprawl of the urban population and the interdependence of communities within the metropolitan areas have made it increasingly difficult for local governments to deal with many functions on less than an areawide basis. These functions usually include the provision of governmental services and controls in the fields of mass transportation and traffic, water supply and distribution, the disposal of sewage and other wastes, land use planning and control, air pollution control, open space acquisition and management, and civil defense. 7/ The number and type of these functions which constitute metropolitan problems vary from place to place.

5/ U. S. Bureau of the Census, Government Finances in Metropolitan Areas, III, No. 6.

6/ National Conference on Metropolitan Problems, General Report (East Lansing, Mich., 1956), p. 9.

7/ For similar statement see: Governor's Commission on Metropolitan Problems, Meeting Metropolitan Problems (Sacramento, Calif., 1960), pp. 7-9. For description of other definitions of metropolitan problems see: Edward C. Banfield and Morton Grodzins, Government and Housing in Metropolitan Areas (New York: McGraw Hill, 1958), pp. 30-39.

C. Why Local Governments Find Difficulty in Coping with Metropolitan Problems

The Commission's report on Governmental Structure identified four reasons why local governments as now constituted are frequently unable to perform area-wide functions effectively: (1) fragmentation and overlapping of governmental units, (2) disparities between tax and service boundaries, (3) State constitutional and statutory restrictions, and (4) metropolitan areas' overlapping of State lines. 8/

(1) Fragmentation and overlapping of governmental units. Many metropolitan territories are not within the limits of any one political unit of government, so there is usually no immediate governmental mechanism for dealing with area-wide problems on a coordinated, responsible basis. Seventy-nine of the 212 metropolitan areas represented intercounty areas. These 79 contained 71 percent of the metropolitan population. Twenty-four of the 79 extended over two or more States, and several others made up parts of the interstate "standard consolidated areas" of New York-northeastern New Jersey and Chicago-northwestern Indiana.

The fragmentation of the local government pattern in the 212 metropolitan areas is shown by the following tabulation of types of local government units by size of metropolitan area in Table 2. 9/

Most of these local units do not exercise exclusive local government jurisdiction within their boundaries--many of them overlap. School districts and other special districts are the most frequent examples of units overlapping the jurisdictions of municipal or county governments. It may be noted, incidentally, that of the 10,413 "Other" local governments shown in the table, over 3,800 were such special districts. 10/

(2) Disparities between tax and service boundaries. The most astute fiscal policies and the highest possible degree of technical competence in financial administration are of little avail for the equitable and adequate financing of governmental services in metropolitan areas unless the basic fact of noncoincidence of service areas and areas of tax jurisdiction for the support of such services, is clearly recognized and effectively met.

8/ Governmental Structure, op. cit., pp. 12-17.

9/ Ibid., p. 14.

10/ Estimated from U. S. Bureau of the Census, 1957 Census of Governments, Governments in the United States, I, Nos. 1 and 2; and U. S. Bureau of the Budget, Standard Metropolitan Statistical Areas (1961).

Table 2
Local Governments in the 212 Standard Metropolitan Statistical Areas, by
Population -- Size of Area

(School districts as of 1960; other local governments as of 1957)

| Population size of SMSA | : Number of : SMSA's | : 1960 : population : (in millions) | : <u>Number of local governments</u> : | | | : Dependent : School : Systems : 1960 A/ |
|------------------------------------|-------------------------|---|--|-------------------------|---------|---|
| | | | : Total | : School : districts | : Other | |
| All SMSA's | 212 | 112.9 | 16,976 | 6,563 | 10,413 | 600 |
| SMSA's with a 1960 population of-- | | | | | | |
| 2,000,000 and over..... | 10 | 43.6 | 4,397 | 1,685 | 2,712 | 187 |
| 1,000,000 to 2,000,000..... | 14 | 18.0 | 2,131 | 790 | 1,341 | 32 |
| 500,000 to 1,000,000..... | 29 | 19.2 | 2,623 | 864 | 1,759 | 79 |
| 200,000 to 500,000..... | 69 | 20.6 | 4,691 | 1,908 | 2,783 | 187 |
| 100,000 to 200,000..... | 68 | 9.8 | 2,571 | 985 | 1,586 | 99 |
| Less than 100,000..... | 22 | 1.8 | 563 | 331 | 232 | 16 |

A/ School systems operated as part of another government--county, city, or town, rather than as independent districts.

SOURCE: Calculated from detail shown in U. S. Bureau of the Census, 1957 Census of Governments, Governments in the United States, I, No. 1; and Public School Systems in 1960 (November 1960), by reference to current designations of SMSA's as indicated by U. S. Bureau of the Budget, Standard Metropolitan Statistical Areas (1961).

Generally speaking, the larger the number of independent governmental jurisdictions within a metropolitan area the more inequitable and difficult becomes the process of financing those governmental services which by their nature are area-wide in character. This is especially the case with respect to such services as water supply, sewage disposal, and transportation. These services by their nature require large and integrated physical facilities with service boundaries economically dictated by population density and topography, often involving little or no relationship to boundaries of political jurisdiction. Even services which do not demand area-wide handling, such as education, law enforcement, and health, also involve serious problems of equity with respect to financing and of awkwardness in administration where numerous local governments are involved.

(3) State constitutional and statutory restrictions. These place barriers in the way of modernizing the structure and functions of local governments in metropolitan areas. They apply particularly to the organization and functions of county government, the under-representation of urban centers in State legislatures, antiquated annexation and incorporation laws, and the ability of local governments to tax and borrow money.

(4) Metropolitan area problems frequently cross State lines. The 26 metropolitan areas that include territory in two or more States contain more than one-fifth of the Nation's people and almost one-third of its manufacturing activity. They have more than 5,000 local governments. The problems of matching political jurisdiction and responsibility with needs and resources are compounded in these metropolitan areas because additional sets of State constitutional provisions, statutory requirements, and administrative regulation are involved. Successful interstate action and coordination on these problems have been relatively limited to date.

The Commission's report on Governmental Structure recommended ways in which the State and National governments could help overcome these barriers to effective handling of metropolitan problems. The present report is primarily devoted to a review of the whole range of methods that have been used by metropolitan communities to attempt to adjust their local governments' areas and powers so they are better able to meet the local governmental needs of their citizens.

III. CRITERIA FOR APPRAISING DIFFERENT APPROACHES TO REORGANIZATION OF LOCAL GOVERNMENT IN METROPOLITAN AREAS

Before setting out to appraise the strength and weakness of the alternative approaches to reorganization of local governments in metropolitan areas, it is necessary to identify the criteria or assumptions used in making the appraisal, and to note their limitations and explain how they are applied.

The principal objective of reorganization approaches, as defined here and explained in the preceding chapter, is to change local governments to improve their ability to handle functions of an area-wide nature. Such changes may affect objectives of local governments other than those of dealing adequately with area-wide problems. In establishing criteria for evaluating the approaches to reorganization, therefore, it is necessary to take into account the total objectives of local government.

Adequate consideration of these objectives would require extended treatment that is beyond the scope of this study. However, a general statement likely to represent broad consensus is that local governments should serve the people effectively and efficiently, with active citizen participation and control, with an adequate and equitable revenue system, with a sufficient degree of local initiative and self-government for traditional or natural communities in the area, and with provision for adaptation to growth and change. 11/

From this statement a number of criteria can be derived which have a particular bearing on the geographical jurisdictions and powers of local governments, and therefore shall be used in evaluating the various alternative approaches to government reorganization in metropolitan areas. These criteria are: (1) Local governments should have broad enough area to cope adequately with the forces that create the problems which the citizens expect them to handle. (2) They should be able to raise adequate revenues, and do it equitably. (3) There should be flexibility to adjust

11/ National Conference on Metropolitan Area Problems, op. cit., p. 10. For other discussion involving objectives of local governments in metropolitan areas see: Banfield and Grodzins, op. cit., chap. 2; Stephen B. Sweeney and George S. Blair (eds.), Metropolitan Analysis (Philadelphia: University of Pennsylvania Press, 1958), pp. 23-24; Area and Power, ed. Arthur Maass (Glencoe, Ill.: Free Press, 1959); Victor Jones, "Attempts to Meet the Problems," The Future of Cities and Urban Redevelopment, ed. Coleman Woodbury (University of Chicago Press, 1953), pp. 527-529.

governmental boundaries. (4) Local governments should be organized as general-purpose rather than single-purpose units. (5) Their areas should permit taking advantage of the economies of scale. (6) They should be accessible to and controllable by the citizens. (7) They should provide the conditions for active citizen participation.

One other criterion is used in making the appraisal -- (8) political feasibility. This criterion involves factors, other than those contained in the other criteria, which have a bearing on the likelihood that the respective approach can be adopted.

A. Explanation of Criteria Used

The order of the listing of the criteria in the following elaboration is not intended to represent any sequence of relative importance.

(1) Local governments should have broad enough jurisdiction to cope adequately with the forces that create the problems which the citizens expect them to handle. "Coping adequately" means effective planning, decision, and execution. Effective planning means being able to embrace much or all of the area within which the major local forces producing the governmental problem have their effect. Effective decision means decision on the basis of a debate among a full range of interests having influence on these problems. Effective execution means being able to marshal adequate human and other resources to carry out the public decision. This criterion thus is closely related to that of adequate financing. It is also closely related to the criteria of citizen accessibility and participation to the extent that these stimulate citizen loyalty, since loyalty and respect have an important effect on citizen support for carrying out governmental policies and programs.

(2) Local governments should be able to raise adequate revenues, and do it equitably. As indicated, this criterion supports the first criterion of jurisdictional adequacy. It also contains the separate important idea of equitability of the revenue system. It means the reduction of disparities between tax and service boundaries.

(3) There should be flexibility to adjust governmental boundaries. The social, economic, political and demographic forces that make existing local government boundaries inadequate for many purposes are likely to accelerate rather than diminish in the future, increasing the need for flexibility in boundary adjustments.

(4) Local governments should be organized as general-purpose rather than single-purpose governments. Assignment of functions to general-purpose governments is more likely to produce proper balancing of total local needs and resources, a condition for effective decision-making and political responsibility. It is likely to produce more efficient administration through better coordination among functions and the reduction of overhead costs. It can sharpen citizen control by enabling the citizen to concentrate, rather than diffuse his attention on those organizations and officials with the power to make decisions. Adherence to this criterion means minimizing the overlapping among units of government.

(5) Local government areas should be such as to permit taking advantage of the economies of scale. Studies have shown that there is a relationship between the size of a governmental unit and the cost of performing its functions. The optimum size, i.e., the size at which unit cost is lowest, is not the same for all services. Local governmental units should have areas which minimize the unit cost of the services they provide. 12/

(6) Local governments should be accessible to and controllable by the people. Accessibility and controllability of local government are determined to a significant degree by factors that have little relationship to the size of the governments. These factors, which concern structural and procedural features of government, include the number and nature of elective officials, the manner of their election (by district or at large), their terms, the distribution of powers among them and the appointive personnel, provisions for notice and hearings on proposed policy changes, administrative provisions for receiving and acting on complaints, provisions for initiative and referendum, and recourse to the courts.

To the extent that the size of the governmental units does affect accessibility and control, however, arguments can be made for both smaller and larger size. Widespread popular sentiment seems to favor smaller units as being "closer to the people."

12/ Banfields and Grodzins' footnote comment on economy of scale in op. cit., p. 34; Werner Z. Hirsch, "Expenditure Implications of Metropolitan Growth and Consolidation," in The Review of Economics and Statistics, XLI, August 1959 (Harvard University Press, Cambridge), pp. 232-241.

To some degree this is legitimately based on history and tradition, and the fear of overconcentration of power. ^{13/} On the other hand, as James Madison argued in The Federalist, the larger the area of government, the less the likelihood that any one special group will dominate the government, and thus the greater the likelihood that the many diverse groups of the community will have their interests respected. ^{14/} In terms of effective control and accessibility, therefore, the unit of government should be large enough to make it unlikely that any single interest can dominate it.

So far as the assignment of powers is concerned, as indicated under criterion (4), general-purpose government seems more conducive to effective citizen control than a multitude of special-purpose governmental units.

(7) Local governments should provide the conditions for active citizen participation. Citizen participation is also affected significantly by factors other than the area and powers of local government. The structural and procedural features cited under criterion (6), many of which depend on the form of government, are examples. ^{15/} Aside from such factors, however, participation is more likely to be stimulated by small governments than large ones, if for no other reason than that smallness makes for greater numbers. As one observer notes:

If all local government in American were suddenly abolished, the range of public decisions over which private citizens could exercise maximum control would be materially diminished in number if not in importance...Our democratic institutions...thrive on popular participation in the business of government. Perhaps the only area in which those decisions are straightforward enough to permit direct citizen participation is in the local government field...

^{13/} Paul Ylvisaker, "Some Criteria for a 'Proper' Areal Division of Governmental Powers," Area and Power, ed. Arthur Maass, (Glencoe, Ill.: Free Press, 1959), pp.27-52.

^{14/} The Federalist (New York: The Modern Library), pp. 53-62.

^{15/} Gilbert Y. Steiner, "The Local Government Concept," Illinois Local Government, Final Report and Background Papers, Assembly on Illinois Local Government (University of Illinois Bulletin, Vol. 58, No. 67, May, 1961), p. 19.

There is simply no way to maximize citizen participation in government in a country as large geographically and in numbers of people as the United States other than through a multiplicity of local governments. As a way of maintaining interest in democratic institutions, it is quite true that if a system of local government did not exist, we would have to invent one to train a citizenry generally untrained in judging public issues...

In sum, there is a critical political function for local government to fulfill. That function is not the training of players before they move to the big leagues. It is, rather, the sponsorship of sand-lot politics in order that community interest in the game be maximized, and that the fans be enabled to exercise real discrimination when they have a chance from time to time to watch and to support the professionals. 16/

(8) Approaches to reorganization of local government conforming to any or all of the foregoing criteria should have political feasibility -- the potential for receiving the approval required by the State constitution, statutes, or local government charter. Political feasibility seems to depend on a number of interdependent factors, including:

(a) The potential of the proposal to advance the objectives of the governments affected in the metropolitan area. Thus, the reorganization is presumed to have political feasibility to the extent that it has the potential for fostering changes incorporating the first seven criteria. Some may argue that the merit of a proposal has nothing to do with its political acceptability. This argument would be quickly refuted by those who have had the difficult experience of trying to "sell" a weak or ill-conceived reorganization proposal.

(b) The desire to adopt the proposal on the part of those with the authority to act. These may be one or more legislatures, one or more local governing bodies, the electorate of one or more local governmental units, or a combination of some of these. Appraisal of this factor involves to some extent a judgment of the merits of the proposal. It also involves a judgment of the status of political

16/ Steiner, op. cit., pp. 20-21. Also see Thomas R. Dye, "Metropolitan Integration by Bargaining Among Sub-Areas," The American Behavioral Scientist, V (May, 1962), p. 11.

resources of those who are anxious to "sell" the proposal to the groups in the position of authority. Such resources include the energy and skill necessary to plan, organize, and carry out a program of political education. The nature of the political resources is not very directly related to the major theme of this study, namely, the different approaches to reorganization of local government in metropolitan areas. Therefore, an evaluation of these resources is considered outside the scope of this study. 17/

(c) The status of constitutional, legislative, and charter authority to make the change.

(d) The nature of the legal procedure required to make the change, that is, the legal provisions as to (1) who needs to act (one or more legislatures, one or more local governmental units, or a combination of some of these); and (2) the kind of majority action required (e.g., simple or two-thirds; of all the governing bodies affected or of only a simple majority).

These last two factors of political feasibility -- the legal permission to make the change and the legal procedure actually to make it -- are applied in this analysis. One additional factor of political feasibility is applied: the threat of the reorganization approach to the tenure and powers of people in office. This is a part of the complex of considerations in factor (b), but is singled out because experience with reorganization efforts over many years indicates that it is a significant and fairly predictable force.

In brief, therefore, reorganization approaches are regarded as having political feasibility to the degree that adequate permissive authority exists for the adoption of the approach, that the action of adoption is simple, and that the approach can be accommodated to the existing political power structure.

17/ To those interested in the development and most effective use of political resources for the achievement of governmental reorganization in metropolitan areas, however, attention is called, among other sources, to the Advisory Commission on Intergovernmental Relations, Factors Affecting Popular Reactions to Governmental Reorganization in Metropolitan Areas, (Washington, 1962).

B. Limitation of Criteria and Appraisal

In applying the criteria to the alternative approaches to the reorganization of local government in metropolitan areas, several limitations must be clearly recognized:

First, an appraisal of this kind, as any appraisal in the subject matter and methodology of the social sciences, can only suggest tendencies and "likelihoods". Much of the appraisal is a matter of judgment. Different individuals would have different ideas of what weights to give to different criteria, and even "ideal" solutions would vary among the 50 States and the 212 metropolitan areas.

Second, all the criteria are compatible, but only if each is moderated, not maximized. Balance is necessary, for some of the criteria pull in different directions, reflecting contradictory values which the different criteria are presumed to secure. Generally speaking, criterion (7), concerning citizen participation, and criterion (8), concerning political feasibility, tend to move in the opposite direction from the first six criteria. That is, they tend to favor smaller, numerous governments, whereas the first six tend to favor larger, fewer governments.

IV. ANALYSIS OF ALTERNATIVE APPROACHES TO REORGANIZATION OF LOCAL GOVERNMENT IN METROPOLITAN AREAS

In the various reviews of the alternative approaches to reorganization of local government in metropolitan areas, no uniform sequence of treatment has been followed. Paul Studenski's classic work mainly, but not entirely, followed an order based on the degree of political integration achieved by the various approaches. 18/ Victor Jones used a sequence based on the effect on existing structure. 19/ The Council of State Governments' report used alphabetical order. 20/ The sequence used in this report is generally according to the degree to which the approaches modify the existing political structure, ranging from the mildest to the strongest.

The approaches will be taken up in this sequence: use of extraterritorial powers, intergovernmental agreements, including both joint administration and intergovernmental sales of service; voluntary "metropolitan councils;" the urban county; transfer of functions to the State government; metropolitan special districts, including multipurpose districts; annexation and consolidation; city-county separation; city-county county consolidation; and federation. It should not be inferred from this listing that these reorganization approaches are mutually exclusive. A number of reorganization efforts have employed several at one time, and indeed communities are wise to consider combining the features of various approaches for adaptation to their own particular problem. Moreover, some reorganization methods could be classed under more than one of the groupings set forth above, depending on what emphasis is desired. As noted in the analysis the urban county, the multipurpose metropolitan district, and the federation, for example, have many common characteristics, yet they are treated separately because of certain important differences.

18/ The Government of Metropolitan Areas (New York: National Municipal League, 1930).

19/ Metropolitan Government (University of Chicago Press, 1942). Jones used the same general order in "Local Government Organization in Metropolitan Areas: Its Relation to Urban Redevelopment," Part IV of The Future of Cities and Urban Redevelopment, ed. Coleman Woodbury (University of Chicago Press, 1953).

20/ The States and the Metropolitan Problem (Chicago, 1956).

The treatment of each of the alternative approaches conforms to this general pattern: brief definition or description; summary of scope and trend of use, including outstanding examples; strength and weakness; past Commission recommendations with respect to State legislation for facilitating and encouraging local use of the approach; and new Commission recommendations, where appropriate, for State legislation to improve the permissibility and likely effectiveness of the approach.

A. The Use of Extraterritorial Powers

Extraterritorial powers as defined in this report are powers which a city exercises outside its ordinary territorial limits to regulate activity there or to assist in providing services to its citizens within its own boundaries.

Regulatory powers of an extraterritorial nature commonly include control over possible threats to health and safety, abatement of nuisances, and regulation of zoning and subdivisions. The use of extraterritoriality for providing services to the city's residents is most commonly connected with water supply, sewage treatment, recreation areas, and rubbish dumping sites outside city boundaries. The term "extraterritoriality" is also frequently used to refer to the power of a city to furnish services to areas outside the city. In this report such action is covered in the next section on intergovernmental agreements.

1. Scope and trend of use

Use of extraterritorial powers by cities varies among the States and by the type of power authorized. ^{21/} State legislatures have been relatively generous in granting cities power to go outside their boundaries to help in providing a service to their residents. In most States cities are particularly allowed to obtain their water and treat and dispose of sewage outside their boundaries, because of the frequent difficulties of providing these important utility services within their own boundaries.

^{21/} Russell W. Maddox, Extraterritorial Powers of Municipalities (Corvallis, Oregon: Oregon State College, 1955). Also W. W. Crouch, "Extraterritorial Powers of Cities as Factors in California Metropolitan Government," American Political Science Review, XXXI (April, 1937), p. 291; William Anderson, "The Extraterritorial Powers of Cities," Minnesota Law Review, X (1926), pp. 475-97 and 564-83.

Cities quite commonly exercise police power beyond their borders for health purposes--the protection of milk and meat supply, especially. About one-third of the States authorize cities to exercise extraterritorial powers to abate nuisances, such as slaughterhouses and soap factories. However, only a small portion of the cities exercise their nuisance abatement authority, leaving regulation mostly to the State. Few States grant localities the power of extraterritorial regulation of morals, such as gambling and the sale and use of liquor, and fewer cities exercise such powers. These are generally regarded as State-wide problems.

About 30 States have given cities jurisdiction beyond their boundaries for regulating subdivisions. To some extent, the increased establishment of county planning and zoning in unincorporated areas is reducing the need for such extraterritorial power.^{22/} Few States have given cities power of extraterritorial zoning. ^{23/}

As a method of helping to meet governmental problems in metropolitan areas, the planning, zoning and subdivision regulation facets of extraterritoriality have received most attention in recent years. They can be effective in dealing with the problems of haphazard growth in the unincorporated fringe areas of municipalities, particularly where counties do not have such regulation in unincorporated areas. Thus, zoning divides an area (usually a municipality) into districts and within those districts regulates the height and bulk of buildings and other structures, the percentage of a lot that may be occupied, the size of required yards and other open spaces, the density of population, and the use of buildings and land for trade, industry, residence, or other purposes. Subdivision regulation controls the arrangement and width of streets, length and depth of blocks, provision of public open space, provision of sewer and water distribution systems, grading and surfacing of streets, and sufficiency of easements for utility installations. Such subdivision regulations are frequently required to conform with the provisions of the comprehensive plan of the municipality concerned, as in Wisconsin, in order to assure orderly development of the entire area. ^{24/}

^{22/} Municipal Year Book 1962 (Chicago: International City Managers' Association, 1962), pp. 64-65.

^{23/} American Society of Planning Officials, Extraterritorial Zoning, Planning Advisory Service, Information Report No. 42 (September, 1952).

^{24/} See International City Managers' Association, Local Planning Administration (Chicago 1959), chaps. 11 and 12; Wisconsin, Statutes (1961), Sec. 62.23.

A survey conducted for the Municipal Year Book 1954 gave an indication of the extent of use of extraterritorial zoning and subdivision regulation powers. The survey covered 174 cities over 5,000 population out of a total of 2,527 cities. 25/

While about 85 percent of the responding cities had zoning ordinances in effect within their boundaries, only about 10 percent had such ordinances effective outside their boundaries. Of the latter, only one-half were effective up to three miles outside the boundaries, one-fourth up to five miles, and one-fourth up to one or two miles. The principal reason for this relatively small use of zoning outside the city boundaries was the lack of statutory permission. To some extent the cities' lack of extraterritorial zoning was offset by county zoning laws in the unincorporated areas, particularly around big cities, but county zoning tended to be less comprehensive.

Extraterritorial subdivision regulation was more common than zoning. Seventy-seven percent of the cities surveyed had subdivision regulation within their borders, and 37 percent had extraterritorial authority. Of those with the power, two-fifths exercised it up to five or six miles beyond the city limits, another one-third exercised it up to three miles, and the remainder exercised it up to one or two miles. Counties participated only slightly more often in the areas not touched by extraterritorial subdivision controls than they did in areas not touched by extraterritorial zoning controls.

2. Strength and weakness

a. As an aid to providing service

A city's use of extraterritorial power is a way of extending its geographical jurisdiction. As a means of providing or improving city services, as in the case of water supply or recreation sites, it is a logical and frequently necessary way for a city to discharge its responsibility to its citizens. From the standpoint of the metropolitan area as a whole this may prove a disadvantage if it deters the city from cooperating with other communities in an area-wide approach yielding greater overall benefits. This approach also raises the possibility of creating intergovernmental friction if the city is not careful to be a "good citizen" in the way it carries on its activity in the outside area. The maintenance of

25/ The survey results were analyzed in John C. Bollens' article, "Controls and Services in Unincorporated Fringe Areas," Municipal Year Book 1954 (Chicago: International City Managers' Association, 1954), pp. 53-61.

refuse dumps and correctional institutions are examples of activities susceptible to complaints by the outside areas.

b. As a regulatory device

The use of extraterritoriality as a means of extending a city's geographical boundaries can be more important in the regulatory field, particularly in planning, zoning and subdivision regulation in unincorporated areas. Uncontrolled development at the fringes can have deteriorating effects on property values in the established neighboring areas of the central city, and can complicate the provision of certain services within the municipality, such as fire protection, crime control, traffic control and disease prevention. The use of extraterritorial zoning and subdivision regulation in unincorporated fringe areas can bring these conditions under better control by the adjoining municipality. By so doing it strengthens the movement toward area-wide land use planning.

Extraterritorial planning, zoning and subdivision regulation may also serve as a step toward annexation by giving the fringe area characteristics harmonious with those of the adjacent city. Such an effect seems most likely in such States as Virginia, North Carolina and Texas where the cities have considerable initiative in annexation proceedings and fringe areas can not exercise a veto over annexations. On the other hand, the threat of extraterritorial controls may stimulate hasty and ill-advised incorporations as a "defensive" measure, particularly in States where incorporations are easily accomplished.

From the standpoint of political feasibility, the use of extraterritorial controls has the advantage of creating relatively little disturbance in the political status quo. Unincorporated territories usually have only "rudimentary government," so that the officials and employees whose positions are threatened are few. Moreover, while the extraterritorial controls represent an exercise of governmental power from outside, it is the very lack of exercise of such power by the residents of the territory which frequently moves the adjoining city to exercise its power there. Thus extraterritorial regulation represents a new exercise of power, rather than a shift of an existing power.

A major weakness of extraterritorial regulation as an approach to reorganizing local government structure in metropolitan areas is its limited applicability. Many States do not give

localities adequate authorization for the most important regulatory powers from the standpoint of dealing with metropolitan growth: planning, zoning and subdivision regulations. Even where the powers exist they are useful only when there are unincorporated areas adjacent to municipalities, a condition which is long past for many urban centers. Moreover, to the extent that these controls help ease the problems of fringe areas, they relieve the pressure for more basic solutions, except where the fringe area cannot veto a proposed annexation initiated by the adjoining city.

While extraterritorial regulation as presently authorized in most States enables the central city to protect itself it deprives the residents of the outside areas of a voice in determining their own affairs. This is contrary to the principle of local self-determination. It also can generate resentment, to the detriment of the cooperation required for satisfactory inter-governmental relations in metropolitan areas, as well as continued working for more comprehensive approaches to reorganization.

3. Recommendations

The Commission recommends that where effective county planning, zoning and subdivision regulation do not exist in the fringe area, State legislatures enact legislation making extraterritorial planning, zoning and subdivision regulation of unincorporated fringe areas available to their municipalities, with provision for the residents of the unincorporated areas to have a voice in the imposition of the regulations.

It is the Commission's view, that while extraterritorial power holds no great potential for resolving basic intergovernmental problems in metropolitan areas, such potential as it has should be made available to localities. Where counties are not already exercising effective control of the unincorporated fringe areas, extraterritorial planning, zoning and subdivision regulation can be important tools for preventing the development of problem areas around individual cities, and for easing the transition to a sound governmental structure.

The content of legislation authorizing municipalities to exercise such extraterritorial powers is suggested by the model draft statute attached in the form of an amendment to existing State statutes on planning, zoning and subdivision regulation (Appendix A). The proposed statute is adapted from a 1959 North Carolina statute on extraterritorial zoning 26/ recommended

26/ North Carolina, Session Laws (1959), c. 1204.

by the Municipal Government Study Commission of the North Carolina General Assembly 27/ and an earlier North Carolina statute on extraterritorial subdivision regulation. 28/ The suggested draft provides for the inclusion of residents of the unincorporated territory on the planning commission and zoning adjustment board for participation in making recommendations on planning, zoning and subdivision regulation matters applying to the "extramural" territory in which they reside. The fact that the municipality and unincorporated area have equal representation on the extraterritorial matters gives the unincorporated area some protection against arbitrary action by the municipality. Adoption of the zoning ordinance and approval of zoning adjustments, however, are still left to the municipal governing body.

Even with the provision for equal fringe area representation on the planning commission and the zoning adjustment board, the granting of extraterritorial zoning authority might stimulate a movement toward "defensive" incorporations. This is a risk that seems worth taking in view of the possible advantages to be gained by orderly fringe development and the stimulation of greater county-wide interest in zoning. Also, as the Commission pointed out in its report on Governmental Structure, 29/ any action directed toward greater control over the unincorporated area, whether it be giving municipalities greater initiative in annexation proceedings or, as in this case, greater control through extraterritorial zoning, should be accompanied by simultaneous strengthening of the State's regulation of new incorporations.

The minimum size of municipality and the distance of extraterritorial jurisdiction from the municipality's boundary for the zoning and subdivision regulation statute is not specified in the draft legislation because of varying State needs and conditions.

27/ Report (Raleigh, North Carolina, 1958), pp. 18-19.

28/ North Carolina, General Statutes (1961), secs. 160-226.

29/ Governmental Structure, op. cit., pp. 39-40.

B. Intergovernmental Agreements: Joint Exercise of Powers and Intergovernmental Sales of Services

Intergovernmental agreements are arrangements under which a governmental unit conducts an activity jointly or cooperatively with one or more other governmental units, or by contracting for its performance by another governmental unit. The agreements may be permanent or temporary; pursuant to special act or general law; effective with or without voter approval; and may be formal or informal in character. Intergovernmental agreements may be for the provision of direct services to citizens of two or more jurisdictions, such as water supply or police protection; or they may be for governmental housekeeping activities, such as joint purchasing or personnel administration activities.

A relatively new form of intergovernmental agreement--the voluntary "metropolitan council"--is treated separately in Section C of this chapter.

1. Scope and trend of use

Intergovernmental agreements are the most widely-used means of broadening the geographical base for handling common functions in metropolitan areas. The following examples illustrate the variety and scope of use of intergovernmental arrangements in various parts of the country.

In the State of California, local governments make wide use of intergovernmental agreements. The State has drawn particular attention for the extensive way in which counties have entered into contracts to provide services to cities. This procedure is widely known as the "Lakewood Plan," because Lakewood on becoming a city contracted to have practically all its governmental services provided by Los Angeles County. In March, 1959, there were 887 contracts between cities and the Los Angeles County government, covering a wide range of functions, including both "housekeeping" activities of government and direct services to the people. Statewide, there were 2,832 city-county contracts distributed among county services as shown in Table 3.

Table 3

Use of Contracts in the State of California
and the County of Los Angeles a/

| | In State of California | In Los Angeles County |
|---|---------------------------|--------------------------|
| Assessing | 274 | 60 |
| Tax collecting | 248 | 60 |
| Personnel service | 16 | 12 |
| Public health services | 310 | 57 |
| Library services | 201 | 34 |
| Dog control | 118 | 24 |
| Election services | 222 | 54 |
| Prisoner care | 248 | 52 |
| Prosecution | 79 | 24 |
| Criminal identification | 65 | |
| Law enforcement communciation | 193 | 44 |
| Civil defense | 63 | |
| Ambulance service | 106 | 39 |
| Dumps | 111 | 10 |
| Maps | 25 | |
| Road laboratory service | 45 | |
| Building inspection | 40 | 23 |
| Planning | 34 | 15 |
| Airports | 14 | |
| Flood control | 34 | |
| Civic centers | 9 | |
| Street maintenance | 116 | 72 |
| Life guards | 10 | 7 |
| Recreation | 60 | 43 |
| Miscellaneous | 191 | 94 |
| | <hr/> | <hr/> |
| TOTAL | 2,832 | 724 |

a/ From Samuel K. Gove, The Lakewood Plan, Commission Papers of the Institute of Government and Public Affairs (Urbana: University of Illinois, May, 1961), p. 15. Total figure for Los Angeles County is different from that previously cited because of a difference in classifying services and a difference in the data used.

California provides for other types of intergovernmental agreements at the local level. Under the Joint Powers act, two or more public agencies exercising common powers may agree that one of them should exercise that power for all of them. A report of a 1959 survey by the League of California Cities indicated that 67 percent of the cities responding to a questionnaire had cooperative agreements with other cities, or with special districts. There were 74 intermunicipal agreements and contracts, with heavy emphasis on sewage collection and disposal and jail facilities services. 30/

A third type of intergovernmental arrangement in California permits local governments to work together on a problem, rather than having one provide the service for all. These types of agreement are used mainly where municipalities need help on an emergency basis, and most frequently are mutual aid fire service pacts. 31/

A partial survey of the extent of intermunicipal contracts in Cuyahoga County, Ohio, disclosed that the City of Cleveland in the period 1950-57 had 30 contracts with 12 of its suburban neighbors. In addition, the 12 suburbs had 43 contracts to provide one another services. 32/ A survey of the eight-county Philadelphia metropolitan area about 10 years ago found that there were 756 interjurisdictional agreements in effect involving 427 different governmental jurisdictions. Two hundred nineteen were for public works and utilities services, 139 for protection of persons and property, and 389 between school districts. 33/

30/ Samuel K. Gove, The Lakewood Plan, Commission Papers of the Institute of Government and Public Affairs (Urbana: University of Illinois, May, 1961), p. 7.

31/ Frank P. Sherwood, "Legislative and Administrative Powers for Intergovernmental Cooperation for Metropolitan Affairs in California," Metropolitan California, Papers prepared for the Governor's Commission on Metropolitan Area Problems (Sacramento, 1961), pp. 92-96.

32/ Cleveland Metropolitan Services Commission, Intergovernmental Agreements in the Cleveland Metropolitan Area, Staff Report to Study Group on Governmental Organization (July 16, 1958).

33/ Jephtha J. Carrell, "Learning to Work Together," National Municipal Review, XLIV (November, 1954), pp. 526-533.

A more recent study in Southeastern Pennsylvania found 693 agreements in effect in that area, mostly in the form of contracts for services, but also frequently in the form of agreements for joint provision of services. Suburban areas with a high population density most commonly were involved, and police, fire, education, and sewage disposal were the most frequent functions represented. 34/ From 1950 to 1959, 81 of St. Louis (Missouri) County's 98 municipalities signed a total of 241 contracts for provision of municipal services by the County. The services included law enforcement, health and sanitation, building regulation, property tax collection, planning, traffic engineering, and fire and accident protection. The most contracts (51) were for electrical inspection. All the cities over 1,000 population had at least one contract with the County. 35/

2. Strength and weakness

Intergovernmental agreements are useful in broadening the geographical base for planning and administering governmental services and controls. By enlarging the scale of administration, they make it possible to lower unit costs. The availability of lower cost performance of a function by another unit or under a joint agreement may also serve to stimulate a governmental unit to perform the function more efficiently itself. 36/

Flexibility of boundaries is another strength of intergovernmental agreements, since additional governmental units usually can become parties to a contract or agreement without much difficulty. To the extent that they enable avoidance of the creation of special districts, agreements also serve to avoid the disadvantage of duplication and weakened citizen control connected with overlapping units of government. Where agreements are used by a city to provide services to adjoining areas, they may be helpful in guiding the orderly growth of the adjoining areas, thus fostering a larger-area approach to planning and development.

34/ George S. Blair, Interjurisdictional Agreements in Southeastern Pennsylvania (Philadelphia: University of Pennsylvania, Fels Institute of Local and State Government, 1961).

35/ Governmental Research Institute, Municipal Services Made Available to Cities, Towns, and Villages by the St. Louis County Government (St. Louis, December 1959).

36/ Gove, op. cit., p. 16.

As demonstrated by their widespread use, intergovernmental agreements have high political feasibility because they require a minimum of official and voter approvals and involve little modification of the existing political structure. Also, they do not threaten to interfere with citizen control and participation associated with retention of smaller units of government. They may be a force for improved intergovernmental relations, and thus may help develop the conditions for more comprehensive approaches to handling of area-wide problems.

A basic weakness of joint agreements is that they are practical only when the immediate local interest of each participating unit is not likely to be in conflict with the broader area-wide interest. Since the agreements are voluntary, when such conflicts appear likely, governmental units probably would not choose to participate in an agreement, or if already participating, would withdraw.

Conflicts between area-wide and immediate local interest are apt to arise in handling functions requiring an area-wide approach. These are the governmental functions which have most significant effects on economic growth and development. They include zoning; the location and construction of a water supply system, sewer lines and sewage disposal facilities, public buildings, and arterial roads, and the determination of priority of such construction; and the responsibility for ensuring that there are adequate mass transit facilities.

Sound long range overall development of the metropolitan area's economy might call, for example, for decisions on these functions which would encourage location or development of new business in City A which threatens to be competitive to existing business in City B. Such decisions could not be expected to be made and effectively carried out under a voluntary intergovernmental agreement, for City B's government, responsive to the desires of its constituents, probably would not find it politically feasible to approve them. In effect it would exercise a veto over application of the area-wide decision within its borders and would thereby render the decision ineffective. Thus, intergovernmental agreements are not suited to effective decision-making on issues which transcend the interest of any one part of the area and must depend on an area-wide majority approval rather than area-wide unanimity of all the governmental jurisdictions. 37/

37/ For discussion of the need for area-wide decision-making on issues of transcendent area-wide interest, see Ylvisaker, op. cit., pp. 27-52.

Issues involving the adjustment of service areas and areas of tax jurisdiction can be resolved as a practical matter only by such area-wide decision-making. A community which is now paying less than its proportionate area-wide share would be reluctant to consent to an agreement for a tax restructuring which would increase its tax payments. 38/

While interlocal agreements have the effect of avoiding creation of special districts, they have had the counter-effect under California's Lakewood Plan of encouraging the creation of new municipal corporations. 39/ Also, while the individual governments retain their freedom to pull out of the agreement (joint contracts are more limiting in this regard), and thus retain control over their own policies, the weaving of a network of intergovernmental agreements tends to confuse the lines of actual responsibility to the point where effective local control may be seriously eroded. 40/ Further, the tendency is for each agreement to be made on an ad hoc basis for a particular need, so that the complete view is never brought into focus, making it more difficult to coordinate services and achieve a balance of needs and resources. Finally, intergovernmental agreements may be a force for impeding more comprehensive reorganization approaches by ameliorating popular dissatisfaction with conditions which in the long run can only be effectively dealt with on a more comprehensive basis. 41/

Intergovernmental contracts have a weakness where the "seller" municipality has a virtual monopoly of the service. If one community controls the water supply in the area, for example, only its own self-restraint protects the purchasing communities from being exploited on price and service. As another example, State health regulations might place restrictions on the number and location of sewage disposal facilities, creating a monopoly advantage for one or more local governments.

38/ Frank P. Sherwood, op. cit., p. 93.

39/ Gove, op. cit., p. 19.

40/ Sherwood, op. cit., p. 92.

41/ Thomas H. Reed, "A Call for Plain Talk," National Civic Review, LI (March, 1962), p. 123.

Thus, where the parties to an agreement are not in an equally strong bargaining position, and monopoly conditions exist, some outside authority is needed to protect the purchasers. 42/ In some States utility regulatory bodies perform the review function for water contracts, 43/ but even in those States the review may not always provide adequate protection for the purchasing municipality.

4. Recommendations

The Commission recommends that the State government make its "good offices" available in the event of disputes between or among local units of government in connection with interlocal contracts.

Recognizing the usefulness of joint exercise of powers and interlocal contracts as methods of handling common local functions more economically, the Commission in its report on Governmental Structure concluded that the States should encourage the use of these agreements. The Commission recommended:

. . . the enactment of legislation by the States authorizing, at least within the confines of the metropolitan areas, two or more units of local government to exercise jointly or cooperatively any power possessed by one or more of the units concerned and to contract with one another for the rendering of governmental services. 44/

The report included in the appendix draft legislation to authorize joint action, and a draft constitutional amendment authorizing interlocal cooperation and State participation in interstate and Federal-State cooperative activities. 45/

42/ See comment by George H. Deming in U. S. House of Representatives, Committee on Government Operations, Government in Metropolitan Areas, Commentaries on a Report by the Advisory Commission on Intergovernmental Relations (Washington, December, 1961), p. 12.

43/ Maddox, op. cit., pp. 27-29.

44/ Governmental Structure, op. cit., p. 24.

45/ Ibid., pp. 65-67.

As indicated above, sometimes the factors of distance or access leave a municipality no choice but to seek a commodity or service from another municipality. Water supply, sewage disposal, and hospital service are examples. The "selling" municipality has a virtual if not actual monopoly, with potential damage to the "buyer." On the other hand, the "seller" may have entered into a long-term contract on terms which do not yield him a fair rate of return, and he is in no position to modify the contract. In other cases, while a "buyer" municipality may not be excluded from another source of supply, either its own facility or that of another municipality, the contractual services of its neighbor might be incomparably more economical or convenient. Yet the "buyer" hesitates to conclude a contract because it believes it is in an adverse bargaining position.

The Commission recommended in its report on Governmental Structure that the States should use their authority and good offices in the resolution of residual problems remaining unresolved after local governments have utilized all of the available methods of local self-determination suggested earlier in the report. ^{46/} The State's exercise of this good offices function seems appropriate in difficulties arising out of interlocal contracts, such as those mentioned. The Commission believes this moderate approach is justified, rather than requiring review of rates and service and the setting of rates by a public service commission or its counterpart, for the following reasons: (1) The mere possibility of publicity on the terms of a discriminatory contract is likely to stimulate corrective action, without the strain on good inter-governmental relations that would result from going through a formal proceeding such as is involved in rate cases before regulatory bodies. (2) In some cases, abuses are more suspected than real, and the misunderstanding is based more on lack of information than on facts. Avoiding State review or any formal grievance procedure is likely to result in quick settlement of this type of dispute with a minimum strain on relations between the parties. (3) The State's role as a stimulator of better inter-governmental relations is apt to be furthered if, in entering on a new activity such as this, it keeps its intervention to a minimum.

^{46/} Governmental Structure, op. cit., pp. 41-42.

C. Voluntary "Metropolitan Councils"

Voluntary "metropolitan councils" are voluntary associations of elected public officials from most or all of the governments of a metropolitan area, formed "to seek a better understanding among the governments and officials in the area, to develop a consensus regarding metropolitan needs, and to promote coordinated action in solving their problems." 47/ They are intergovernmental agreements for joint conduct of activities in research, planning, and deliberations on issues of area-wide concern.

Although the councils vary with respect to their mode of establishment and membership, they usually have these characteristics: 48/ (1) They cut across or embrace several local jurisdictions, and sometimes do not stop at State lines. (2) They are composed of the chief elected officials of the local governments in the area, and sometimes have representation from the State Government. 49/ (3) They have no operating functions. Rather, they are forums for discussion, research and recommendation only. Recommendations are made to the constituent governments, or to State legislatures. 50/ (4) They are multi-purpose, concerning themselves with many area-wide problems. (5) They employ a full-time staff.

1. Scope and trend of use.

The first metropolitan council was organized in the Detroit area in 1954. Since then, the number has grown rapidly, and continues to grow. Issues of the National Civic Review and Metropolitan Area Problems: News and Digest in the past several years have had many references to additional communities showing interest in development of metropolitan councils. The American Municipal Association and the National Association of County Officials recently announced initiation of a joint service to their memberships "to encourage the formation of and to strengthen the operation of voluntary governmental regional councils." 51/

47/ Samuel Humes, "Organization for Metropolitan Cooperation," Public Management, XLIV (May, 1962), p. 106.

48/ The Council of State Governments, State Responsibility in Urban Regional Development (Chicago, 1962), p. 89.

49/ The Federal Government is a party to the regional council for the Washington Metropolitan Area.

50/ Ibid.

51/ Joint letter from American Municipal Association and National Association of County Officials (Washington, May 25, 1962). (mimeo.)

The eight oldest and most active councils now in existence are: Supervisors Inter-County Committee (Detroit area); Metropolitan Regional Council (New York, New Jersey, Connecticut); Association of Bay Area Governments (ABAG) (San Francisco area); Metropolitan Washington (D. C.) Council of Governments; Mid-Willamette Valley Intergovernmental Cooperation Council (Salem, Oregon area); Regional Conference of Elected Officials (Philadelphia area); the Puget Sound Governmental Conference (Seattle-Tacoma area); and the Baltimore Metropolitan Area Council. Councils were recently formed in the Ithaca, New York, and Des Moines, Iowa, areas.

2. Variations in composition, status

A few examples illustrate the variations in composition and status of the metropolitan councils. The Supervisors Inter-County Committee of the Detroit area consists exclusively of representatives of the six counties in the area, and does not include representatives of the other units--State, municipal, or special district. It is unique in this respect. The committee was given legal status by a permissive act of the legislature in 1957. The Metropolitan Regional Council (New York City area) was set up in 1956 for broad regional leadership in the three States sharing in the New York metropolitan area: New York, New Jersey, and Connecticut. Any unit of local government in the three-State region other than a special district may be a member. The Council consists of the top elected officials of the constituent counties and municipalities. The Mayor of New York currently is chairman and the County Executive of Westchester County is vice-chairman. The Council is seeking legal status "so that it (can) secure the services of a headquarters staff which would enable it to do its job even more effectively; give it a sense of permanence and prestige that cannot inhere in a purely ad hoc group, and enable it to engage in a variety of specific activities." ^{52/} New York and Connecticut have passed authorizing legislation and similar New Jersey legislation is pending.

The Washington (D. C.) Council of Governments was formed in 1960. Its members include representatives of the U.S. Congress, the three Commissioners of the District of Columbia, representatives of the general assemblies of Maryland and Virginia elected from the

^{52/} Maxwell Lehman, Frank Smallwood, and Arthur Prager, "Home Rule" vs. Super-Government (New York: Metropolitan Regional Council, 1961), p. 23.

area, and representatives from the governing bodies of the six counties and two independent cities in the National Capital Region. The Mid-Willamette Voluntary Intergovernmental Cooperation Council was organized in 1959 by compact among the City of Salem, the metropolitan school district, Marion and Polk counties, and the State of Oregon. Each of the five units has a member--the Governor, and the elected heads of the four other units. The Council may appoint rotating non-permanent members, who do not have a vote.

The San Francisco area council (ABAG), established in 1961, has legal status under the Joint Exercise of Powers Act of California. All cities and counties in the area may join. The Council is governed by a general assembly consisting of one representative from each member city and county. City and county members vote separately, with a majority vote of each required for approval. The Regional Council of Elected Officials (Philadelphia area) was established in 1961. Membership is open to the chief elected official of each of the approximately 375 general purpose units from all levels of government in the 11-county region.

3. Some examples of activities

In terms of their objectives of joint research, developing a consensus among the local government officials of the area, taking a stand on legislation affecting their areas, coordinating relationships with State and Federal agencies, and stimulating cooperation among their members, the Councils have produced tangible results. For example, the New York Council devised a plan for attacking air pollution; presented to the Federal government the regional case for increased public housing and urban renewal assistance; prepared a map of water-pollution sources in the region; completed a study of lands available for recreation use and the means of acquiring the lands; opposed legislation proposing increased gas rates for the area; is working toward a uniform traffic code; prepared an inventory of water resources and future water needs of the region; and is coordinating regional efforts to meet problems of adequate mass transportation.

After one year, ABAG (San Francisco area) reported that it supported seashore legislation under consideration by Congress; is undertaking an inventory of regional park and open space facilities; is inventorying existing land use and general plans of Bay Area counties and cities; is participating in the regional transportation study which is developing a comprehensive transportation plan for the Bay area; pointed out the need for certain legislation on open burning of refuse and for the Air Pollution Control District

to inform prospective new industries of industrial air pollution control requirements; initiated a refuse disposal site study; and is drafting uniform minimum fallout and blast shelter standards and a model shelter order. 53/

The Mid-Willamette Council is conducting a quarter million dollar regional transportation study by contract among the Council, the two counties, the City of Salem, the Regional Planning Council, and the State Highway Department; has instituted joint purchasing among Marion County, the metropolitan school district, and the city of Salem; initiated a coordinated six-year capital improvements program among the city, the two counties, and the school district; stimulated a Marion County-Salem joint city-hall-courthouse construction and operation project, with eventual consolidation of certain city and county departments anticipated; initiated a regional sewage collection and disposal program by agreement between the City and two counties; and recommended and facilitated a move by the city and two counties to pool their resources in establishing a regional parks department. 54/

4. Strength and weakness

As a form of the intergovernmental agreements approach to reorganization of local government in metropolitan areas, the voluntary metropolitan council has many of the general strengths and weaknesses of interjurisdictional agreements reviewed in the preceding section of this report. The voluntary council is useful for broadening the geographical base for discussion, research and planning; has flexibility in adjusting the boundaries of the area represented, even beyond State lines; does not disturb existing units of government; has a high degree of political feasibility; and directs its attention to many governmental functions. It also fosters the use of interjurisdictional agreements by its constituent units for carrying on operating functions, as has been shown particularly in the Mid-Willamette Council.

53/ Association of Bay Area Governments, Bulletin No. 31, March 26, 1962.

54/ Rex Hartley, "A Voluntary Approach to Intergovernment Cooperation," Proceedings of the American Municipal Congress, Intergovernment Cooperation, Seattle, Washington, August 26-30, 1961 (Washington: American Municipal Association, 1961), pp. 72-79.

On the other hand, the voluntary nature of the metropolitan council is a distinct limitation on its ability to make effective, enforceable area-wide decisions on issues of governmental services and controls, and to bring tax jurisdictions and service areas into adjustment with one another. As suggested in the preceding section, such results require a governmental unit which can decide, and apply its decision on the basis of a majority vote rather than a unanimous vote.

The metropolitan council can be useful, however, in laying the groundwork for the establishment of an effective decision-making mechanism. It can do this by developing, through research and debate, an area-wide awareness of the problems needing area-wide handling, and by developing consensus among governmental leaders, whose attitude toward structural change is so important, as to the common needs and possible solutions. How effective the council actually will be in developing public awareness and a meaningful consensus will depend in large part on whether it brings out the full expression of conflicting views and full identification of various interests in the area, or whether the council serves to neutralize or obscure the real conflicts.

5. Recommendations

The Commission believes that the voluntary metropolitan council can be a useful means of stimulating greater cooperation among governmental officials, creating public awareness of metropolitan problems, and developing an area-wide consensus on more effective ways of handling these problems. The Commission therefore believes formation of additional councils should be encouraged. The Commission recommends that the States facilitate the formation of voluntary metropolitan councils of elected officials by enacting the suggested legislation authorizing the making of interlocal agreements, supplemented by whatever special provisions may be required in the particular instance in according legal entity status to voluntary councils desirous of such status.

D. The Urban County

The urban county approach to reorganization of local government in metropolitan areas refers to the development of the county from its traditional position as an administrative subdivision of the State for carrying on State functions--such as election, law enforcement, and judicial functions--to one in which it provides a significant number

of services of a municipal character throughout all or part of its jurisdiction. This development may occur through piecemeal transfer of functions from municipalities or special districts; through the gradual expansion of some counties from the status of a rural government to one performing many urban functions in unincorporated urban areas; or through the State's simultaneous granting of a number of functional powers to counties in metropolitan areas. 55/

The transfer of functions to the county from smaller units of government sometimes is included within another category of approaches to governmental reorganization: functional consolidation, or transfer of functions. This category also includes transfers of functions to the State and transfers to one or more metropolitan special districts. The latter types of transfers are considered later in this report under functional transfer to the State and the metropolitan special district, respectively. 56/

Development of the urban county in some States is closely related to the use of intergovernmental contracts, discussed earlier in this chapter, in which counties are authorized to provide services to other local units. This is particularly true in California. 57/

1. Scope and trend of use

Monthly reports in the National Civic Review and the yearly articles in the Municipal Year Book are virtual running accounts of the continual expansion of county governments' provision of urban services, either throughout their territories, including cities, or just in the unincorporated areas. The data in the following four paragraphs, taken from the Municipal Year Book 1962, highlight the recent trend and current status of the urban county. 58/

55/ Council of State Governments, The States and the Metropolitan Problem (Chicago: 1956), pp. 106-107.

56/ See Chap. IV, section E and F.

57/ See Metropolitan Area Problems, Report of the Pacific Coast Conference on Metropolitan Problems (Berkeley: Bureau of Public Administration and University Extension, University of California, 1960), pp. 81-83; the Governor's Commission on Metropolitan Area Problems (Sacramento, California: 1961), op. cit.

58/ Victor Jones, "Urban and Metropolitan Counties," pp. 57-66. For earlier summaries of urban county trends, see Betty Tableman, Governmental Organization in Metropolitan Areas, (Michigan Government Studies No. 21; Ann Arbor, University of Michigan Press: 1951), pp. 24-55, and Victor Jones, "Urban Counties," Municipal Year Book 1954 (Chicago: International City Managers' Association, 1954), pp. 133-147.

In 1950 there were 174 counties over 100,000 population in federally-defined metropolitan areas, and by 1960 this number had grown to 217. In addition, in 1960 there were 46 counties over 100,000 in "nonmetropolitan" areas, making a total of 263 urban counties. Over 93 percent of these counties increased in population between 1950 and 1960, while only 44.2 percent of the non-metropolitan counties gained in population. The median percentage of population classified as urban in the 263 counties increased during the decade from 72.2 to 78.0 percent.

Urbanization of counties has affected their organization, administration, and functions, although in greatly varying degrees. Seven counties have elected executives--Erie (Buffalo), Nassau (New York), Onondaga (Syracuse), Suffolk (New York), and Westchester (New York) counties, New York; Milwaukee County, Wisconsin; and St. Louis County, Missouri. A 1953 Year Book survey reported that ten counties had county managers. A similar 1962 survey indicated that 45 out of 129 counties responding had appointed chief administrative officers.

In the 1962 survey, the urban counties reported that they provided varying numbers and kinds of urban services to unincorporated areas. The most common services provided were police (69 percent of the counties), street construction (51 percent), libraries (45 percent), and parks and recreation (about 40 percent). The same services were the ones most frequently provided on a county-wide basis, although the proportion of counties providing county-wide services was lower than that of counties providing services to unincorporated areas only.

The 1962 survey also indicated the extent of county zoning and subdivision regulation in unincorporated areas, another indication of county urbanization. There were county zoning ordinances in 104 (47 percent) of the 221 urban counties reporting, and county subdivision regulations in 135 (61 percent). Many of the largest counties, however, had neither zoning or subdivision regulation controls.

The variations in degree of urban county development are further reflected in county fiscal data. Thus, in 1957 county

governments in all metropolitan areas accounted for about 11 percent of total local government expenditures in those areas. 59/ The comparable percentages for selected metropolitan counties in three of the States which have shown great urban county development were: Los Angeles County, Calif., - 26 percent, San Bernardino County, Calif., - 33 percent, Erie County, N. Y., - 26 percent, Onondaga County, N. Y., - 29 percent, Baltimore County, Md., - 100 percent, and Montgomery County, Md., - 95 percent. 60/ Other metropolitan counties in these States showed similar high percentages of county government expenditures to total local government expenditures.

In the impediments to effective county government noted by William N. Cassella, Jr., may be found some of the reasons counties have varied in the degree to which they exercise urban functions:

The county in most states is thoroughly strait-jacketed by constitutional provisions. County officers are characteristically named in constitutions, county boundaries have constitutional protections, relatively few states permit a free choice of optional forms of county government, and fewer permit the adoption of locally drawn "home rule" charters. The county continues to be considered primarily in its traditional role as an instrumentality of the state even though in urban areas it increasingly assumes the responsibility for providing municipal-type services. Structural changes in county government are important as significant demonstrations of efforts to re-equip counties to do a different job in a different governmental environment. The more critical question is the extent to which counties have the legal power to provide urban services and to raise revenues to finance them. 61/

59/ Calculated from U. S. Bureau of the Census, 1957 Census of Governments, Finances of County Governments, III, No. 4; and Local Government Finances in Standard Metropolitan Areas, III, No. 6. Following metropolitan "counties" excluded in making this calculation: New England States, New York City, and city-counties separated and consolidated.

60/ Ibid. Maryland percentages are higher than those of California and New York because school districts are under counties in Maryland.

61/ William N. Cassella, Jr., Metropolitan Government, Vol. II of Constitutional Aspects of State-Local Relationships (Con-Con Research Paper No. 5; Lansing, Mich.: Citizens Research Council of Michigan, 1961), p. 4. Also see: National Municipal League, Model County Charter (New York, 1956), Introduction, pp. xi-xxxviii.

States vary with respect to the "strait jacket" they have placed on their counties. The most liberal toward their counties have county home rule provisions in their constitutions, statutory authorization of optional county charters, or general statutory grants to counties to perform emerging functions and reorganize their structure. Thirteen States have constitutional home rule for their counties: California, Maryland, Ohio, Texas (counties over 62,000 population), Missouri (counties over 85,000), Louisiana (for East Baton Rouge and Jefferson parishes only), Washington, Florida (for Dade County only), Minnesota, New York, Oregon, Alaska (for boroughs), and Hawaii. Six States have laws authorizing optional county charters: Virginia, Montana, New York, North Carolina, North Dakota, and Oregon. California has been outstanding in granting counties structural flexibility through general statutes. 62/ But even where States have liberalized their provisions on county organization and functions, communities have not always made full use of their powers. 63/

Dade County, Florida, and the California counties are illustrative of counties with extensive urban functions. They are also interesting because they represent two extremes of urban county approaches: the assumption of certain urban functions by the county practically overnight in Dade County, and the gradual assumption of functions over a long period in California. Dade County is additionally interesting as a "two-tier" government in a metropolitan area, which has led some to consider it a "federation" approach to reorganization of local governments in metropolitan areas.

Dade County

Though Dade County, Florida, is one example of a county with a home rule charter, it is unique in regard to the manner in which the charter spells out the relationship between the county and the existing units of government, and the degree to which the county is given power to exercise county-wide functions. Dade County was given the power to draft a county charter by a constitutional amendment adopted by the voters of Florida in November 1956. The amendment required the retention of the county commission and a few other elective officers, but gave citizens of the county broad latitude to reorganize the county government, transfer functions to it from municipalities, and alter the boundaries of local governments. A charter was prepared pursuant to the 1956 constitutional amendment and was approved by the voters in May 1957.

62/ Arthur W. Bromage, Municipal and County Home Rule, Vol. I of Constitutional Aspects of State-Local Relationships (Con-Con Research Paper No. 3; Lansing, Mich.: Citizens Research Council of Michigan, 1961), pp. 16-22.

63/ Ibid.

It provides for a council-manager form of government, with the board of commissioners being responsible for legislation and appointment and control of a county manager and a county attorney. The board consists of 11 members, five elected at large, five elected by districts, and one from the City of Miami. As other cities reach 100,000 population, they get a representative on the board.

The county government is given responsibility for county-wide functions, such as expressways, air, water, rail, and bus terminal facilities, traffic control, air pollution control, assessments, fire and police protection, housing and urban renewal, building and zoning codes, and the construction of integrated water, sanitary sewerage and surface drainage systems. Municipalities retain self-determination in local matters not ceded to the county under the charter, but the county board is authorized to take over a function from a municipality if it fails to meet minimum performance standards set by the county. Several functions are conducted in conjunction with the municipalities, and the county may also contract to perform a function for a municipality. Any municipality may request the county to take over a function upon approval of two-thirds of its governing body. The county also has some limited powers in the establishment of new municipalities and changes in boundaries of existing ones. 64/

California counties

As noted in the previous chapter, California counties have experienced a sharp growth in their activities because of the 1914 constitutional provision permitting them to provide urban services on a contractual basis to cities. The Lakewood arrangement is the best known example of the result. One observer has commented:

Expansion of the functions of this unit (the county), permitting it to provide the 'Lakewood Plan,' is certainly in some sense establishing the county as a metropolitan unit of government. It

64/ See Mark B. Feldman and Everett L. Jassy, "The Urban County: A Study of New Approaches to Local Government in Metropolitan Areas," Harvard Law Review, 73, LXXVII, No. 3 (January, 1960), pp. 526-582; Government Affairs Foundation, Inc., Metropolitan Surveys: A Digest (Chicago: Public Administration Service, 1958), pp. 59-63; Winston W. Crouch, "Federated Local Government: One Approach to Metropolitan Organization," Metropolitan California, The Governor's Commission on Metropolitan Area Problems (Sacramento, 1961), pp. 99-100.

should be noted that if many more cities in Los Angeles County use the 'Lakewood Plan' (although no such trend is clearly established), the county might well be likened to a kind of coordinating government, whose constituent cities have a considerable degree of home rule. 65/

The 1914 constitutional provision constitutes only one of the reasons why California has been one of the leading States in the development of the urban county. Others are: (1) the constitutional grant of home rule to counties in 1911, and the effective way in which they have used this authority to set up integrated governmental structures; (2) legislation permitting counties to undertake many types of municipal services for unincorporated areas, such as planning and zoning, recreation, sanitation, and fire protection, sometimes by the imposition of a special tax on the area benefited; (3) legislation placing in the county the administration of functions county-wide or over a large special district. Air pollution control, flood control, sanitation and fire protection are examples. 66/

2. Strength and weakness

Where the boundaries of a county approximate the boundaries of a metropolitan area, which is the case in about two-thirds of the metropolitan areas in the country (primarily the smaller ones), the transformation of the county into a unit of urban government can mean the provision of area-wide services without any basic changes in geographical jurisdictions of existing units. It thus provides better control over area-wide problems and a better relationship between taxes and benefits, at the same time that local responsibility for nonarea-wide services is preserved. The urban county makes available economies of larger-scale administration. Consolidation of functions can result in the elimination of duplication where the county and the municipalities are providing similar services, such as police and sheriff, or conducting various public welfare activities.

The use of an existing government rather than the creation of a new one gives the urban county approach high political feasibility. Where the urban county evolves on a function-by-function, piecemeal basis, political feasibility is even greater.

65/ Richard Bigger, "The Role of Local Government in Metropolitan Areas," Metropolitan California, The Governor's Commission on Metropolitan Problems (Sacramento, 1961), p. 86. Quoted by express permission of the publisher.

66/ Ibid., pp. 83-86.

A principal weakness of the urban county approach to handling problems of an area-wide nature is its limited value in about one-third of the metropolitan areas (primarily the larger ones) that cover more than one county. When urban problems, once contained within a single county, later spread beyond county boundaries, the inflexibility of the boundaries are a handicap to continued effective dealing with the problems.

Another weakness is that counties as a class of governmental units probably have been the most backward with respect to modern organization and administration, due to the diffusion of policy-making and administrative authority among a number of independently elected officials. Often the unintegrated organization is due to the lack of constitutional or statutory authority to reorganize, although there has been some tendency to give counties more such authority.

A deterrent to transferring more power to counties in some States is the existence of inequitable representation in the governing body, often with the central city and the suburbs on opposite sides of the issue. Another deterrent is that transfers of functions, while they do not disturb existing boundaries, do involve shifting of powers away from the municipalities, arousing resistance from municipal officials and employees. Also, where functional transfers are sought through adoption of a county home rule charter, as in Ohio, concurrent majorities in the central city, the suburbs, and the area as a whole may be required, making adoption difficult. Finally, as noted previously in connection with intergovernmental agreements, large-scale shifts of responsibility from the municipalities to the counties through the contract system cause a blurring of responsibility in the local governments from which functions are transferred.

3. Recommendations

In its report on Governmental Structure, the Commission recommended:

... the enactment of legislation by the States authorizing the legislative bodies of municipalities and counties located within metropolitan areas to take mutual and coordinate action to transfer responsibility for specified governmental services from one unit of government to the other. 67/

67/ Governmental Structure, op. cit., pp. 30-31.

The Commission proposed that the States enact a simple statute authorizing the voluntary transfer of functions between municipalities and counties within metropolitan areas to the extent agreed by the governing boards of these respective types of units.

E. Transfer of Functions to the State Government

This approach to governmental reorganization in metropolitan areas involves the transfer and direct performance of an urban function by an executive agency of the State Government in the metropolitan area. It is to be distinguished from the metropolitan special district which is locally financed and usually controlled by a governing body selected by the electorate or local governing bodies of the metropolitan area. "Aspects" of functions, rather than whole functions, are more frequently transferred to the State government. The State may undertake, for example, to provide water supply and the major trunk lines, and leave local distribution systems to the localities. Usually the transfer of "aspects" of functions involves a shift in the relative responsibility of the State and the localities with reference to functions which they have long shared, rather than the State's assumption of the function for the first time. The construction and maintenance of roads and streets, or the acquisition of recreational lands are examples. Because of the sharing of responsibility for performing a function, frequently a clear distinction cannot be made between a State's merely performing a "traditional" State function and taking over a function traditionally performed by local governments.

Transfers of functions to the State differ in degree, if not in kind, from other approaches to governmental reorganization considered in this report in that they tend to depend more on decisions beyond the immediate metropolitan area, specifically, actions of the State legislature.

1. Scope and trend of use 68/

The direct performance of an urban function by a State government in order to meet a metropolitan need has developed primarily in those situations where (1) the State government is the only agency that can

68/ There is a paucity of published material on transfers of metropolitan functions to the States. This treatment relies heavily on comments by Charlton F. Chute in U.S. House of Representatives, Committee on Government Operations, Government in Metropolitan Areas, Commentaries on a Report by the Advisory Commission on Intergovernmental Relations, (Washington, December, 1961), pp. 65-71.

summon the resources required to perform the function, (2) the activity cannot be handled within the boundaries of the metropolitan area itself, (3) the activity requires as a matter of State policy that a minimum level of performance be achieved throughout the State that is not likely to be met by the jurisdictions or metropolitan areas independently, or (4) when the activity, if not performed, will result in problems which will seriously affect other parts of the State.

The clustering of metropolitan areas in the Northeastern States and Southern California has created special difficulties in dealing with metropolitan problems within the confines of one metropolitan area. The heavy interflow of people and goods between adjoining metropolitan areas which results from the clustering has caused the States to assume more responsibility for highway planning and construction, traffic control, mass transit and air pollution control in these areas. Moreover, the States have extended their responsibilities for the provision of such services as inspection of food and environmental sanitation and the control of crime in the undeveloped enclaves between the urban centers of these metropolitan clusters.

In Southern California, after the individual metropolitan areas, such as Los Angeles and San Diego, had developed all their available local water resources, the State undertook to develop a State-wide water plan which would meet the growing needs of the metropolitan areas, as well as the State's needs in such other fields as flood control, agriculture and recreation. ^{69/} New Jersey has come directly to the assistance of groups of metropolitan areas in the northern and southern parts of the State with planning and acquisition of lands to assure them of adequate water supply. This action also served to provide additional recreational facilities.

In 1905 New York State created the State water supply commission to divide equitably the water resources of the State between cities that were competing for this invaluable resource. In other States, the water supply needs of the metropolitan areas have come to affect the water supply, recreation, and conservation needs of other parts of the State causing the State to exercise more of a responsibility in planning and controlling the tapping and use of water resources.

^{69/} Also see reference to action on control of Delaware River, "Four Governors Approve Delaware River Compact," National Civic Review, XLX (March, 1961), p. 143.

In like manner, where rivers, lakes, and streams, and the atmosphere have become unable to absorb the waste products of metropolitan areas, the State has stepped in with planning and action. Thus, in 1948 eight States in the Ohio Basin formed the Ohio River Valley Water Sanitation Commission by interstate compact to persuade or compel communities to install sewage and waste control facilities. Several States, such as New Jersey, have undertaken to deal with the air pollution problem on a State-wide basis.

In some of the larger metropolitan areas, the planning, purchase, construction, and operation of large parks to serve the needs of residents of metropolitan areas has been taken over in large part by the State. In New York, for example, the State government has acquired and developed extensive recreation areas near the outskirts of the New York metropolitan area. Since States generally have assumed broad responsibility for providing recreational facilities on a regional basis it can be contended that this is a case of the State's performing a long-standing State function rather than handling a problem which is basically metropolitan.

2. Strength and weakness

Transfer of metropolitan functions to the State government broadens the geographical base for planning and control of area-wide problems. It permits taking advantage of the economy of scale, and the avoidance of duplication. It has a high degree of political feasibility because it creates little disturbance of the local political power structure, and does not require approval by local referenda. If the State's performance of the function is dictated by State-wide, rather than just metropolitan area-wide considerations, as in the case of protecting water resources for communities outside the metropolitan area, the State assumption of the function can be accomplished with State-wide support in the legislature, and may even be stimulated by nonmetropolitan areas. Transfer to the State may appeal to local officials as a way of taking the financing of a function off the local tax bill.

The transfer of metropolitan functions to the States is particularly adaptable to States where the metropolitan areas make up a substantial part of the total State, or where the State has a small area. It is also particularly adaptable, and sometimes

necessary, for the effective handling of functions involving the conservation of scarce natural resources, such as water supply, open lands, water pollution, and air pollution. As compared with continued performance of a function by municipalities, State performance has the advantage of greater flexibility with respect to the constantly changing geographic area over which the function needs to be performed.

From the point of view of local government, the transfer of functions to the States has the weakness of taking away a portion of local responsibility and authority. It tends to diminish the stature of local governments as general-purpose governments, with a consequent diminution of their viability, their ability to coordinate the provision of governmental services and their strength as a focus for local interest and participation in government. Removing the control to the State government tends to expose decisions on metropolitan matters to the disinterest, if not the opposition, of representatives from nonmetropolitan areas.

F. Metropolitan Special Districts: Limited Purpose and Multi-Purpose 70/

(a) Limited Purpose Districts

A limited purpose metropolitan special district is an independent unit of government organized to perform one or a few urban functions throughout part or all of a metropolitan area, including the central city. 71/

70/ For detailed treatment of metropolitan special districts, see John C. Bollens, Special District Governments in the United States (Berkeley: University of California Press, 1957).

71/ A much more numerous type of special district is the urban special district, which contains a small part of a metropolitan area, usually an unincorporated, densely settled part. Since this is not generally a method of broadening the jurisdiction of local units of government, it is excluded from treatment as a method of governmental reorganization in metropolitan areas as defined in this review.

Limited purpose districts, sometimes called authorities, are usually established by State law and without a popular referendum. They ordinarily perform service rather than regulatory functions. The most common services are port facilities and sewage disposal, with parks, water supply, housing and airports also common. Other services performed include air pollution control, flood control, regional planning, hospital facilities, and public health.

The composition of special district governing bodies varies greatly, but most of them have appointed or ex officio members, with the appointments made by the Governor or by governing bodies of local governments within the jurisdiction of the special district. The ex officio members usually are also drawn from these local governing bodies.

Limited purpose districts generally finance themselves from service charges, sales, rents and tolls. Many do not have the taxing power, but where they do it is frequently unhampered by the constitutional and statutory tax limits that apply to other local governments. Exercise of the bonding power usually does not require referral to the voters, but frequently is restricted to the issuance of revenue bonds.

1. Scope and trend of use

The extensive use of metropolitan special districts, and the transfer to them of local government functions to be handled on an area-wide basis, is one of the most significant changes in local government organization in metropolitan areas in recent years. To a large degree this development has been due to the fact that limited purpose districts are free from the constitutional and statutory limits on the fiscal powers of general-purpose local governments. Undoubtedly, however, this development has been a response to the need for providing some way of handling area-wide problems when other methods for adapting local government to the area-wide needs were impossible to achieve.

In an article prepared for the Municipal Year Book 1956, John C. Bollens listed 69 independent metropolitan special districts located in 26 States. The districts were found most frequently in California (11), Ohio (11), Illinois (7), and Texas (5). 72/

72/ John C. Bollens, "Metropolitan Special Districts," Municipal Year Book 1956 (Chicago: International City Managers' Association, 1956), pp. 47-55.

Examples of some of the largest limited purpose metropolitan districts are the Chicago Transit Authority, the Metropolitan Transit Authority (Boston), the Cleveland Metropolitan Park District, the Golden Gate Bridge and Highway District (San Francisco), the Metropolitan Water District of Southern California, and the Port of New York Authority.

2. Strength and weakness

The key advantage of the limited purpose special district approach is its high degree of political feasibility. It has been adopted extensively, compared to other reorganization methods requiring the shifting of functions to an area-wide unit, such as city-county consolidation or federation. One reason is that it is only a minor threat to existing political organization and power. The minor threat is the chipping off of a function which may have been performed before by existing local governments. However, this erosion may not become serious enough to arouse alarm until after a number of functions have been chipped away, by creation of additional special districts. Also, some special districts are created to perform area-wide functions only as a supplement to the continued performance of the function on a local basis, and thus the threat, at least immediately, is not obvious.

Another reason that the metropolitan special district has high political feasibility is that it usually can be created by simple act of the legislature, and does not require constitutional amendment, unlike, in many cases, city-county consolidation, county home rule, or federation. Such legislative acts also often do not require approval by the local electorate.

The special district approach has proved effective in providing an area-wide geographic base for dealing with area-wide problems. It can carry out its function unrestricted by the boundaries of regular governmental jurisdictions. It has the advantage of consolidated administration of a larger scale operation, and better planning and execution of the function in the area, at the same time that the smaller units of local government continue to retain responsibility for other functions. The metropolitan special district is adaptable to use where the metropolitan area overstrides more than one county, or more than one State. Some of the other reorganization methods are practically limited to a single county and State.

Giving the limited purpose special district just one, or at most a few, functions makes its responsibility clear. It is likely to give the public exactly and quickly what it wants. If the public wants a good water supply, for example, it will know that by creating a water district it will get good water, or know the reason why. On the other hand, this "single-mindedness" often works to the detriment of a coordinated approach since basic services such as water supply or transportation have a major impact on other area development programs.

The limited purpose special district approach to governmental reorganization in metropolitan areas also has many other weaknesses. Extensive use of the device complicates rather than simplifies the problem of governmental coordination in the metropolitan area. Particularly when separate districts are set up for each function, authority is further diffused rather than consolidated, increasing the problems of voter control and duplication of effort. Once set up, special districts are difficult to abolish or consolidate, with the result that such area-wide approach as there is in the metropolitan community tends to be fragmented rather than coordinated.

In trying to assess the relative worth of governmental functions, and therefore decide which legitimately should have more money and which less-- a task already difficult--the voter and the elected official both find themselves further frustrated if they have to contend with more and more metropolitan special districts competing for financial support.

The limited purpose special district tends to erode the importance of general purpose governments--usually cities--and to the extent that this diminishes the stature of these governments it diminishes their capacity to elicit the support, interest and respect of the citizenry, and therefore their ability to govern. Typically, the limited purpose special district is remote from the voters, because of the composition and method of selection of its governing body and its methods of financing. The voter has no direct control over the district's conduct. In most cases, there are several such districts in an area, and they have different boundaries, and different methods of selection of the members of the governing bodies, making the problem of voter visibility and control all but hopeless.

The fact that limited purpose districts are often restricted to use of service charges and revenue bonds for financing sometimes limits the level and kind of services they provide. Also the use of revenue bonds is more costly than the use of general obligation bonds.

Limited purpose special districts frequently are established with the intention of being self-supporting. The need for covering their costs tends to become a preoccupation, with the result that they may neglect the effects of their activities on other related services, and resist efforts to have them assume responsibility for such activities (e.g., mass transit rather than toll bridges) which may not be self-supporting.

(b) Multipurpose Districts

The metropolitan multipurpose district has developed mainly as a way of capitalizing on the strengths of the limited purpose approach at the same time the limited purpose district's weaknesses are overcome, especially that of contributing to the fractionalization of government in metropolitan areas. A metropolitan multipurpose district as here defined is a special authority set up pursuant to State law to perform a number of services in all or most of a metropolitan area. Usually the initiation and approval of the establishment of the district and the addition of functions requires the approval of local governing bodies or of the voters of the affected local governments.

The application of this approach to reorganization of local government in metropolitan areas has been more in the proposal than the action stage. The distinguishing characteristics in the above definition are found in the only existing multipurpose district in the United States (Seattle, Washington), and in most of the recent serious proposals for setting up such districts, as in California and Minnesota. These characteristics are (1) the potential performance of more than one function, as distinguished from the limited purpose district, and (2) vesting in the area affected the authority to take on the additional functions. As will be noted below, some of the proposals falling under this general category have provided for other features to be included, such as the appointment of members of the governing body by and from the governing bodies of the constituent local governments. At this point of use of the multipurpose district, however, it is too early to judge whether these additional features will become common parts of the multipurpose district plan.

1. Scope and trend of use

In the past a few metropolitan special districts have been given more than one function to perform. The Port of New York Authority and the Bi-State Development Agency (St. Louis, Missouri-East St. Louis, Illinois) are examples. Generally, however, they have been reluctant to assume new responsibilities, and have not viewed their purpose as that of providing a wide variety of functions.^{73/} The multipurpose district, gradually taking on additional responsibilities pursuant to local consent, is thus a relatively new concept.

Municipality of Metropolitan Seattle: The Municipality of Metropolitan Seattle is the only metropolitan multipurpose district in existence in the United States. It was set up in 1958 under a 1957 State law enabling cities and towns of Washington to act jointly to meet common problems and obtain essential services not adequately provided by existing agencies of local government. It provides sewage disposal and water pollution control services in an area surrounding Lake Washington entirely within King County. Under the law local communities are empowered to add the following additional functions to the metropolitan municipal corporation: transportation, comprehensive planning, water, parks, and garbage disposal. The Seattle Metropolitan Municipality has not taken on any additional functions to date, however.

The district is governed by a metropolitan council of 16 members, consisting of 14 elected officials from component municipalities, one commissioner of King County, and one additional person (not an elected official) chosen by the remainder of the council to act as chairman. The district has no direct taxing powers. It may accept Federal grants and borrow from other local governments, as well as issue revenue bonds for capital purposes. Revenue to finance current operation, maintenance, and debt service comes from service charges imposed on a per-household basis. The district may also obtain "supplemental income" from each component city and county, based on the unit's proportionate share of the total assessed value of the district that is within its boundaries. ^{74/}

^{73/} Bollens, Special District Governments in the United States, pp. 68-69.

^{74/} First Annual Report, Municipality of Metropolitan Seattle, 1959-1960 (Seattle Metropolitan Council, July 1960).

Montreal Metropolitan Corporation: The Montreal Metropolitan Corporation was created by act of the Quebec Provincial Legislature in 1959 mainly as an agency to foster discussion and cooperation among the City of Montreal and the 14 other constituent municipalities, but also with a few area-wide powers and great potential for taking on more.

Its area-wide powers are to establish (but not carry out) a master plan for metropolitan roads and highways, and administer civil defense. It may take on other municipal services, but only with the consent of all municipalities and subject to the terms and conditions they agree on. The municipalities maintain their complete autonomy.

The metropolitan corporation is governed by a council consisting of 14 representatives from the City of Montreal and one from each of the 14 suburbs. The chairman is appointed by the provincial government. 75/

St. Louis Proposal: The multipurpose district approach has been proposed in a number of other areas in recent years and in one, St. Louis, actually came to a vote in 1959, but was defeated. The St. Louis proposal was for a "Greater St. Louis City-County District" to serve the area comprising both St. Louis City and St. Louis County, which are non-overlapping jurisdictions. It provided for direct election of the 15-member board of supervisors, and did not provide for adding functions by vote of local governing bodies or the local electorate. The district was to assume area-wide responsibility for the following seven functions: establishment and control of a metropolitan road system; regulation of mass transit facilities; promotion of economic development; preparation of a comprehensive master plan; central control of police training and communication functions; civil defense; and sanitary powers and land drainage. Purely local aspects of these functions were to continue to be a responsibility of the existing municipalities and St. Louis County. 76/

California Proposal: The 1960 report of the California Governor's Commission on Metropolitan Area Problems recommended the enactment of enabling legislation permitting establishment of a multipurpose district by a majority vote of the electorate within a metropolitan area. The district would be governed by a council selected by, and from the membership of, the governing bodies of the component cities and counties. The district would be required

75/ "New Metro Body Set Up in Montreal," National Civic Review, XLVIII (May 1959), pp. 256-258.

76/ Metropolitan Board of Freeholders of St. Louis City-St. Louis County, Proposed Charter for Greater St. Louis City-County (May 6, 1959).

to perform the metropolitan planning function and one or more other functions. After establishment of the district, additional functions could be added by vote of a majority of the electorate. The proposal would forbid the creation of other separate metropolitan districts in the area, and would require a referendum each five years after establishment on the question of direct election of members of the council. 77/

In the 1961 California legislature, a bill supported by the Governor was introduced to carry out the above recommendations, with some modifications. Among the changes were the requirement that local governing bodies consent to the calling of an election for establishment of a multipurpose district and that they specify the functions to be performed; removal of the requirement for the voters to decide every five years whether the council should be elected by popular vote; and limitation of permitted functions. The bill did not pass. 78/

2. Strength and weakness

The metropolitan multipurpose district has most of the strengths of the metropolitan limited purpose district: adaptation to metropolitan scope, response to immediate public need, forestalling of the creation of many small urban special districts. Moreover, the metropolitan multipurpose district has advantages not possessed by the limited purpose district:

(1) By requiring that the assumption of additional functions be subject to voter approval, it preserves sensitivity to local wishes, and controls the piecemeal approach to handling metropolitan functions; (2) it forestalls or discourages the creation of a number of limited purpose districts, probably with different areas of jurisdiction, different organization, and different bases of representation. The metropolitan multipurpose district provides a unit which is more responsive to the people than a multitude of individual special districts; (3) as a two-layer plan, it reserves local control over local matters while facilitating area-wide control over area problems; (4) it greatly diminishes the problems of coordination among area-wide functions; (5) if properly constituted, with general taxing and borrowing powers, it can overcome the financial strait-jacket of many limited purpose districts.

77/ Governor's Commission on Metropolitan Area Problems, Meeting Metropolitan Problems (Sacramento, Calif., 1960).

78/ Association of Bay Area Governments, Proceedings of 1962 Annual Meeting of the General Assembly (Berkeley, Calif., February 28, 1962).

However, the metropolitan multipurpose district has the weakness of very limited use to date, although as a proposal it has received strong backing from many quarters. The multipurpose district has lower political feasibility than the limited purpose special district, for two reasons: (1) It constitutes more of a threat to established local governments and other existing institutions, since it has the potential of exercising many functions and becoming a competitive general government; (2) as used in Seattle and recommended in most of the recent proposals, it requires favorable votes of component governing bodies and/or local electorates, whereas the special district usually is established or authorized by simple act of the State legislature. In addition, problems may arise in coordinating the several functions of the district due to the fact that different functions may require different service boundaries.

3. Recommendations

In its report on Governmental Structure, the Commission recommended that:

...States consider the enactment of legislation authorizing local units of government within metropolitan areas to establish, in accordance with statutory requirements, metropolitan service corporations or authorities for the performance of governmental services necessitating areawide handling, such corporations to have appropriate borrowing and taxing power, but with the initial establishment and any subsequent broadening of functions and responsibilities being subject to voter approval on the basis of an areawide majority. 79/

The Commission included in the appendix of its report a draft legislative bill providing for the permissive establishment by local governments of metropolitan service corporations, modeled after the State of Washington statute. The bill included these features: (1) It would authorize the establishment of a "metropolitan service corporation" on the basis of a majority vote in the area to be served by the corporation, the resolution for such an election coming from either the city council of the central city or the board of commissioners of the largest county in the metropolitan area; (2) the corporation would be authorized by statute to carry on one or more of several metropolitan functions. However, the

79/ Governmental Structure, op. cit., p. 26.

function or functions to be performed by the corporation either upon its initial establishment or subsequently would be subject to a vote of the people in the service area; (3) the corporation would be governed by a metropolitan council consisting of representatives from the boards of county commissioners, and from the mayors and councils of the component cities; (4) the corporation would have power to impose service charges and special-benefit assessments; to issue revenue bonds; and--subject to referendum--to issue general obligation bonds repayable from property taxes imposed by the corporation for this purpose.

G. Annexation and Consolidation

Annexation and consolidation are the two general ways by which municipal boundaries are adjusted. Annexation is the absorption of territory by a city. While such territory may be either incorporated or unincorporated, usually it is unincorporated territory, and smaller than the annexing city. The result is a larger and not essentially different governmental unit. Consolidation is the joining together of two or more units of government of approximately equal stature to form a new unit of government. Annexation has been used much more widely than consolidation.

City-county consolidation is the merging of two units of different stature. It is discussed later as a separate reorganization approach. 80/

Annexations are carried out in five principal ways: (1) Legislative determination, when municipal boundaries are extended by special act of the State legislature. (2) Popular determination, in which voters determine whether a territorial extension shall take place. This power may be exercised separately or jointly by the voters of the enlarged municipality, the territory to be annexed, or the jurisdiction which loses the annexed land. (3) Municipal determination, in which the annexing municipality makes a unilateral determination. (4) Judicial determination, in which the State judiciary decides whether a proposed annexation shall take place. (5) Quasi-legislative determination, in which a commission or board makes the determination. 81/

80/ See Chapter IV, section I, pp. 71-75 below.

81/ Frank S. Sengstock, Annexation: A Solution to the Metropolitan Area Problem (Legislative Research Center, University of Michigan Law School, Ann Arbor: 1960), pp. 9-41.

The States vary according to which of the several methods they make available to their localities. Usually localities may use more than one method. In some States they are required to use the features of two or more methods in combination. Thus, in Missouri, municipal determination is coupled with popular determination to complete an annexation, and in New York, no territory can be added without legislative determination and approval of the territory being annexed.

Consolidation procedure varies among the States, but commonly is a voluntary process, in which the consolidating units are contiguous; petitions for consolidation are initiated by voters in one or all of the units affected; and a separate election is held on the issue in each unit. Sometimes action of the governing bodies is required in addition to or in lieu of the petition. 82/

1. Scope and trend of use

Annexation has always been the most common method for adjusting the boundaries of local governments in the urban and metropolitan areas of the United States. The nation's great cities achieved their present size largely through this process. The period of greatest use of annexation was prior to 1900, during a time when the area around the large cities was sparsely settled. Of the nation's 12 largest cities in 1958, six had achieved 90 percent or more of their 1958 area by 1900. 83/ Annexation was relatively easy to achieve because it could be accomplished by special legislative act, by unilateral action of the annexing city, or by approval of a simple majority of the combined vote of the city and the territory to be annexed.

Around the turn of the century, annexation became more difficult as suburbanization grew, and residents of the fringe areas succeeded in getting changes in State constitutions and statutes to forestall absorption by their larger neighbors. Many States gave fringe area residents exclusive authority to initiate annexation proceedings, and required separate majority votes in both the annexing city and the territory to be annexed. New cities and villages gradually were incorporated around the edges of the central cities and amendments to many State annexation laws made it difficult to annex any but unincorporated areas. These changes made great inroads on the territory available for annexation by central cities.

82/ Robert G. Dixon, Jr., and John R. Kerstetter, Adjusting Municipal Boundaries: The Law and Practice in 48 States (Chicago: American Municipal Association, 1959) (interim mimeo).

83/ Ibid., Table 1, pp. 4-5.

In the post World War II population expansion, annexations have again become significant ways of expanding the boundaries of central cities. In the seven year period 1951-1957, 5,499 cities completed annexations totaling one-fourth square mile or more, with an average of 0.40 square mile per annexation and 4.92 square miles per city. 84/ In 1960, 712 cities with a population of 5,000 or more annexed territory, the largest number in 16 years. Cities over 10,000 population annexed territory averaging over two square miles; those in the 5,000 - 10,000 population group averaged about three-tenths of a square mile. 85/

As distinguished from the large annexations by the big cities in the 19th century, these recent annexations have been mainly of small areas, as the figures indicate. This reflects the fact that annexation has come to be used mostly as a means of resolving the problems arising between the central city and its abutting unincorporated urban fringe, the type of uncontrolled development referred to in the section above on extraterritorial powers. However, there have been some large annexations by large cities. Thus in 1960 Kansas City, Missouri, voters approved annexation of 187 square miles, more than doubling that city's size. In 1959 Oklahoma City added 193 square miles to its 88 square miles of territory, and in 1960 added 149 square miles more. 86/ Major annexations of this type are found where two conditions are present: availability of a liberal annexation law and the existence of sizeable and adjacent unincorporated territory.

American Municipal Association study conclusions: The present status and trends of annexation law and practice were summarized in a recent comprehensive report of the American Municipal Association. 87/ Major points made were that:

* While special legislation has been used to effect large annexations in a few States, "general law" methods are the most common approach to annexation. There were 183 such methods available in 40 States.

* More than one-half of the general law annexation methods are procedures by which the municipality takes the initiative, although many of those methods are rather narrowly circumscribed as to the number of municipalities which may use them, or the extent and type of territory which may thereby be annexed.

84/ Dixon and Kerstetter, op. cit., Table VI, pp. 16-17.

85/ International City Managers' Association, Municipal Year Book 1961 (Chicago, 1961), pp. 57-58.

86/ Ibid.

87/ Dixon and Kerstetter, op. cit., p. ix.

* There is a general trend toward facilitation of municipal initiative and concurrent curtailment of excessive "veto power" by potential annexees.

* There is another general trend toward establishing statutory "standards" designed to expedite annexations while protecting the annexees, and which are to be applied to the facts of a particular annexation by a judicial or quasi-judicial body. Such standards relate to the need for municipal-type services and careful land use planning and control. They can be specific (non-discretionary) or flexible (giving the applying authority discretion in applying them). 88/

* There are indications of a tendency to liberalize authorization for annexation of incorporated territory.

Use in conjunction with other approaches: Annexation is sometimes used in conjunction with other approaches to governmental reorganizations. Thus, as long ago as 1876, the city-county separation of St. Louis, Missouri, was accompanied by the city's annexing of 43 square miles. In 1950, the realignment of city and county functions between Atlanta and Fulton County, Georgia, was accompanied by Atlanta's annexing of 82 square miles of contiguous, unincorporated territory. 89/ A similar plan for Louisville and Jefferson County, Kentucky, was defeated in 1956. 90/

Close relation to incorporation controls, extraterritoriality: The use of annexation powers must be considered in connection with two other procedures affecting the orderly development of unincorporated territory in metropolitan areas: extraterritorial regulation and incorporation of new units of government. As noted previously, extraterritorial regulation can be an important step paving the way for sound annexation. 91/ It establishes controls over unincorporated territory at the critical formation time in the development of a community, when decisions of great importance for the urban future of the area are made. Controls over new incorporations are necessary to assure that new units of government have the potential for providing adequate urban services, and that further fragmentation of government in the metropolitan area is minimized. Unless controls are exercised, the threat of annexation can lead to "defensive incorporations", contrary to orderly development of the area.

88/ See Stanley Scott, Lewis Keller and John C. Bollens, Local Governmental Boundaries and Areas: New Policies for California (Berkeley: University of California, Bureau of Public Administration, 1961).

89/ Advisory Commission on Intergovernmental Relations, Factors Affecting Voter Reactions to Governmental Reorganization in Metropolitan Areas (Washington, 1962), pp. 37-38.

90/ Ibid., pp. 49-50.

91/ See page 23.

The Commission has recommended that States enact legislation providing statutory standards for the creation of new municipal corporations in metropolitan areas and providing for administrative review and approval of such proposed new incorporations by the unit of State government concerned with responsibility for local government or metropolitan area affairs. 92/

Virginia and Texas experience: Cities in the States of Virginia and Texas have had unique success in the use of annexation, due to the special legal provisions of those two States. In Virginia, local government units or citizens may petition for an annexation, in which case a special annexation court is set up to hear and determine whether the annexation shall be carried out. The court consists of one judge from the circuit court of the county in which the territory to be annexed lies, and two judges from other counties, all chosen by the Chief Justice of the Supreme Court of Appeals or a judge or committee of judges appointed by him. The court may uphold, modify, or set aside the annexation action 93/ Virginia has worked continually under this annexation procedure since early in this century.

In Texas, cities may empower themselves by home rule charter provision to annex unincorporated territory by ordinance. The result has been large expansions by the major Texas cities. In the 10 year period 1951-1960, of the 10 cities in the nation having annexed the most territory, four Texas cities stood among the highest: Houston (192 square miles), Dallas (161), El Paso (118), and San Antonio (86). 94/ Texas and Virginia are now reexamining their liberal annexation policies.

Consolidation has been a rarely used reorganization approach, compared to such approaches as intergovernmental agreements or annexation. Such use of the method as has been made by the larger cities occurred prior to 1900. 95/ Even among smaller units,

92/ Governmental Structure, op. cit., pp. 39-40.

93/ Virginia Code, secs. 15-152.2 - 15-152.28.

94/ Dixon and Kerstetter, op. cit., Table VIII, pp. 20-21, updated for years 1958-1960 with data from Municipal Year Book of 1959, 1960, 1961.

95/ Paul Studenski, The Government of Metropolitan Areas (New York: National Municipal League, 1930), pp.65-155.

while consolidations are commonly recommended by study groups, they are not often carried out. Examples of the few recent consolidations are Newport News and Warwick, Va., forming the new city of Newport News, 96/ the town and village of Bennington, Vt., and the town and village of Springfield, Vt. 97/ The Newport News consolidation was reported to be the third in the history of Virginia local government.

A principal reason for the decline in use of consolidation by the large cities was the movement toward the abolition or restriction of special legislation that was noted in regard to annexation. The early large-scale consolidations were imposed upon the communities by special legislation, and as suburban communities organized and grew strong, they were able to protect themselves by getting constitutional restrictions on special legislation. Special legislation now is prohibited in almost two-thirds of the States. 98/

In 1959 only 20 of the States were reported to have general statutes authorizing consolidations, and these varied with respect to permitting cities, villages or towns to consolidate. Although a total of 26 consolidation methods were available in these States, none of them was used frequently, and most were used only occasionally or rarely. 99/

2. Strength and weakness

Annexation: The major strength of annexation as an approach to reorganization of local government in metropolitan areas is that it broadens the geographical jurisdiction of municipalities. Moreover, it is a flexible way of broadening jurisdiction. To the extent that it forestalls incorporations or creation of limited purpose special districts, it keeps the governmental pattern from becoming more complex. Unlike limited purpose districts as an approach to handling area-wide problems, annexation strengthens rather than weakens general purpose governments.

Annexation brings areas at the fringes of municipalities under controlled growth and development. If uncontrolled, such areas can be a source of trouble and cost for the entire area--the residents of the fringe areas as well as the annexing city. Annexation

96/ National Civic Review, XLVI (Sept., 1957), p. 409.

97/ National Civic Review, XLVI (July, 1957), p. 355.

98/ Dixon and Kerstetter, op. cit.

99/ Dixon and Kerstetter, op. cit., p. viii.

provides an absolute right of self-determination and local control where consent of the annexed area is required. In those States which regard annexation issues as affecting a broader territory than just the area to be annexed, and therefore do not give that area an absolute veto on annexation, due regard for local wishes can be provided. This can be done through adequate provisions for standards in determining the soundness of a proposed annexation, and for judicial or quasi-judicial review. While annexation can be an important approach to reorganization by itself, the fact that it is generally limited to use in unincorporated areas makes it likely to be most useful as a supplement to other reorganization approaches.

The legal obstacles to annexation in most States are a major weakness in this approach to the reorganization of local governments in metropolitan areas. As indicated in the American Municipal Association study, however, this is not as serious a problem as sometimes is assumed, and the trend is in the direction of making it easier for municipalities to annex territory. The legal obstacles are mainly the exclusive power of annexees in many States to initiate annexation procedures, and their exercise of a veto over adoption of the annexation plan.

Limitation of annexations to unincorporated areas reduces its effectiveness as a tool of reorganization in metropolitan areas where central cities are hemmed in by incorporated territory. However, villages and cities bordering central cities may find the method useful in expanding their territories.

Another weakness of the annexation method is that it may precipitate "defensive" incorporations by fringe communities that do not want to be absorbed by their big neighbor. The result is additional fractionalization of political authority. A related reflex action is that all the cities in the area may start competing for the annexation of unincorporated territory, producing a haphazard annexation pattern.

There have been examples of abuse of the annexation power by cities taking in attractive areas in terms of high taxable value and minimum problem conditions, and carefully avoiding the problem spots. This abuse can be guarded against, however, by establishment of proper criteria for annexation and requirement of approval by, or appeal to, a judicial or quasi-judicial agency.

Opposition by officials of the territory to be annexed reduces the political feasibility of the annexation approach. However, their opposition is likely to be less effective than if they were officials and employees of a more highly developed governmental unit.

Consolidation: Consolidation of two municipalities also produces a unit of larger geographical area and thereby increases the ability of local residents to control area-wide problems. By reducing the number of governmental units in the area, it lessens the problem of coordinating the attack on these problems. It also makes possible economies of scale in operation and planning by eliminating duplication of certain administrative overhead processes.

Consolidation may lessen the voter's influence on his local government by making his vote relatively less important in the total. However, if the new government is set up with ample powers and an adequate system of representation and clear lines of responsibility, it can increase his influence by making the area-wide problems more susceptible to control by the new government than they were by the individual and less coordinated efforts of the predecessor governments.

A principal weakness of consolidation is its low political feasibility, as indicated by the infrequent use that has been made of it over the years. Over one-half the States do not permit consolidation. When permitted, the general procedure of separate petitioning and approval by separate majority votes in each of the units makes the achievement of consolidation more difficult.

By replacing two or more governmental units with a single larger unit, consolidation reduces opportunities for political participation. Also, it poses a threat to the tenure and rights of some officials and staff in the consolidated unit. So far as the employees are concerned, their employment and rights can be assured under the consolidated government, but at best this can only diminish, not eliminate, their apprehensions and thus their resistance to the change.

3. Recommendations

The Commission reiterates its 1961 recommendation "...that the States examine critically their present constitutional and statutory provisions governing annexation of territory to municipalities, and that they act promptly to eliminate or amend--at least with regard to metropolitan areas--provisions that now

hamper the orderly and equitable extension of municipal boundaries so as to embrace unincorporated territory in which urban development is underway or in prospect. As a minimum, authority to initiate annexation proceedings should not rest solely with the area or residents desiring annexation but should also be available to city governing bodies. There is also merit to the proposition that the inhabitants of minor outlying unincorporated territory should not possess an absolute power to veto a proposed annexation which meets appropriate standards of equity. The Commission further urges States generally to examine types of legislation which in certain States have already been adopted to facilitate desirable municipal annexations, with a view to enacting such facilitative provisions as may be suitable to their respective needs and circumstances." 100/

Although some cities still take in substantial additional territory through annexation, they are now the exceptional cases and are in the newer urban areas. Most annexations are of small amounts of territory. One reason for this is that generally, annexations are limited to unincorporated territory, and many cities no longer have such territory at their fringes. Another reason, however, is the strict restrictions which State legislatures have placed on municipal annexation. These restrictions include the exclusive authority of the people in outlying areas to initiate annexation proceedings, and in most States, their exclusive authority to veto annexation proposals.

The orderly development of governmental structure and services within the metropolitan areas is a matter of concern to the whole area, for which the States have a basic responsibility. The Commission believes that as part of this responsibility the States should minimize the extent to which individual local units of government, or the inhabitants of a small geographic area, can thwart orderly development by their control over annexation policies. The Commission believes therefore that the States should give to the municipalities, along with the unincorporated territories, the authority to initiate annexation proposals. The Commission also suggests that States reexamine carefully the right of residents of the outlying areas to exercise a veto over annexations.

Thirty-two States grant one or more of their municipalities complete or substantial unilateral annexation authority, i.e., without formal petition, consent or approval by residents or owners of the territories annexed. In 22 of these States authority granted to one or more of the municipalities is completely unilateral,

100/ Governmental Structure, op. cit., p. 21.

with no approval required by the territory annexed. 101/

As noted previously, the unincorporated territories do not have a veto power over proposed annexations in Virginia and Texas. The same is true of North Carolina, where legislation sets forth specific standards under which municipalities over a certain size may annex contiguous unincorporated territory provided it is currently or imminently of urban character in terms of population density and other measures. The annexing municipality within a specified time must extend municipal services to the annexed area on a basis comparable to that prevailing in the rest of the municipality. Judicial review is available to determine if the annexation action as finally taken conforms to the standards set forth in the statutes.

The Commission has previously recommended that the States impose stricter requirements for the creation of new municipal corporations within metropolitan areas.102/ The Commission believes liberalized annexation of unincorporated areas, combined with tighter rules against "defensive incorporations" of fringe areas will greatly contribute to more orderly development of governmental structure and urban services in the metropolitan areas.

101/ Dixon and Kerstetter, op. cit., p. ix, and Figures 1 and 2, pp. vi-viii. Following is the list of 32 States which grant one or more of their municipalities complete or substantial unilateral annexation authority. Those marked with an asterisk are the 22 which grant completely uniliteral authority to one or more of their municipalities: Arkansas*, California*, Florida, Idaho*, Illinois*, Indiana*, Iowa, Kansas*, Kentucky, Michigan*, Minnesota*, Mississippi, Missouri*, Montana*, Nebraska*, New Mexico, New York, North Carolina*, North Dakota*, Ohio, Oklahoma*, Oregon*, Pennsylvania*, South Carolina*, South Dakota*, Tennessee, Texas*, Virginia, Washington*, West Virginia, Wisconsin*, and Wyoming*.

102/ Governmental Structure, op. cit., p. 39.

H. City-County Separation

City-county separation is an action by which the major city in a county separates from the county, sometimes with simultaneous expansion of its boundaries, and thereafter exercises both city and county functions within its boundaries, although sometimes not all the county functions.

Use of the method usually requires special constitutional provisions since the detached city-county usually does not conform to the general provisions setting up a uniform system of county government throughout the State.

1. Scope and trend of use

City-county separation was used as a means of reorganizing local governments in metropolitan areas in four major cities in the last half of the 19th century: Baltimore, Denver, St. Louis and San Francisco. ^{103/} The impetus for this approach in three of the cities came largely from the belief of city residents that they were shouldering a disproportionate share of the cost of county government service provided to noncity residents, and that the county and city governments were suffering from a duplication of effort.

Baltimore was the first large city to achieve separate city-county status, as a result of its dissatisfaction with the services of judicial and other county officials. The separation was effected by constitutional amendment in 1851, and subsequent legislation. San Francisco became a separate city-county in 1856 by legislative act, out of a desire to transfer local government control from the corrupt city government to the relatively simple, uncorrupted county government. The separation was given constitutional status by the constitutional convention of 1879.

The St. Louis city-county separation of 1876 was related to the movement for home rule, in which residents wanted control over the whole structure of local government and relief from the burden of financing county services outside the city boundaries. The separation was accomplished with the addition of considerable unincorporated territory to the City's boundaries. It came about through a provision of the Missouri constitution of 1875 and vote of the people in the area of the newly-expanded separated city-county. Denver's separation was effected by State constitutional amendment in 1902, with only a slight expansion of the city's original territory.

^{103/} Studenski, op. cit., pp. 170-215; The Library of Congress, Legislative Reference Service, City-County Consolidation and City-County Separation (1952) (typewritten).

Although city-county separation was tried in a few places in the early twentieth century, like Pittsburgh and Oakland, there has been little interest in this approach since the Denver experience, except in the State of Virginia. Virginia has special conditions which have come into being by usage rather than explicit constitutional or statutory provision. When towns reach a population of 5,000 they may become cities. By becoming cities they separate from their counties and thereafter exercise, in addition to their city functions, all county functions except those relating to the circuit court, which they share with the county of which they were formerly a part. When they reach a population of 10,000, they take over responsibility for the circuit court as well. In 1957 there were 32 so-called "independent" cities in Virginia. 104/

Although Virginia cities are not given additional territory when they separate from their counties, they may subsequently add on territory from counties that surround them, following the usual Virginia annexation procedure (see page 62 above).105/

City-county separation usually is followed by no further expansion in boundaries of the city-county once the separation occurs. This is because in addition to the usual problems in expanding boundaries, such as occur in annexation proceedings, the separate city-county unit runs into constitutional prohibitions against counties encroaching on one another. As a consequence, none of the four large city-county units cited earlier, all of which were separated in the 19th century, presently embrace the expanse of their metropolitan areas, and they cannot be regarded as being metropolitan in scope, even though when created they were.

In recent years the suburbs, rather than the central city, sometimes have shown an interest in detaching the central city from the existing county. Such interest has been shown, for example, in Hennepin County, Minnesota, which contains the city of Minneapolis. The proposal was made mainly by suburban officials who resented the suburbs' under-representation on the county board of commissioners, and also feared that the incumbent county board would transfer the responsibility for poor relief from the towns and municipalities to the county. The poor relief shift would have caused a substantial property tax increase in the suburbs, and a substantial decrease in the City of Minneapolis.

104/ U.S. Bureau of the Census, 1957 Census of Governments, "Government in Virginia," State Bulletins, Vol. VI, No. 44, p. 2.

105/ Council of State Governments, op. cit., pp. 81-82.

2. Strength and weakness

The principal advantage of city-county separation is increased efficiency and economy through the avoidance of duplication of services and governmental processes. This results in savings in manpower, equipment, and facilities through better planning and coordination of otherwise duplicated functions, such as roads and bridges, revenue administration, and judicial administration. Elimination of a layer of government also simplifies the voter's task.

To the extent that the county has been providing urban services to unincorporated areas, and financing them out of general revenues, city-county separation has the advantage for the central city of reducing its tax burden, but to the disadvantage of the remainder of the county. It may be, however, that the advantage for the central city is more than offset in the event that certain of the original county's functions are performed more than proportionately in the central city and thus on a per capita basis the central city has been paying less in county taxes for those functions than it is receiving in services. It is likely that this relationship particularly applies to public assistance and judicial functions.

City-county separation is most advantageous in situations similar to those confronting the four city-county separated cities at the time they separated: an urban area that is part of a predominantly rural county or part of several such counties. If there is opportunity for simultaneous annexation of considerable fringe land at the time of the separation, the approach is more likely to be appealing.

However, considering the experience of the four cities, and the fact that urbanization is proceeding at a more accelerated rate than ever, it seems likely that any new city-counties will not have very many years to go before they find that the handicap of territorial restrictions of the county boundary is greater than the advantages gained from elimination of duplication and avoidance of some of the costs of providing services to the unincorporated areas in the former county.

Another principal weakness of the city-county separation as an approach to reorganization of local governments in metropolitan areas is that it is an "act of withdrawal." ^{106/} The central city moves in the direction of making it more difficult in the long run

^{106/} Council of State Governments, op. cit., p. 85.

to achieve integrated control of area-wide problems, by virtue of the fact that it no longer is a geographic part of an influential local unit of government of which other municipalities and towns are also a part. Moreover, the difficulties of expanding boundaries in the future are heightened by the fact that constitutional restrictions on changing county boundaries are much greater, if not absolute, than statutory restrictions on moving boundaries of cities. In short, city-county separation moves in the direction of greater rigidity of governmental boundaries, rather than greater flexibility, and in the direction of more governmental units rather than fewer. It nullifies the urban county's effect of broadening jurisdiction.

The fiscal effects of the separation will depend on the distribution of tax resources and service needs in the county prior to separation. Generally speaking, the residual county will be in worse shape to the extent that it contains a large unincorporated area, because such areas are typically low in tax resources. On the other hand, the residual county may have at least for the immediate future fewer of the higher cost services to support, particularly in the public assistance and law enforcement fields.

From the feasibility standpoint, city-county separation has many handicaps: it usually requires new constitutional provisions; it threatens the status and prestige of county officials (although it probably enhances the status and prestige of the city officials who would take on the county functions in the new unit); and, considering the alertness and sense of self-protection of the citizens and officials of neighboring communities in the county, it probably would necessitate a referendum requiring separate majorities for approval.

I. City-County Consolidation

City-county consolidation takes three forms: (1) the merger of a county and the cities within it into a single government, which is the most complete form of consolidation; (2) substantial merger of the county and the cities, but the retention of the county as a separate unit for some functions; (3) unification of some, but not all, of the municipal governments and the county government. Sometimes the consolidation is broadened to include the territory of two or more counties and the county and municipal governments within them, or to include other local governments. 107/

107/ Council of State Governments, op. cit., p. 53.

Execution of a city-county consolidation requires permissive legislation and sometimes also a local referendum, frequently with separate majority approvals in the central city and the remainder of the county. In 1959 it was reported that four States had general law methods of effecting city-county consolidations and 18 States had special laws. 108/

1. Scope and trend of use

Like city-county separation, successful enactments of city-county consolidations took place mostly in the last century. However, the approach has continued to attract the interest of groups concerned with governmental reorganization in metropolitan areas. A general review of metropolitan area surveys for the 35-year period ending in 1958 indicated that city-county consolidation was one of the most frequently recommended reorganization proposals in these surveys, either as a single method or in combination with other methods. 109/ Despite this, however, few city-county consolidations have been put into effect.

The city-county consolidations of the 19th century were in New Orleans (completed in 1874), Boston (1822), Philadelphia (1854), and New York (1898). Although these consolidations varied as to the extent of city and county merger, they had a number of common characteristics. 110/

- (1) They were brought about by action of the State legislature and without local referendum.
- (2) Most involved just one county and one major city.
- (3) In most cases the area of the affected or remaining city was expanded and made coterminous with the county or counties involved.
- (4) Those that initially extended the city to the area of the county subsequently have had little, if any territorial expansion.
- (5) Where city and county offices were merged, the original city offices were retained and the county offices were abolished.
- (6) Judges, court personnel, district attorneys, and school offices commonly were not consolidated.

108/ See Dixon and Kerstetter, op. cit.

109/ Government Affairs Foundation, Inc., Metropolitan Surveys: A Digest (Chicago: Public Administration Service, 1958).

110/ Council of State Governments, op. cit., pp. 68-71.

(7) The consolidated territories are now considerably smaller than the metropolitan areas of which they are a part.

The best known recent city-county consolidation occurred in 1949 when East Baton Rouge Parish (county), Louisiana, and the city of Baton Rouge merged. The consolidation plan was prepared by a local charter commission set up pursuant to a 1956 constitutional amendment, and was approved by a parish-wide vote in 1947. The constitutional amendment required the creation of separate industrial, rural and urban areas, with the State constitutional tax limit on parishes applying in the rural and industrial areas, and that on city taxes in the urban areas only.

Under the plan, the city boundaries were extended to take in about three times as many people as previously, and about five times as much territory. This constitutes the urban area, within which the city provides urban services and levies city taxes. It may annex parts of the rural area. The industrial areas contain no residences. The industries supply their own municipal services. In the rural areas, the parish government may supply only nonurban services, except police protection. Other urban services desired can be provided only by special districts set up by the parish governing body. The city and parish maintained their separate legal identities, but the two governments are interlocked through common membership on the two governing bodies, joint use of the mayor-president as chief administrator, the common use of other officials, and joint financing of certain services. Numerous parish officials, however, continue to be separately elected.

Of the 18 major reorganization efforts of the decade 1950-1960 identified in a recent Commission report, 111/ six involved city-county consolidations: Nashville-Davidson County, Tennessee, (1958), Albuquerque-Bernalillo County, New Mexico, (1959), Knoxville-Knox County, Tennessee, (1959), Macon-Bibb County, Georgia, (1960), Durham-Durham County, North Carolina, (1961), and Richmond-Henrico County, Virginia, (1961). All of these proposals were subject to local approval, and all but the Durham-Durham County plan required separate majorities, usually in the city and the remainder of the county. All were defeated. All but the Richmond-Henrico County plan would have set up separate service and taxing areas in the consolidated city-county. 112/

111/ Advisory Commission on Intergovernmental Relations, Factors Affecting Popular Reactions to Governmental Reorganization in Metropolitan Areas (Washington, 1962).

112/ On June 28, 1962, the voters of Nashville and Davidson County, Tenn., reversed their 1958 decision by approving the consolidation of the city and county into "The Metropolitan Government of Nashville and Davidson County." The charter received substantial favorable majorities in both the city and the rest of the county. The effective date of the new charter is April 1, 1963.

2. Strength and weakness

City-county consolidation has the advantage of providing the base for a unified, coordinated program of service, development and control over an enlarged area. It is thus suited to the more effective handling of area-wide problems, the achievement of the optimum scale of operation, and improved relationship between expenditure needs and fiscal resources. It also simplifies the voter's task of understanding the governmental structure and holding it responsible. Administrative economies from elimination of duplicated activities are likely to be greatest where the city and the overlying county with which it consolidates are closest to one another in size.

As a way of adjusting boundaries to the geographical area of metropolitan problems, city-county consolidation has the greatest potential in medium and small metropolitan areas that are contained within one county and are unlikely to extend beyond the county's boundaries for some time to come, and in which there is one urban center surrounded by considerable undeveloped territory. The converse situation indicates a major weakness of the city-county consolidation approach: it has limited usefulness in handling metropolitan problems in areas that are not confined to a single county.

Obstacles that stand in the way of adoption of city-county consolidation are the fact that many State constitutions do not authorize consolidation, and when they do, enabling legislation is still needed and is not easy to obtain. Another obstacle is the frequent requirement that for approval the plan needs the favorable vote of separate majorities in the central city and the rest of the county, and perhaps even in one or more of the other municipalities of the county. Still another difficulty is the potential resistance from those in office, since a consolidation clearly is a threat to the positions of numerous officials and employees.

A single consolidated city-county is a move in the direction of reducing local participation in local affairs, and of making it more difficult to vary governmental services and finances according to local desires. Recent plans have sought to overcome this defect, however, through differential service areas, as in Baton Rouge and five of the six recent unsuccessful proposals noted above, or through a modified borough system. A borough system was proposed, for example, in the Public Administration Service recommendations for the Sacramento city-county consolidation. It provided for

consolidating the county and five cities within it to form "Metropolitan Sacramento," and established a system of five boroughs as regional advisory governmental units, with borough councils of five members each. Eventually the boroughs would have served as decentralized metropolitan administrative units. 113/

The problem of tax equities arises where the consolidation takes in a substantial area of rural territory, for which it is unwise or unnecessary to provide urban services. Again, however, the establishment of separate service and taxing districts is a way of meeting this objection. Another way is to require the establishment of special districts for specific urban services in the rural areas, as is done in Baton Rouge Parish. This has some of the disadvantages, however, of special districts (see pages 51-53).

A final difficulty of the city-county consolidation method, which it shares with city-county separation, is the inflexibility of the new unit's boundaries because of the constitutional and statutory restrictions on a county's taking in territory from adjoining counties. How serious this problem is will depend on how much undeveloped territory is included in the new city-county, where this territory lies in relation to population expansion, and how fast the expansion is proceeding. Generally speaking, the boundary problem is likely to prove less of a handicap in the case of city-county consolidation than city-county separation.

J. Federation (borough plan)

The federation or borough plan approach to governmental reorganization involves the division of local government functions in the metropolitan area between two levels of government. Area-wide functions are assigned to an area-wide or "metropolitan" government, with boundaries encompassing the units from which the functions are assumed. The local-type functions are left to the existing municipalities, which are sometimes enlarged in territory and called boroughs. In their advanced stage of development, the

113/ Public Administration Service, The Government of Metropolitan Sacramento (Chicago, 1957).

urban county and multipurpose metropolitan district resemble the federation as a form of government organization, since they provide a clear separation of most, if not all area-wide and local functions.¹¹⁴

The several proposals for a federation plan that have received consideration in the United States have required special constitutional authorization for the specific metropolitan area seeking the federation form, the drafting of a local charter, and the approval of the charter by more than a simple majority, usually dual if not multiple majorities.^{115/} The two federation governments in Canada were put into effect by acts of provincial legislatures without popular referenda.

1. Scope and trend of use

Although authorities in the field of local and metropolitan government for many years have considered the federation form an attractive approach to the problem of government organization in metropolitan areas,^{116/} no federation types have been adopted in the United States. All efforts to establish this type in this country have been unsuccessful. The first federation to come into being in North America was the Municipality of Metropolitan Toronto in 1954. In 1960 Winnipeg, Manitoba also adopted a federation plan.

The earliest proposal, in 1896, came from a special commission appointed by the Governor of Massachusetts. The commission asked the legislature to authorize a local referendum on a federation plan in the Boston area, but was turned down. A federation charter for Alameda County, California, was rejected by the voters in 1921, as was a federation charter in Allegheny County (Pittsburgh) in 1929. In 1930 the voters of Missouri defeated a proposed constitutional amendment which would have allowed the drafting of a federation charter for St. Louis City-County and St. Louis County.

^{114/} See W. W. Crouch, "Federated Local Government: One Approach to Metropolitan Organization," Metropolitan California, the Governor's Commission on Metropolitan Area Problems (Sacramento, Calif.: 1961), pp. 97-101, and Government Affairs Foundation, Metropolitan Communities: A Bibliography (Chicago: Public Administration Service, 1956), p. 226.

^{115/} Council of State Governments, op. cit., pp. 93-96.

^{116/} See, for example, Studenski, op. cit., p. 386, and T.H. Reed, "A Call for Plain Talk," National Civic Review, LI (March, 1962) pp. 119-128.

During the 1920's a detailed plan was drafted for San Francisco and San Mateo County, but was never submitted to the voters, although parts of it were incorporated into a new San Francisco charter adopted in 1931. The Massachusetts legislature had two federation plans for the Boston area before it in 1931, but neither was passed. 117/ The two federation governments now in operation in Canada are described in the following paragraphs. 118/

The Municipality of Metropolitan Toronto 119/

The establishment of the Toronto federation plan was precipitated when the City of Toronto and the town of Mimico, one of 12 Toronto suburbs, submitted petitions to the Ontario Municipal Board. The Municipal Board is an administrative tribunal appointed by the province to hear applications and appeals concerning municipal affairs, and make recommendations for action to the Ontario Provincial (State) government.

Toronto's petition asked for amalgamation of the 12 suburbs with the central city. Mimico's petition asked that the Municipal Board create an area for joint administration of a number of specific services for Toronto and most of its suburbs. The Board held extensive hearings for a year and a half, and another year and a half later made its recommendations to the provincial premier and legislature. The recommendations were embodied in legislation, and with some modification, were passed and put into effect on January 1, 1954.

The act created the Municipality of Metropolitan Toronto, supplanting the county, and gave it jurisdiction over all 13 municipalities, with responsibility for water supply, sewage disposal, housing, education, arterial highways, metropolitan parks, certain welfare services, and area planning. A 25-member Metropolitan Council is the governing body, consisting of 12

117/ Studenski, op. cit., pp. 367-387; Council of State Governments, op. cit., pp. 86-88.

118/ Dade County, Florida, is sometimes regarded as a federation form. It is treated in this report under urban county, since the upper tier is basically the reconstituted county government.

119/ Government Affairs Foundation, Metropolitan Surveys: A Digest (Chicago: Public Administration Service, 1958), pp. 235-239; W. W. Crouch, Metropolitan California, op. cit., pp. 97-99.

ex officio members from the city and the council chairman of each of the 12 suburbs, and a chairman elected annually by the Metropolitan Council. Schools remain a responsibility of the local governments, but a Metropolitan School Board is set up on a pattern similar to the Metropolitan Council, with responsibilities for providing basic financial aids, planning and reviewing construction needs, and reviewing local school borrowing. Other major functions left to local governments are police and fire protection, water distribution, sewage collection, most of the public health services, local streets, libraries, direct public relief, local parks, building inspection, and local planning. The existing Toronto Transportation Commission was continued and given expanded jurisdiction.

Since adoption of the federation plan the assessment of property for tax purposes has been transferred to the metropolitan government. Local police forces have been amalgamated and transferred also, and similar consolidation of the municipal fire departments has been under discussion.

Metropolitan Corporation of Greater Winnipeg 120/

The Metropolitan Corporation of Greater Winnipeg was established in 1960 pursuant to an act of the Manitoba Provincial Assembly, based on a report from a Provincial Investigating Commission. The commission had recommended consolidation of municipalities and broader powers for the new governments.

The metropolitan corporation covers the territory of Winnipeg and its adjacent municipalities. It is governed by a council of ten, with five from districts having a majority of Winnipeg residents and five from districts having a majority of suburban residents. Council members are directly elected. No municipal employee or member of a municipal council, the provincial legislature, or the national administration or Senate, may be a council member. The council elects its own chairman and appoints an executive director who serves at its pleasure and is responsible for administration.

The new government is charged with preparing and adopting an overall development plan for major roads and bridges, traffic control, transit, sewer and water functions, garbage disposal, and the establishment of major parks. All other local government functions remain with the existing municipalities, which are left intact. However, the

120/ Metropolitan Area Problems: News and Digest, III (May-June 1960), pp. 1-3; National Civic Review, XLIX (Sept. 1960), pp. 437-438.

metropolitan government is authorized to assume other functions gradually, upon approval of the Provincial Lieutenant Governor-in-Council. Included in such functions are: assessing, planning, arterial roads, transit, water supply, sewage disposal, garbage disposal, major parks, flood protection, civil defense, river control, and mosquito abatement.

2. Strength and weakness

The assignment of each governmental function to its appropriate level under the federal approach facilitates achievement of the best handling of each function, from the point of view of most effective planning, decision, and optimum scale of operation. Retention of the identities of local governments preserves the focus of local civic pride, interest, and participation. It also permits the maximization of diversity and experiment and performance of functions.

Federation permits coordinated area-wide approaches to area-wide problems, and a closer relating of taxing areas to benefit areas. By assigning to the metropolitan government the area-wide problems and to the municipalities the local problems, it keeps officials at each level from being overwhelmed by details.

A weakness of the federation approach is that, while it sets up a new general purpose government, it diminishes the strength of the lower tier of general purpose governments. Also, the federation approach requires working out details that are not required in the other approaches. These details, which are likely to be controversial, include the exact distribution of powers between the central and municipal governments, and the composition and method of selection of the governing body.

The federation approach has less political feasibility than a step-by-step approach, such as the piecemeal transfer of functions to an urban county. Also, the federation is a new political entity, not foreseen at the time when most State constitutions were prepared, so constitutional revision is invariably needed. The relationship to county governments must be worked out, and this may become especially difficult if the new unit overlies more than one county.

Furthermore, a key question in political feasibility is the requirement for voter approval. Commonly local approval requires separate majorities in different sub-units within the area of the contemplated federation, and sometimes this involves majorities in each of the political subdivisions affected. This amounts to giving each unit a veto over the whole, and is a particularly difficult obstacle to overcome.

Finally, there exists no clear evidence that urban civic and political leadership in the United States are as yet favorably disposed to the concept of "metropolitan government" as such, which is embodied in the federation plan. The conceptual ties to traditional forms of local government are very strong, and the image of a single new form of general government covering an entire metropolitan area is distasteful to many.

V. CONCLUDING OBSERVATIONS

In this report the Commission has described and appraised the various alternative approaches to reorganization of local government in metropolitan areas. "Reorganization" has been defined to include (1) changes in the geographical jurisdictions of local governments, and (2) reallocation of powers among existing and new units of local government. In addition to this review, the Commission has recommended ways in which the States can help make these approaches more available to local governments, and more effective instruments of governmental change in metropolitan areas. These recommendations are in addition to those the Commission made to the States in its report on Governmental Structure, Organization, and Planning in Metropolitan Areas.

The ten different approaches to governmental reorganization covered in this review are: municipalities' use of extraterritorial powers, intergovernmental agreements, voluntary "metropolitan councils," the urban county, transfer of functions to the State government, metropolitan special districts including multi-purpose districts, annexation and consolidation, city-county separation, city-county consolidation, and federation.

In conclusion, a number of generalizations can be drawn from the analysis of strengths and weaknesses of the different approaches, and the record of the use that has been made of them.

1. There is no best single approach to governmental reorganization applicable to all conditions and times. Every metropolitan area must consider its own peculiar needs and situation, and fashion its reorganization plan accordingly. The analysis of the several approaches contained many references to the types of varying conditions which make a particular method likely or unlikely to be useful. For example, the potential value of annexation as a useful tool of boundary expansion generally depends on whether or not there is unincorporated territory at a city's boundaries. Also, the urban county's greatest potential as a unit of government exercising area-wide powers is in metropolitan areas contained entirely or in large part within a single county.

2. The several approaches are not mutually exclusive, and frequently can be used to supplement one another. The joint exercise of powers and intergovernmental service contracts would seem to be useful approaches in almost every metropolitan area, even following the adoption of a more comprehensive reorganization, such as a multi-purpose district. The Baton Rouge plan, moreover, illustrates the feasibility and merit of combining some of the elements of two of the more comprehensive reorganization methods: annexation and city-county consolidation.

3. Use of the milder approaches may prove adequate to meet the need for governmental reorganization in some metropolitan areas. They may serve as stepping stones to more comprehensive approaches, or may reduce the need or pressure for a more comprehensive approach to reorganization of local government. Intergovernmental agreements and extraterritorial regulatory powers may prove effective in coping with problems that overspan municipal boundaries. The use of extra-territorial powers may also prepare the way for annexation, and voluntary metropolitan councils may develop the area-wide consensus necessary for handling area-wide problems.

The possible complicating effect of using a milder approach is illustrated by the Lakewood plan. Based on Los Angeles County's power to provide urban services to municipalities under contract, it is criticized for encouraging the creation and preservation of too many small units of government, little more than names on the map. Some authorities criticize intergovernmental agreements generally for acting as a palliative when a cure is needed. The same criticism has been made forcefully against the use of single purpose metropolitan districts.

The fact that some of the plans of governmental reorganization in the long run may prove to be two-edged swords serves to emphasize the importance of weighing carefully the likely consequences of using any particular method in terms of the long run goals of local government in metropolitan areas.

4. Annexation continues to show vitality in many of the emerging metropolitan areas of the country, although it is no longer of much usefulness as an approach to reorganization of local government in the larger, older metropolitan areas. Since World War II annexation has been used widely by cities with large amounts of unincorporated territory at their borders, and particularly those in States with liberal annexation policies. It has been used as a separate approach or in conjunction with other approaches. The negligible use of annexation in the largest urban centers is due to the fact that the central cities are completely surrounded by incorporated territory.

5. City-county consolidation and city-county separation, which were used to accomplish major expansions of jurisdiction of some of the nation's largest cities before 1900, have shown limited recent potential as methods of governmental reorganization. They had their period of greatest usefulness before the automobile accelerated suburbanization, and before municipal home rule became effective in protecting the boundaries and powers of the great number of units of government that grew up around the big cities.

Use of city-county separation in recent years has been confined to Virginia under its special historical conditions, and even there has had limited value as a device for handling area-wide problems. City-county consolidation has been one of the most frequently tried comprehensive approaches in recent years, particularly in the southern States, but has been adopted only in Baton Rouge.^{121/} All but one of these proposals made a gesture in the direction of modifying the monolithic character of a consolidated government by providing for different service and taxing areas. Except for Baton Rouge, however, these failed, which at least raises a serious doubt as to whether provision for differential service and taxing levels is enough to overcome the usual opposition to a unitary metropolitan government.

6. Limited purpose metropolitan special districts have been useful in dealing with urgent special problems of a metropolitan character in the face of the failure of the traditional comprehensive approaches to provide feasible alternatives. Yet they have attributes which seriously undermine vigorous local government: they diffuse and weaken citizen interest and control, and erode the strength and importance of general-purpose governments. These defects have stimulated a reaction to the use of limited purpose districts, and a search for still other approaches to the problem of governmental reorganization.

7. This search has led to increasing interest in two broad approaches which, at least in their most fully-developed stage, incorporate two common basic elements: a two-level structure of government, and the assignment of certain general-purpose responsibilities to both levels. Functions not assigned to the area-wide government are retained by the municipalities. The two basic approaches containing these features and which have a reasonable degree of political feasibility are the urban county and the metropolitan multi-purpose district. The federation plan also contains these features but to date has lacked political and public acceptance.

The significant shift from city-county consolidation and city-county separation over to these two approaches represents an accommodation to the tradition of local control. This accommodation is accomplished mainly by retention of a "municipal level" but also through the controls established on the allocation of functions to the additional level of government. In the multi-purpose metropolitan

^{121/} A city-county consolidation was also approved on June 28, 1962 by Nashville-Davidson County, Tennessee. See footnote ^{111/}, p.56-57 above. The new consolidated government also provides for differentiation of services and taxes between a "general services district," comprising all of Davidson County, and an "urban services district," comprising at the outset the present city of Nashville.

district, at least in the Seattle plan and most of the other seriously proposed plans, local referenda are required on the issue of giving additional functions to the district (within the limit of the list of permissible functions prescribed by statute). In the urban county plan conditions vary among the counties. Transfers have been made by legislation, with or without local approval; by agreement of county and municipal governing bodies; or by local referenda. In Dade County, the county charter, adopted by referendum, set forth the division of functions between the upper and lower levels, including the specification of functions that were to be shared. Now the county (central) government may take over the performance of functions in specific municipalities on request of the municipality or if the county board finds the municipality is not performing up to standards set by the county.

The urban county approach has been by far the most widely used of the two-level approaches. No doubt this is because the urban county builds on an existing governmental structure, and lends itself easily to a gradual expansion of functions. A major limiting factor in wider use of this method of adjusting government in metropolitan areas is the fact that about one-third of the metropolitan areas are not confined to one county, and many of these are the biggest areas. Another limiting factor is the backwardness of county government structure and administration. Despite these limitations, however, the urban county must be regarded as a comprehensive approach with great potential for widespread use in the United States.

The federation approach, favorably regarded by many scholars, is being used in two metropolitan areas in Canada: Toronto and Winnipeg. It was enacted by the provincial (state) legislatures without local referenda. No governmental unit exists in the United States with the characteristics which would qualify it as a fully-developed multi-purpose district. However, the Municipality of Metropolitan Seattle is an intermediate stage, and the approach has been recommended in a number of comprehensive studies.

On the basis of experience to date, it would be premature to conclude that any one or all of these two-level approaches are the best comprehensive solution to the problem of governmental reorganization in metropolitan areas. Each of them has its weaknesses, which have been described in the analysis in the preceding chapter. One serious question applying to all of them is whether they have the flexibility to alter their boundaries, a characteristic that is considered one of the key requirements of a sound approach in the long run. Certainly this is a handicap of the urban county approach as now understood and used. Nevertheless, both the urban county and the multi-purpose district approach incorporate sound principles of local government in metropolitan areas to an extent not possessed by

the other comprehensive approaches that have been tried. They deserve serious consideration by the citizens and officials of metropolitan areas who feel they need something more than a piecemeal approach and are ready and willing to attempt it.

8. The growing use of voluntary metropolitan councils is one of the more significant recent developments in local government in metropolitan areas.

Drawing their members, usually the chief executives, from the local governments of the area, the councils provide a way for focusing governmental and public attention on matters of common area-wide concern. As a forum for exchanging ideas and expressing different points of view based on divergent interests, they can bring differences of opinion and attitude to the surface, which is the first step toward reaching agreement on common objectives and common methods. The natural instinct to preserve official power and position being what it is, judgment must be reserved as to how broad such agreement will be and to what extent it will produce official sponsorship or support for structural changes in local government in metropolitan areas. In any case, however, to the extent that the councils focus attention on common problems, they will serve the vital purpose of developing public awareness of the need for a broader approach to critical problems of governmental service and control than can be offered by the existing separate governmental jurisdictions.

* * * * *

The Commission is convinced of the urgency of adjusting local government structure in the metropolitan areas so that local government can better handle the pressing tasks that confront it. The States and the Federal government have an important responsibility for facilitating these adjustments, and in its report on Governmental Structure, supplemented by this report, the Commission has suggested ways in which they can do so. Basically, the States need to unshackle the metropolitan communities so they can have more latitude to attack the problems of the structure of local government. Surely, many States have a long way to go to remove such restrictions. In the final analysis, however, the degree of governmental reorganization in metropolitan areas will rest in large measure with the citizenry and officialdom of those areas. They will largely determine whether there should be reorganization, and if so, what path it should take.

In the main body of this report the Commission has presented a concise summary of the strength and weakness of the many approaches to governmental reorganization that have been used in metropolitan areas.

It is hoped that this summary will help the people of metropolitan areas in deciding what avenue or avenues to follow in adapting their local government organizations to better handle area-wide problems within the framework of the democratic values of local government.

Adjustment of governmental structure is a continual experimental process. The Commission urges each community to examine carefully all the available alternatives, and select the approach or combination of approaches which seem best adapted to its local and area needs and legal authority, and seem most likely, with a strong community effort, to be accepted by the electorate.

APPENDIX A

SUGGESTED STATE LEGISLATION ON EXTRATERRITORIAL PLANNING, ZONING
AND SUBDIVISION REGULATION

Title should conform to State requirements. The following is a suggestion: Amendment to State legislation to authorize municipalities to exercise planning, zoning, and subdivision regulation powers beyond their corporate limits, except in counties where county planning, zoning, or subdivision regulation already exist.

(Be it enacted etc.)

Section 1. (Appropriate citation to existing planning, zoning, and subdivision regulation law) is hereby amended by adding the following new Sections at the end thereof:

"Section . Extraterritorial Jurisdiction In any county not having a county comprehensive plan, a county zoning ordinance, or county subdivision regulations applicable to unincorporated territory the legislative body of any municipality whose population at the time of the latest decennial census of the United States was () or more may exercise the comprehensive planning, zoning, and subdivision regulation powers, respectively, granted in these Articles not only within its corporate limits but also within () mile(s) in all directions of its corporate limits and not located in any other municipality; provided, that any ordinance intended to have application beyond the corporate limits of the municipality shall expressly so provide, and provided further that such ordinance be adopted in accordance with the provisions set forth herein. In the event of land lying outside a municipality and lying within a distance of () mile(s) of more than one municipality, the jurisdiction of each such municipality shall terminate at a boundary line equidistant from the respective corporate limits of such municipalities, or at such line as is agreed to by the governing bodies of the respective municipalities.

"As a prerequisite to the exercise of such powers, the membership of the planning board and zoning commission charged with the preparation of proposed comprehensive planning, zoning and subdivision regulations for the () mile area outside the corporate limits shall be increased to include additional members

who shall represent such outside area. The number of additional members representing such outside area shall be equal in number to the members of the /planning board/ and /zoning commission/ appointed by the governing body of the municipality; provided, that if the extraterritorial area includes parts of two or more counties, the area included from each county shall have additional members equal in number to the members of the /planning board/ and /zoning commission/ appointed by the governing body of the municipality. Such additional members shall be residents of the (____) mile area outside the corporate limits and shall be appointed by the board of county commissioners of the county wherein the unincorporated area is situated. Such members shall have equal rights, privileges, and duties with the other members of the /planning board/ and /zoning commission/ in all matters pertaining to the plans and regulations of the area in which they reside, both in preparation of the original plans and regulations and in consideration of any proposed amendments to such plans and regulations.

"In the event that a municipal governing body adopts zoning regulations for the area outside its corporate limits, it shall increase the membership of the /board of zoning adjustment/ by adding additional members equal in number to the members of the /board of zoning adjustment/ appointed by the governing body of the municipality; provided that if the extraterritorial area includes parts of two or more counties, the area included from each county shall have additional members equal in number to the members of the /board of zoning adjustment/ appointed by the governing body of the municipality. Such members shall be residents of the (____) mile area outside the corporate limits and shall be appointed by the board of county commissioners of the county wherein the unincorporated area is situated. Such members shall have equal rights, privileges, and duties with the other members of the /board of zoning adjustment/ in all matters pertaining to the regulation of such area. The concurring vote of a majority of the members of such enlarged board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official charged with the enforcement of an ordinance.

"Any municipal governing body exercising the powers granted by this Section may provide for the enforcement of its regulations for the outside area in the same manner as the regulations for the area inside the municipality are enforced."

Section 2. Separability.

/Insert separability clause/

Section 3. Effective date

/Insert effective date/

