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(1961)

Illinois Local Government

ILLINOIS HISTORICAL SURVEY





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ILLINOIS LOCAL GOVERNMENT

Final Report and Background Papers

ASSEMBLY ON ILLINOIS LOCAL GOVERNMENT

Edited by Lois M. Pelekoudas

THE INSTITUTE OF GOVERNMENT



and **PUBLIC AFFAIRS**

ILLINOIS HISTORICAL SURVEY

UNIVERSITY OF ILLINOIS BULLETIN

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ILLINOIS LOCAL GOVERNMENT

Final Report and Background Papers

ASSEMBLY ON ILLINOIS LOCAL GOVERNMENT

Allerton House, Monticello, Illinois

January 18-20, 1961

Edited by Lois M. Pelekoudas

INSTITUTE OF GOVERNMENT AND PUBLIC AFFAIRS

UNIVERSITY OF ILLINOIS

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FOREWORD

The Institute of Government and Public Affairs sponsored in January the Assembly on Illinois Local Government, a forum in which the problems of local government in Illinois were discussed. Local government, for the purposes of this Assembly, was defined as all legally constituted public bodies below the state level which have taxing power, bonding power, formal coercive authority, or any combination of the three. Throughout the papers in this volume and in the Assembly discussions, the emphasis was on services provided by local governments and on their place in the entire governmental framework, rather than on local government finance.

Participating in the Assembly were some forty Illinois leaders knowledgeable in the field of local government. A complete list of participants is included at the end of this volume. The participants were divided into three round-table sections to discuss problems of local government; after the round-table discussions, a final general session was held in which the final report, or findings, of the Assembly was drafted. This was the third Assembly sponsored by the Institute of Government; the two previous were concerned with Illinois state government and Illinois political parties. In this volume are presented the findings of the Assembly on Illinois Local Government and the background papers used as a basis for the discussions in which the findings were developed.

Assisting in the planning of the Assembly was an advisory committee consisting of Meade Baltz, then chairman of the Will County Board of Supervisors and now a member of the Illinois House of Representatives; Dan G. Brown, county clerk of Warren County; A. L. Sargent, executive director of the Illinois Municipal League; Raymond F. Simon, assistant to the Mayor of Chicago; and Professor Samuel K. Gove, Institute of Government and Public Affairs, who served as Assembly chairman. The assistance of these people has been greatly appreciated, as has that of the authors of the background papers, who are identified in the list of authors near the end of this volume.

Credit for channeling the discussions and bringing out the Assembly findings must go to the chairmen of the three panels — Meade Baltz; Jack M. Siegel of Ancel, Siegel, and Stonesifer, municipal attorneys; and Maurice W. Scott, executive secretary of the Taxpayers' Federation of Illinois.

GILBERT Y. STEINER
*Director, Institute of
Government and Public Affairs*

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INTRODUCTION

Most Illinois citizens live under three levels of general purpose local government — county, township, and municipal — and under several special purpose governments, including the many school districts. Citizens participate in these various governments as taxpayers and as voters, by electing local government officials. A tabular summary of the kinds and numbers of local governments in Illinois is provided in the Appendix.

The largest unit of local government in terms of area covered is the county. Illinois is divided into 102 counties, the borders of which have not changed for a century. Eighty-five of the state's counties are subdivided into 1,433 civil townships. Most counties have between ten and twenty townships, although small Putnam County has only four, while La Salle County has thirty-seven.

There are 1,181 municipalities in Illinois; the number increased by twenty-four from 1952 to 1957. There are 102 municipalities in Cook County, and in downstate counties the number of municipalities ranges from three in several counties to twenty-seven in St. Clair County. Municipalities in Illinois are of three types — cities, villages, and incorporated towns. The larger municipalities are usually cities, the smaller ones are villages, and the few incorporated towns are places granted special charters before the adoption of the Constitution of 1870.

Over half of the population of Illinois is found in Cook County (1960 population 5,086,924), and most of these people reside in Chicago (1960 population 3,516,258). There are few other large counties and cities in the state; most of the townships, municipalities, and counties are quite small. Table 1 shows the number of local units by population.

Illinois municipalities generally have little formal relationship with the county or town governments, and the different levels operate independently of each other. The separation is further marked by local custom; for example, a county sheriff will seldom investigate crime in a city with an organized police department, although he has the legal power to do so. Township and county governments have a closer relationship, although in many ways they too operate as separate units. Township supervisors not only make township decisions when acting in their township capacity, but also sit on the county board and thereby make decisions affecting the county as a whole. However, separation of local governments is the rule, and this

TABLE 1. NUMBER AND POPULATION OF ILLINOIS GENERAL PURPOSE LOCAL GOVERNMENTS^a

Population	Counties	Number of Local Governments				Per Cent
		Per Cent	Townships	Per Cent	Municipalities	
250,000 or more	1	1.0	..		1	0.1
100,000 to 249,999	12	11.8	1	0.1	1	0.1
50,000 to 99,999	8	7.8	13	0.9	10	0.8
25,000 to 49,999	25	24.5	21	1.5	14	1.2
10,000 to 24,999	43	42.2	50	3.5	46	3.9
5,000 to 9,999	12	11.8	73	5.9	78	6.6
2,500 to 4,999	1	1.0	112	7.8	95	8.0
1,000 to 2,499	..		439	30.6	226	19.1
Less than 1,000	..		724	50.5	710	60.1
Total	102	100.0	1,433	100.0	1,181	100.0

^a Source: U.S. Bureau of the Census, *U.S. Census of Governments: 1957*, Vol. VI, No. 11, "Government in Illinois" (Washington, D.C.: U.S. Government Printing Office, 1959), p. 1.

is no better illustrated than by the relationship between county treasurers and township assessors. Although county treasurers have the authority to supervise the assessors, they generally do not use this power, and counties that want countywide uniformity of tax assessment have established the permissive office of supervisor of assessments. Although joint projects are frequently undertaken by permissive state legislation (for example, cities and counties cooperate on road and bridge projects and on jointly constructed and utilized local government buildings), cities generally do not and, in fact, do not need to operate closely with a county government; this can be no better illustrated than by the fact that some twenty cities are located in *two* adjacent counties.

Partial governmental consolidation has taken place in some of the twenty cities that have adopted city-townships, in which the boundaries of city and the township are made coterminous. By a 1955 law, the city-township enabling act was amended to provide that with all annexations to the city, the new territory would be automatically included in the township. Under the city-township plan, the township turns its road functions over to the city, and certain township elective offices are abolished.

The local governments in Illinois are creatures of the state, and all their powers and duties come from the General Assembly and the constitution. Illinois is not a home-rule state, but considerable freedom is granted to local governments. Although the legislature exercises considerable control over such matters as salaries of local officials, the detailed supervision found in some states is not present in Illinois. Considerable freedom has been given to local governments, especially to municipalities, in determining the local government organization. Thus, a city may adopt commission, mayor-

council, or managerial optional forms of government. A county has two optional governmental forms, either the township or the commission form.

Many local government functions have been removed from the control of the elective officials of the general purpose governments, and county, township, and municipal governments are only a part of the total local government structure. A multiplicity of special districts, most of them established for a single function, exists in Illinois. In 1957 there were 3,793 special districts, of which 1,993 were school districts. There are several reasons for the establishment of these special districts; in some instances, they have been created to circumvent tax-rate and bonded-indebtedness limitations; in others, to serve an area not coterminous with any other existing local government; and in the case of schools, at least, to take government out of "politics."

Most of the special purpose governments are school districts, although there has been a sharp decrease in the number of these districts in recent years. Through a state program to encourage — and even to force — consolidations, the number of districts was reduced 43 per cent in the five-year period 1952-1957. In a few instances, school districts operate under special charters providing for an appointive school board, but generally citizens throughout the state choose the members of the boards by election.

The 1,800 non-school special purpose governments are involved in many functions, ranging from mosquito abatement to airport maintenance. Most (880) are concerned with natural resources; this number includes 723 drainage districts, which are special assessment units without tax levying powers. Other sizeable numbers of special purpose districts are involved in fire protection, parks and recreation, housing, sanitation, hospitals, airports, health, and urban water supply. Only a few special purpose districts are governed by elective boards; these include some drainage districts; some park districts; soil conservation districts; some tuberculosis sanitarium districts; wildlife districts; and the Chicago Sanitary District, the Prairie DuPont and the East Side Levee and Sanitary Districts, whose trustees are elected as partisans in general elections.

Summary of the Papers

To aid Assembly participants in the discussion of problems of local government, six background papers were prepared. Each of these papers was intended to point up possible topics for discussion in one area of local government; none was intended to be an inclusive treatment of a particular set of problems. An important aspect of local government deliberately omitted from the discussions was local government finance; the emphasis, rather, was upon the services local governments perform. The background papers ranged from a general, theoretical treatment of the local government concept to a specific discussion of municipal, county, and township services.

The general, theoretical approach to local government was taken by Mr. Steiner, who pointed out six critical roles of local government. A local government provides routine goods and services; regulations, as distinct from services, to maximize economic and social stability; protection for those who are clearly at a disadvantage as a result of physical, emotional, or economic circumstances; convenient machinery for carrying out programs on which there is state or national consensus; opportunity for a maximum number of people to work at democracy; and relatively stable employment under desirable working conditions for part of the local labor force.

Mr. Elazar considered the relationships between local government and federal, state, and other local governments, defining at some length the kinds of intergovernmental relationships that now exist. He questioned not whether intergovernmental relations should exist, but rather, how interaction can be made as effective as possible to provide necessary and desirable services and, at the same time, to strengthen political institutions we deem valuable.

In his discussion of local government and local politics, Mr. Gove posed the question of whether local government should actually be considered as a partisan political activity — that is, as part of the state's political structure. He pointed out what local government posts are elective, when elections are held, and how much competition for local offices exists. He discussed at some length the frequency of partisan and nonpartisan elections on the local level, and reviewed the arguments that have been made for both positions.

The discussion of the legal status of local government was presented in two sections. First, Mr. Platt discussed the existing legal status of Illinois local governments, reviewing the effects of the constitution on local governmental units and the statutes creating them. Then, because of the frequency with which home rule has been suggested as a possible alternative to the present legal status of Illinois municipalities, a discussion of municipal home rule in Illinois and other states was presented. This discussion, taken from a report by the Illinois Municipal League Committee on Home Rule, focused on home rule in the broader sense (i.e., actual municipal autonomy as opposed to constitutional home rule) and questioned whether constitutional home rule would provide more freedom for Illinois cities than they presently have.

In his discussion of municipal services in Illinois, Mr. Kneier identified three types of services: those about which there is general agreement that they should be performed by city governments; those about which there is no general agreement, but which are usually provided by the city; and those which are unusual in that they are found in only a few cities. Examples of all three types were touched on in the paper, with particular emphasis

on the services about which there are policy questions (i.e., questions on how they should be performed or, in some cases, on whether they should be performed at all).

Mr. Howards, in his paper on county and township functions in Illinois, discussed the services and regulatory activities of these governments and the governmental structure through which they must operate to perform, first, their functions as agents of the state, and second, their municipal-type functions in providing services to their own residents.

FINAL REPORT

**FINAL REPORT OF THE ASSEMBLY
ON ILLINOIS LOCAL GOVERNMENT¹**

Agreeing that viable and responsible local government is critical to American democratic life, the participants in the Assembly on Illinois Local Government, meeting at Robert Allerton Park, Monticello, Illinois, January 18-20, 1961, approved this summary of their findings at the conclusion of their discussions. Since there were dissents on particular points, it should not be assumed that every participant subscribed to every detail of the statements contained herein.

I

Reorganization, consolidation, and reduction of overlapping jurisdictions of local governments are needed in order that a clearer line of responsibility between the voter and local government may be drawn.

The county has not been utilized as much as it can be in providing appropriate services; its functions should be expanded under modernized patterns.

Redistricting of townships is desirable where needed to provide them with adequate resources to carry out their functions. The organization of city or village governments with tax bases inadequate to provide ordinary municipal services should be prohibited. Provision should be made for consolidation of county functions where individual counties are unable to provide needed services.

¹ In order to use the time most effectively, the Assembly excluded questions of local government finance from its discussion.

II

The Municipal Problems Commission and the County Problems Commission² should place on their agenda consideration of the appointment of certain presently elected officials whose functions are purely administrative.

III

Organized partisanship is desirable at the local level to stimulate and maintain popular participation. National party labels are not always necessary; local party labels can also serve the purpose of providing competition between two identifiable groups.

Permanent organization of local parties should be facilitated.

While it is recognized that the maintenance of permanent local organization may require systems of political patronage, there is a need for the continued upgrading of governmental personnel.

IV

While a separate state department of local government is not called for, the executive branch of the state government should concern itself with providing advice to and information for local officials, especially those newly elected. The ongoing work of the Municipal Problems Commission and the County Problems Commission should be encouraged as a means of liaison between the local governments and the legislative and executive branches of the state government.

There should be continued study of the value of a national department of urban affairs.

V

There is a need for more cooperation between governmental units at various levels. Municipal governments should take ad-

² These are permanent legislative commissions, established in 1957, officially named the Cities and Villages Municipal Problems Commission and the Commission on County Problems.

vantage of present statutory authorization for such cooperation, and the statutes should be expanded to authorize intercounty and municipal-county cooperation.

VI

Services are the primary responsibility of local governments, but the provision of particular municipal-type services should be locally determined. The extent and kinds of public services will vary from area to area. Proprietary services that can effectively and economically be performed by private enterprise should be left to private enterprise. Those services that are affected with a vital public interest should be furnished by the local government.

Ascribing particular services to particular local governmental units must be done on the basis not only of efficiency in providing the service, but of opportunity for maximum participation in local government as well.

VII

The General Assembly should study the possibility of statutory or constitutional home rule for municipalities and counties.

VIII

Although the Assembly did not concern itself with the problem of finances, it is evident that study should be given to a revision of the tax system in order that the necessary revenue can be provided for expanded local governmental services.

BACKGROUND PAPERS

THE LOCAL GOVERNMENT CONCEPT

GILBERT Y. STEINER

Let us begin by assuming that the participants in the Assembly on Illinois Local Government could create a local government enterprise which would discharge all general functions that any participant or group of participants deemed essential but which would not carry on general activities that a clear majority of the participants would find improper or offensive. Because the participants have been chosen with a view to representing a wide variety of interests, it may follow from the initial assumption that the local government enterprise so created would tend to be favorably received by many groups and individuals with a direct concern in local government whether from the point of view of the producer (the local government official), the consumer (the taxpayer), or the regulatory agency (state officials). Thus, the enterprise under discussion would be a kind of model local government in the sense that it would represent an ideal with which existing endeavors could be compared. The model should be especially illuminating in showing the different uses to which local government is put by the groups that sustain it and are sustained by it.

Undoubtedly, the very first objection that would be raised to creating this model enterprise would be that it should not be a single enterprise at all. It would be alleged that a clear majority of the participants would find it offensive and improper for a single local government enterprise to be concerned simultaneously with traffic regulation and elementary and secondary education, or indeed, with education and anything else. It would be further alleged that both education and traffic control are, however, essential. I would be quite willing to let these objections be made. In terms of services, it does not matter whether the local government enterprise we are creating is a diversified enterprise with a multiplicity of service responsibilities or a restricted enterprise assigned a single service function.

I do not consider it useful to think of local government as simply a collection of services bound together by the tax rate. Furnishing goods and services for the people within a described geographic area is obviously a major local government function. However, the Northern Illinois Water Corporation, the Catholic Church, the Illinois Power Company, innumerable sanitary haulers, and sundry private sanitary treatment plants have demonstrated that there are a good many local government services that can be

performed by nongovernmental agencies. Whether or not a given unit of local government operates a municipal electric utility is hardly a test of the effectiveness of the unit. I believe the argument can be extended to suggest that the number of services offered by a local government is not of itself a test of the viability of that government. Chicago would be no greater a city if the Chicago Park District were abolished tomorrow and its functions absorbed by the city; nor would Urbana be any more or less attractive if municipal garbage collection were to replace the present system of competing private scavengers.

If the number of services offered is not the most important element in local government, what is? What kinds of things are done by local governments of all kinds that make it possible to argue that a school district or a sanitary district under the proper circumstances may come as close to model local government status as do urban counties or cities? I submit that there are at least half a dozen critical local government activities the presence or absence of each of which is of more significance than the addition or deletion of most single services.

Critical Roles of Local Government

In order to meet the reasonable needs of all those it serves, local government will provide some of each of the following:

1. *Routine goods and services to taxpayers and, under appropriate conditions, to non-taxpayers.* Although considerable attention has just gone into suggesting that the service role is not the be-all and end-all of local government, neither should it be assumed that this role is nonexistent. Clearly, without some service role, a local government loses a critical justification for its legal existence. Later in this volume, the reader will find a special discussion of the range of services provided by Illinois cities and villages and a parallel discussion of Illinois county (and township) services. These papers succeed in showing both the great range of services presently provided and some of the gaps in services when Illinois local governments are compared with those in some other jurisdictions. If we have established anything, it is that there is no fixed number of services that justifies a local government, but that without purveying at least a single major service, local government would have no justification for public status. It does not seem necessary to labor the point that service is a local government function.

2. *Regulations, as distinct from services, to maximize economic and social stability.* This kind of activity is different both from routine services like police and fire protection, and from local government action in the welfare fields that is typified by human relations councils and programs for the aged. The present reference, rather, is to the range of activity that can be undertaken only by government because it alone has coercive authority.

Many of the activities I would classify in this group are subsumed under the police power—the power of a municipality to protect the health, welfare, and morals of its citizens. In addition, they include zoning and subdivision control as a minimum. The very fact that local government *can* impose such regulations is sometimes a matter of crucial importance whether they are actually imposed or not.

Regulations of the character I am concerned with here are made by whatever local government can be effective. Thus, all students of local government are aware of the battles over annexation that really turn on whether or not a given territory will become subject to a municipal zoning ordinance. Water supply may be a routine service, but the injection of fluoride into the system is a governmental action beyond the service level and in the regulatory role. Licensing of trailer camps and insuring that they meet public health requirements are likely county regulatory activities.

Local governments that concern themselves with the force and authority that the word “government” connotes not only provide service, but do not hesitate to impose regulations.

3. *Protection for those members of the local society who are clearly at a disadvantage as a result of physical, emotional, or economic circumstances.* It is unnecessary to get caught up in the merits of the welfare state to accept as fact the role of government in providing emergency financial aid to the destitute, therapy to the mentally disturbed, and whatever conveniences are feasible for the very old and the very young. To this can probably be added agreement on the role of government in protecting its minority group citizens from gross discrimination and in providing special facilities for young people whose moral and ethical standards have not been fixed. In action terms, these take the form of bureaus of public aid and of welfare, of mental health clinics, of senior citizens and infant day care centers, of human relations councils, and of youth bureaus. In many instances, some or all of these programs become local only in the sense that they are administered by a local agency on behalf of state or national government. The range of discretion permitted the local unit varies with the degree to which these other governments have involved themselves, but it is probably true that in virtually no case is there state or national preemption of any of these activities.

The responsibility for discharging this kind of social role tends to be felt most clearly, at the local government level, by city and village governments and by counties with important urban centers. Moreover, the dramatic developments in urbanization of America have tended to direct attention to this role even in those places where this kind of social action by government has not been part of the tradition. Thus, there are now thirteen official municipal human relations commissions in the state of Illinois. Such

different communities as New York City and Decatur, Illinois, have simultaneously determined to take official action to ameliorate the lot of the older citizen. Social problems attendant upon urbanization and some ways in which local government can act on them have been made a matter of official record by the legislative group studying Chicago metropolitan affairs.

No local government of any kind can be indifferent to the suffering of those within its boundaries who suffer through no fault of their own. The fact that suffering can take place in something other than a physical sense has only recently become widely understood. As it becomes more generally understood, an increase in the ways in which local governments of all kinds act in the broad field of social relations is inevitable. A park district has not performed an effective local government job if it maintains acres of natural splendor which are used as racial battlefields. The likelihood seems very great that those kinds of local governments presumed to have a single function will branch out. School districts plainly are alert to juvenile mental health counselling, and park and forest preserve districts to human relations programs, especially in race relations.

4. *Convenient machinery for carrying out programs on which there is state or national consensus.* The Local Government Advisory Committee Report to the Commission on Intergovernmental Relations listed twenty-three activities of federal-local contact "due primarily to the National Government's interest." Obviously, the points of state-local contact would be many times that number. Local government is low man on the totem pole as far as discretionary authority is concerned, and it is evident that local government can not prevail in a real conflict over local administration of state or national policy. Conflict, however, is the dramatic but not the common kind of interaction between local and central governments. Local government is authorized by the central unit to do a job that the central unit can not or will not or should not do itself. This will usually mean a willingness on the part of central government to aid local government and will frequently mean a sharing of whatever burden is involved.

It would be tedious to recite the kinds of programs in which local government serves as an administrative agency for state or national government. Indeed, the Workshop in American Federalism at the University of Chicago is busy demonstrating that there is no sphere of local government activity that is not intergovernmental in practice. This point is developed in a later paper in this volume. It is important to note here that variations in wealth, in tradition, in climate, in geography, and in sundry other circumstances make it desirable for the niceties of policy to be adjusted to fit geographic and population areas smaller than a state. In some cases, this is achieved by the use of regional or local administrative offices of central government. In other cases, it is more appropriate to put policy discretion

in local hands, the situation typified by the relationship between the state, its superintendent of public instruction, and the local school boards.

Whether local government is simply a convenient mechanism for carrying out a fixed policy, or whether it acts only to delay or hasten the application of central government policy, or whether it has a role in fixing policy limits, its function as an administrative arm of central government is an indispensable one.

5. *Opportunity for a maximum number of people to work at democracy.* If all local government in America 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. Manifestly, no decisions that can be made at the local level can compete in importance with the decisions that must now be made in matters of national security and national economic policy. For sundry reasons, these major decisions affecting national survival are largely beyond popular control. Our democratic institutions, however, 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. This is one of the reasons that citizens' education councils, mayors' committees on housing, and advisory boards to forest preserve districts are multiplying. It is also one of the reasons for the persistence of what seems to be a ridiculously large number of local units of government. Every one of Illinois' 6,500 plus local governments is an exercise in popular participation in public business. For this purpose, it may not matter much whether the governing authorities are elected officials or are themselves appointed by an elected official. Appointments to policy-making posts in local government frequently are based on group representation, allotting one seat to a labor spokesman, one to a business spokesman, one to a spokesman for minorities, and so on. The result is to afford the groups so represented a relatively easy access to public decision-making, and thus to stimulate their interest in public affairs.

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. Indeed, it is this drive to hold onto whatever elements of pure democracy are compatible with technology that accounts for the continuing strength of the initiative and referendum. Outrageously complicated questions are submitted to direct vote of the people, but the system seems to be sufficiently self-adjusting that no calamity — but sometimes considerable inconvenience — stems from

weird results. Almost the only kind of modern governmental activity that can not have calamitous consequences is that carried on at the local level. The future of civilization will not depend on the failure or success of a drainage bond issue in Danville, Illinois, but it is a good bet that the subject provokes more political activity from a greater number of people there than does unilateral disarmament and an end to nuclear testing.

This kind of political role, then — the business of working at democracy in order that techniques for judging candidates and issues be sharpened — is one of the roles of local government. Some organizational forms are better suited for this role than others. In general, the local government that demands maximum informed citizen participation in those areas where special technical skill is not a prerequisite to intelligent action is playing the political role most effectively. This, of course, is what accounts for theoretical objections sometimes raised to the manager plan — that it maximizes efficiency and public reporting, but that it does not act to maximize participation at the only level where participation is practical.

The political role I have sketched here is different in emphasis from the political role usually ascribed to local government — that of a training ground for personnel who will later move up to state and national office. Without researching the problem, I have an intuitive conviction that there is not nearly as much movement of this sort as seemed to be suggested, for example, by the Commission on Intergovernmental Relations' Advisory Committee on Local Government, which said, "The counties, cities, towns, villages, and boroughs serve as training schools for the leaders of government, and in the affairs of local government are tried those who aspire to State and National office." In fact, the local judiciary spawns no federal judicial officers; career administrators almost never transfer from local to state or federal service; and very few governors started in local government (Calvin Coolidge's rise from councilman to governor to President is probably no argument for the training ground notion). Although there is some upward mobility between the state legislatures and Congress, there is practically no parallel movement between local legislative bodies and either state or federal legislatures. Indeed, political observers have puzzled for years over the fact that the important post of Mayor of New York City is actually a "dead end" job. In recent years, only one mayor of a major metropolitan center, Senator Joseph Clark of Philadelphia, has made the jump to national office.

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.

6. *Relatively stable employment under desirable working conditions for part of the local labor force.* Local government, like industry or commerce, requires the personal services of local residents. In this sense, local government has a regular payroll to meet which is used to sustain local families and the local economy generally. Just as government would look with jaundiced eye at arbitrary layoffs by private industry, at substandard working conditions, or the like, so local government must assume some responsibilities in its personnel relationships.

Considering cities and villages alone as a local government class, there are almost a million and a half employees of these units in the United States. To take an Illinois city at random, Joliet shows 361 employees, 358 of them full-time, with a monthly payroll just under \$134,000. Police and firemen together account for more than half the total number.

It is not necessary to dig out statistics to show that local government is an important employer. As an employer, its function is to provide the best product possible consistent with fair labor standards. The principal issue in this connection is whether fair standards for a local government employee differ from those for employees of private enterprise. Some questions within this area present no problem: pensions, for example, are equally acceptable to public employers and private. More difficult is the matter of negotiating on salaries and working conditions. Some public employees, legally or morally debarred from using the strike weapon, have taken the salary issue to the political arena and lobbied for state imposed minima.

The single most troublesome aspect of local government as an employer is how it can maintain its quasi-sovereign rights and at the same time provide a fair and equitable remedy to its employees. That problem exists for school districts, for cities, for sanitary districts, and for every other local government.

The Dilemma of Local Government

It is not to be expected that there will be universal agreement with this formulation of a concept of local government as an agency which serves, regulates, protects, administers, democratizes, and employs. A good deal of the objection is likely to center on the equal importance that seems to be assigned to each of these roles. Many will argue that service is the real role of local government, and that regulation is a kind of service which should be provided sparingly; that protection in the sense I have used it here is not the business of local government at all, but only of voluntary agencies; that the administrative role as an agency of central government

is to be deplored and resisted unless maximum freedom is given local units in the application of the policy; that democratizing is desirable, but incidental to service; and that the bureaucratic role of local government is a necessary evil which should be minimized, if not eliminated. Variations on this response will probably upgrade the local government role in perpetuating democratic institutions.

Nevertheless, local government is one of the great sacred cows of American government and politics. Campaigners for state and national office invariably feel obliged to assert their belief in the importance of local government, in the wisdom of local officials, and in the close interconnection between effective local government and effective democracy. Thus, Charles Percy, chairman of the 1960 Republican national platform committee, argued recently that "A partnership of Federal and local government works best in the Federal system, where authority and political power must rest as close to home as possible." Similarly, the report of the Kennedy Conference on Urban Affairs spoke of the merits of local control:

The roots of day-to-day American democracy lie in allegiance to state and local governments. Mayors, city councilmen, and local officials and citizens have first-hand knowledge of the needs of their communities. We will continue to look to these local officials for leadership in planning and carrying out rebuilding and conservation programs. The initiative and responsibility will properly remain local.

But even while local authority and initiative are blessed, their free exercise is often damned. This is the kind of dilemma that those concerned with local government are constantly running into. In the abstract, local government takes its place with "getting out the vote" as the political equivalent of motherhood. When a hard look is taken at what the local government concept may include, however, motherhood seems less lovely. It is commonplace to hear that local home rule should be maximized, but local government power should be limited; local government should experiment, but it should conform; it should have responsibility, but its powers should be circumscribed lest local officials run wild; it should be efficient, but it should not have a bureaucracy to get things done; it should not be political, but it should provide experienced people for state and national political office; it should provide service, but its tax rates should be controlled by referendum.

It is only in a handful of cases that local government practice does not approach the kind of diversity of functions I have outlined in the previous section. Narrowly restricted local governments are not flourishing. Taken all together, the wildlife districts, tuberculosis sanitarium districts, library districts, river conservancy districts, street light districts, and surface water protection districts in all of Illinois total less than a dozen. The well-known progress in the elimination of small, uneconomic school districts in recent years, both in Illinois and elsewhere, is further evidence of the obsolescence

of local governments that are too poor, too small, too restricted legally, or too unimaginative to take maximum advantage of their potential as governments. In this sense, the dilemma of local government is being resolved. The local governments that survive are diversified enterprises that will not be held to a concept of least government. They will serve, regulate, protect, administer, democratize, and employ.

LOCAL GOVERNMENT IN INTERGOVERNMENTAL PERSPECTIVE¹

DANIEL J. ELAZAR

The American Federal System

Local governments — rural, urban, and suburban — are part and parcel of the American federal system. As such, they and their services are inseparably linked not only with each other, but with the state and federal governments as well. Frequently a specific local governmental unit has stronger connections with its state and federal counterparts than with other adjacent local governments. Even within the same local government, a local housing authority, for example, will often be in constant contact with state and federal housing agencies and only in rare instances be in contact with the parks and recreation department located in the same building. In Illinois, most municipal departments have little to do with either the federal government or with their county governments, while the city's special agencies have usually been created for purposes of intergovernmental cooperation and have little contact with the municipal departments.

So intertwined are the activities of the various governments of the United States that hardly any governmental functions exist that are not, in some respect, shared by more than one level of government. Using a very simple analogy, we can describe the formal structure of the American federal system as a layer cake, with federal, state, and local "layers" connected by a "filling" of shared powers. Examination of the actual operation of the system reveals that, by a similar analogy, it is functionally more like a marble cake, with individual functions "marbled" throughout and scant concern for layers.

The example of a county sanitarian in a southwestern state embodies the whole idea of the marble cake of government. He is appointed by the state under merit standards established by the federal government. Most of his salary comes from state and federal funds but is supplemented by the largest city in the county, which pays him for his services as city plumbing inspector. His office and its equipment are supplied by the county, with an assist from the city, and part of his expenses is paid from county funds. His day-to-day operations are equally intermingled. He carries out his task of inspecting the purity of food under federal standards, although he

¹ The first part of this paper is based on research done by the author and others in the Federalism Workshop of the University of Chicago, under the direction of Professor Morton Grodzins.

enforces state laws when inspecting commodities that have not been in interstate commerce. Somewhat in reverse, he inspects milk coming into the county from a neighboring state under state authority. He acts as a federal officer when he impounds impure drugs imported from another state; as a federal-state officer when he distributes typhoid immunization serum; as a state officer when he enforces standards of industrial hygiene; as a state-county officer when he inspects the purity of his city's water supply; and, completing the circle, as a city officer when he compels the city restaurateurs to adopt more hygienic methods of handling their garbage. As sanitarian he is a deputy sheriff and an ex-officio member of the city police force. In short, he considers all public health and sanitation business in his county to be his business and does not normally stop, in the course of his work, to consider which hat he is wearing at any given time.

The governmental system of shared functions which our exemplary sanitarian serves is not just a product of twentieth-century governmental expansion. Although its present complexity may be new, the system of collaboration is as old as the federal system itself. There has never been a time when it was possible to attach neat labels to separate "federal," "state," and "local" functions. Even before the adoption of the Constitution, the Northwest Ordinances of 1785 and 1787 made the federal government a major factor in the creation of the American public education system by granting lands to the new states for public education. These grants-in-land involved a continuing process of legislative and administrative cooperation in what is now considered to be the most local function of all.

By this action, the American people established a first principle of American federalism: the general government would use its superior ability to mobilize the nation's financial resources to stimulate and support programs of nationwide interest. In turn, the programs would be principally developed and administered by the states and their local subdivisions.

The essential unity of the state and federal fiscal systems was recognized in the late eighteenth century, with federal assumption of the states' Revolutionary War debts and the creation of a cooperative national banking system. This same community of interest was applied to the administration of elections, law enforcement, public health measures, national defense, and numerous other services at the same time.

Despite widely held beliefs to the contrary, this pattern of intergovernmental collaboration continued to grow throughout the nineteenth century. Studies of political behavior and administrative action provide evidence that, throughout the entire period of so-called dual federalism, the many governments in the American federal system continued the close administrative and fiscal collaboration of the earlier period, in a manner comparable to government today.

Federal grants-in-land and grants-in-services were of first importance in virtually every major function undertaken by the states and their local subdivisions. Then, as today, federal grants stimulated state interest as well as reenforcing it. Aside from formally exclusive federal-state programs, these grants aided local governments in providing elementary and secondary schools; in constructing roads, canals, and railroads; in improving rivers and harbors (which normally involved direct federal-local cooperation); in reclaiming swamp lands; in constructing public buildings; and in creating welfare programs and institutions. The City of Chicago was founded and incorporated as part of a major federal-state cooperative program for construction of the Illinois and Michigan Canal.

Collaboration has not extended only from the center outward. Although the federal government constitutionally possesses exclusive powers in relations with the Indian tribes, the state and local authorities were continually (if not always wisely) involved in Indian affairs. Even more striking is the progressive dispersion of power given to the federal government by the Constitution for control over and improvement of navigable waters. Here state and local governments became involved in everything from port regulation, immigration control, and admiralty questions to actual development of rivers and harbors in cooperation with the U.S. Corps of Engineers.

The essential continuity of this collaborative system is best demonstrated by the evolution of grants-in-aid. Land grants came to be reckoned as cash grants, based on the calculated disposable value of the lands granted. Then, in 1887, three years before the Census Bureau declared the land frontier to be closed and the public domain no longer the main source of readily available national wealth, the Congress enacted the first permanent annual cash grants (for agricultural experimentation and state soldiers' homes). Thus, the sheer weight of history has become the foundation for the present system of shared functions that characterizes federal-state-local relations.

It is a misjudgment of our history and of our present situation to view the system as one of neat separation of governmental functions, either in the past or at the present time. Only drastic alterations in our social order and political system could bring about the neat separation longed for by some. Evidence of this is readily available in the fate of the four major attempts to disengage the three governmental levels that have been made in less than fifteen years: the first (1947-1949) and second (1953-1955) Hoover Commissions on Executive Organization; the Kestnbaum Commission on Intergovernmental Relations (1953-1955); and the Joint Federal-State Action Committee (1957-1959). Where all four were concerned with the problem of federalism, they were animated by the same goals: to minimize federal activities whenever and wherever possible and to separate, wherever possible,

the functions and tax sources of the federal government from those of the state and local governments.

The failure of all four groups is a matter of record. The history of the Joint Federal-State Action Committee is particularly revealing. At the Williamsburg, Virginia, Governors' Conference, President Eisenhower spoke out against what he considered to be "excessive concentration of power" in Washington. At his suggestion a committee composed of high federal and state officials was formed to "designate functions which the states are ready and willing to assume and finance that are now financed wholly or in part by the Federal Government" and simultaneously to indicate "federal and state revenue adjustments required to enable the states to assume such functions." The committee was indeed a stellar and seemingly powerful one, including three members of the President's cabinet, the director of the Bureau of the Budget, and ten state governors. The President gave them his full support; the committee undertook its task with diligence; and excellent staff studies from the best available sources were put at its disposal. The committee members (with one exception) agreed on its avowed goal of "decentralization" via separation of functions and revenue sources and considered theirs to be an action, not a study, group.

The mountain labored for two years and brought forth a mouse. The committee finally recommended that federal aid for vocational education and grants for municipal waste treatment plants — programs whose total cost to the federal government was less than \$80 million (or 2 per cent of the total amount of federal grants-in-aid at the time) — be eliminated. In order to enable the states to assume the added burdens this transfer would entail, the committee recommended that a 4 per cent credit against the federal tax on local telephone service be granted, which would have given the states more than the equivalent amount in new revenues. Even these modest proposals were tabled. Recently a newly appointed joint committee has begun to turn its attention to the more reasonable problem of how to develop better means of intergovernmental collaboration as a way to prevent overcentralization of power.

Disengagement, then, can not be considered as a practical way to solve the problems of intergovernmental relations. The dynamic nature of American society mitigates against separation, either by disengagement or centralization, in the foreseeable future. Intergovernmental collaboration (rather than separation or centralization) has developed as the dominant mode of the system precisely in response to the dynamic nature of our society as it is tempered by our common values of democratic self-government. Historically, the need for collaboration has been generated by the emergence of the same problems to confront all levels of government at, effectively, the same time. In the nineteenth century, the conquest of the rural-land frontier

and the problems it created (education, communications, economic growth, and slavery) generated the tasks government had to undertake. In our day, the urban industrial (and now the metropolitan-technological) frontier has repeated the process.

Local Governments in the Federal System

How do the local communities view this collaborative system? With a few exceptions, they do not view it with hostility. For example, local communities seek federal aid in many ways and for many purposes. City officials seek expert advice on building a jail, developing a park, or disposing of their citizens' garbage. Local businessmen seek funds for airport improvements, transfer of an old military installation for industrial development, or grants of firefighting equipment under the civil defense program. Civic "improvers" seek grants for urban renewal, FHA loans for community conservation, or FBI instructors to improve the quality of their local police force. It is a massive task just to list the federal aids and services available to local government—from plumbing codes to marina design to disaster relief. These federal activities in their community are not viewed locally as the forcible intrusion of a distant central government but, almost invariably, as the successful consequences of local efforts to secure federal benefits to serve local ends. These benefits are considered to be good for community and nation both. Generally, the same holds true in state-local relations.

This local view, developed over time through concrete experience rather than by abstract logic, is historically the correct one. If the system appears on the surface to be mildly chaotic, this does not mean that some order does not exist within its bounds. While every governmental plane may be involved in all governmental activities, each has its own locus of power and control that jointly provide focal points for the organization of the system. Let us return to our overdivided sanitarian. With all the hats he may wear from time to time, it is clear to one and all that he is basically a county official. His formal place and day-to-day informal ties revolve around his position within and attachment to the county he serves. Thus, it may be said that organized local government can serve as the focal point for government locally, no matter what the source of a particular program. I say "can serve" because in many ways this depends on the particular local government in question—whether it wants to or not. The very overlapping nature of the system gives a local community and its local governments a multiplicity of "cracks" (both in the sense of blows generated locally and of fissures through which they may penetrate) by which to bend any given program to its own needs. But it is up to the individual community whether it will use these opportunities or not. Comparison of medium-sized cities in Illinois reveals significant differences in the amount of federal aid utilized locally. These differences almost always reflect the level of interest in the

local community. In Rockford, for example, where accepting federal aid is frowned upon, virtually none is received. In Rock Island, on the other hand, the city government has made considerable effort — quite successfully — to obtain federal assistance for locally initiated projects.

As a focal point in the federal system, local government serves in five major capacities: as acquirer of outside aid for local needs; as adapter of government functions and services to local conditions; as experimenter with new functions and services (or new twists for traditional ones); as initiator of governmental programs that spread across state and nation; and underlying them all, as a means by which a local community can pay the “ante” necessary to “sit in the game” (i.e., secure an effective voice in governmental decisions that affect it).

Local government as acquirer. The most fundamental “proof” of the noncentralized nature of American collaborative federalism lies in the role which local governments must play in order to benefit from most forms of federal and state aid. Even where such outside aid is available, the local governments must actively seek their communities’ shares from the limited amount to be distributed. This means that the local governments must initiate and develop specific projects (or at the very least cooperate fully with the local initiators and developers); prepare the requisite governmental facilities; set and maintain the proper standards; and, in many cases, utilize the “multiple crack” system to campaign for their requested share at the state and federal levels.

Local government as adapter. Perhaps the best example of the power of local government to adapt or modify existing programs to meet local situations is furnished by the great grant-in-aid programs. Grant programs are established to utilize the greater ability of the general government to harness the nation’s wealth for public purposes, to develop a means for sharing our national wealth with some degree of nationwide equity, and to establish certain minimum nationwide standards for specific governmental services. (The same goals can be seen in state-local grant programs on a reduced scale.) What is commonly considered to be federal supervision of these programs is largely national supervision by a process of mutual accommodation. Leading state and local officials, acting primarily through their professional organizations, are in great measure responsible for formulating the very standards that federal officials then try to implement.

In addition, there exists areas of varying scope in which local officials can take discretionary action in line with local conditions, subsequent to professional formulation of nationwide standards.

If a specific situation demands adjustment and all else fails, local governments can turn to locally elected congressmen and legislators, who are, almost without exception, more responsive to local interests than central

directives. The very nature of the electoral and party systems makes this so. Loose national party coalitions of state political organizations and state party dependence on locally elected representatives give local interests powerful leverage within the system. As a result, national political leaders serve as spokesmen and "watchdogs" for local (as well as state, constituent, and group) interests not only in matters concerning the grant programs, but also in fields of so-called "exclusive" federal jurisdictions — including foreign affairs. (This is generally true in state-local relations also, although it seems that the local governments have somewhat less influence, perhaps because it is a relationship within a unitary state.)

Local government as initiator. This access to both federal and state governments through elected representatives and professional associations also gives local governments the power to initiate new programs and services. This power is often unused, but when an aggressive community faces a problem for which no readily available solution is apparent, it is likely to use the aforementioned connections, first to find common ground with other communities facing similar problems and, ultimately, to secure state or federal-state assistance. Probably a majority of the federally aided domestic programs, ranging from agricultural extension to urban renewal, were first conceived or originated by local governments or local government officials in much this way.

Local government as experimenter. Often a program of service conceived locally is also first tested locally before larger units of government adopt it and foster it in other communities. In recent years, improved educational methods and services have been and are being developed for statewide and nationwide use after experimentation in local school systems. Many other programs in agriculture, commerce, public improvements, and public welfare, among others, have taken similar roads. The role of local government as experimenter has traditionally been an important one in the maintenance of a viable political pluralism in the United States.

Local government as a means of participating in the governmental process. This function of local governments within the context of American federalism underlies all the others. Although not often recognized as such, there have always been two major reasons behind the establishment of new governments in the United States. One is a desire for the greater or lesser degree of autonomy that accompanies any organized government. In local government this may mean the power to levy taxes in a special district; the power to set educational, as well as taxation, policies in a school district; municipal powers in a city, and so forth. The other is a desire to have a base of operations, a focal point, within the American governmental complex. Developing a formal base of operations is the best and easiest way for a community to gain and maintain support, money, aid, recognition, repre-

sentation, or whatever its political goals might be within the system. In the language of poker, this is the way a community pays the ante required to sit in the game.

Local Government and the States

Although there are major formal and informal differences between federal-state-local and federal-local relations on the one hand and state-local and interlocal relations on the other, the intergovernmental questions that are raised in all four categories can be examined as questions of focus of power, acquisition of aid, adaptation of program, initiation and experimentation with services, and "ante." The major differences are that federal relations with local governments are rarely direct and even less often backed by operative coercive powers. The federal government must rely upon persuasion, contract, and, only as a last resort, withdrawal of support. The state government, on the other hand, has very definite powers of coercion since local governments are, without exception, creatures of their state, "home rule" notwithstanding.

Certainly in Illinois the state government is the source and central authority for all the local governments within its boundaries (even when it comes to soil conservation districts and the like, created by the state virtually at the behest of the federal government). The General Assembly serves as the constituent assembly for Illinois local governments, creating and defining them, limiting or extending their powers, even delimiting the possible forms of government they may adopt. In order to amend the local "constitution," it is often necessary to go to Springfield — unless the legislature has already provided for options which can be exercised locally, as in the choice of municipal governmental forms. The state even functions as a local legislature and executive in a wide variety of fields, sometimes retaining exclusive powers and sometimes sharing them with the city council or county board.

The sum of a state's constitutional and political powers within its boundaries and its constitutional position and political role within the federal system as a whole places the states at the keystone in the governmental arch. In its central position, the state serves as a stimulator of local government activities and as mediator between its local governments and Washington and, where necessary, between its local governments and other states. It is significant that this does not hold true for Chicago and cities like it. When a state government fails to fulfill its role as mediator, in this sense, the resulting vacuum leads to a serious weakening of the system. Often the states have refused to accept their role vis-a-vis the large (and not-so-large) metropolitan centers within their boundaries. The first consequences of this have been effectively to deny these great urban centers their due in terms of national concern, aid, and support. The second consequence is for these cities to develop channels of direct communication with

the federal government and, insofar as is possible, to bypass their state governments. As yet this latter course has succeeded in limited areas only, but pressures are building up that may lead to radical changes in the federal system.

Interlocal Relations

Whereas in both federal-local and state-local relations the larger governmental units possess sovereign powers in their dealings with the smaller ones, in the give-and-take of interlocal relations the several governments involved stand in approximately equal formal relationships with one another. While the "overflowing" of the metropolis has led to new problems of intergovernmental relations, the overlapping of local governments is not a new phenomenon and is not restricted to urban areas. Any county in Illinois, for example, has within its boundaries a county government, municipalities, organized townships (except for seventeen commission counties), school districts, and special districts. According to the Bureau of the Census, in 1957 no county in the state had less than fourteen local governments and none had less than three municipalities within its boundaries. (That same year, the Nashville-Davidson County, Tennessee, metropolitan area had only nine local governments.) It is clear that means for successful interlocal cooperation are necessary for the rural as well as for the urban areas in Illinois. The difference is that in the heavily urbanized areas, the pressures of population and economics serve to point up the problems of conflicting and overlapping jurisdictions to a much greater degree.

The development of metropolitan areas has given rise to the demand for either new forms of local government or new forms of interlocal collaboration. This problem occurs in two forms in Illinois. On the one hand, there is the situation that exists in the six-county Chicago metropolitan area, where 978 local governments (201 municipalities) functioned in 1957. On the other hand, there are seven medium-sized metropolitan areas, all except two of which are confined to single counties with varying numbers of local governments (Table 2). Most of the present proposals for bettering

TABLE 2. GOVERNMENTS WITHIN ILLINOIS METROPOLITAN AREAS

Metropolitan Area	Counties	Total Local Gov'ts	Municipalities
Champaign-Urbana	1	155	21
Chicago	6	978	201
Decatur	1	75	9
East St. Louis (Ill. only)	2	216	51
Peoria	2	205	29
Quad Cities (Ill. only)	1	60	14
Rockford	1	86	9
Springfield	1	91	24

intergovernmental relations in metropolitan areas, with one major exception, are based on the assumption that the relationship between contiguous (and overlapping) local governments is potentially a federal one. That is, the cities in a metropolitan area are related to each other much as counties are to a state (in a unitary system) or as states are to each other (in a federal system), by fundamentally political ties. Hence, most proposals for metropolitan reorganization have been either to consolidate the governments in the metropolitan area into one big government or to create a new "federal" government for the area to handle problems considered to be areawide while leaving "local" problems in the hands of still existing local governments. With the single exception of Miami-Dade County, Florida, this approach has failed to win popular support wherever it has been submitted to the voters.

The only different approach is that being developed in Los Angeles County, California—the so-called Lakewood Plan,² which has probably been the most successful attempt at interlocal collaboration in this country to date. The basic assumption underlying the Lakewood Plan is that the best possible political relationship within the metropolitan area is one that provides "the benefits of large scale organization while maintaining local control over all aspects of municipal government." This implies that each community has a legitimate right to its own government since it has something to offer the area as a whole. At the same time, each community (as well as the entire area) has certain needs which it can not meet alone. These local and areawide needs of each community are not uniform at all; consequently, neither consolidation nor federalism can provide the means to solve the problems. What is needed is a means by which one central agency provides services to individual cities without becoming a so-called "supergovernment."

The method devised in Los Angeles County has been predicated not on political theory so much as on the market relationship. The county is prepared to offer an almost complete line of governmental services to each municipality on a contract basis. Each municipality is free to select or reject any service in light of its own policies, thus keeping a high degree of policy control in local hands. At the same time, most services are administered uniformly and efficiently throughout the county since they are supplied in full by one governmental unit which is large enough to operate at a high degree of efficiency. The county, in turn, maintains high stand-

² This section is primarily based on "The Lakewood Plan," by Samuel K. Gove, prepared for the Northeastern Illinois Metropolitan Area Local Governmental Services Commission of the Illinois General Assembly, July, 1960 (Urbana: Institute of Government and Public Affairs, University of Illinois), after a Commission field trip to California to observe the plan in operation. It is very likely the best account of the plan and its operations available.

ards of service and helps newly settled areas incorporate (i.e., pay the ante) under the terms of the plan so that their residents can avail themselves of municipal services.

The success of this plan in Los Angeles County is due to a combination of factors peculiar to the Los Angeles area, including really nonpartisan local government; a high degree of administrative professionalization; relative elasticity in governmental institutions due to a rapidly growing population; and absence of serious racial and minority group tensions in most of the area. Nevertheless, the apparent success of this very different solution for the metropolitan problem makes it worthy of further study for possible adaptation in other areas.

Summary

The problems of intergovernmental collaboration to provide public services are fundamental in a democratic federal system. They have always existed in the American federal system in substantially the same form, and certain general institutions and techniques for dealing with them have been developed in the experience of 170 years. Local governments must accommodate themselves to dealing with these problems in somewhat different ways, depending on the structural division operative in specific cases: federal-state-local (or federal-local) collaboration, state-local relationships, or interlocal accommodations.

As population pressures increase and government on all levels becomes more complex, the basic problem of intergovernmental relations is not to try to limit interaction but to transform it into the most effective collaboration possible. "Effective" in this sense means the provision of necessary services in a manner calculated to strengthen the political institutions deemed valuable in our society.

In this light, the following questions are suggested, some of which deserve our continued attention:

How do we secure the benefits of collaboration while preserving democratic federal values? What roles do we want the federal, state, and local governments to play in modern government? What forms should federal-state-local collaboration take to avoid centralization of power? What kinds of aid should be given to local governments? Should federal and state aid take different forms? Should there be direct federal-local collaboration on a formal basis? How much and what kinds of discretion should local governments have in utilizing federal and state aid? What role should local governments play in initiating and experimenting with public services? What obligations do local governments have to pioneer in the governmental field? How much responsibility should local governments have to assume in the quest for outside aid?

In dealing with problems of overlapping and contiguous local govern-

ments, what forms should interlocal collaboration take? What are the respective virtues and limitations of the following approaches to interlocal relations: *laissez-faire*, *ad hoc* cooperative, federal, and contractual? Should some local governments be consolidated? Should new local governments be created to provide needed services? If so, what kind? Should new municipal governments be formed just to control policy matters of local interest? What possibilities are there for the adaptation of a contractual system to different political environments?

Would constitutional home rule strengthen municipalities and municipal government? Are cities in states without home rule (such as Illinois) less autonomous in practice? Have they less power to protect their own interests vis-a-vis the state?

LOCAL GOVERNMENT AND LOCAL POLITICS

SAMUEL K. GOVE

Important to the functioning of local governments are the opportunities for the individual citizen to make his views known and to influence local governmental action. Although a citizen can influence the course of local government in a number of ways, elections provide the main avenue by which he can participate. This paper is mainly concerned with local politics and the election process.

In Illinois, local political systems present sharp contrasts. In some areas, well-organized local political systems tend to dominate the local governments; in other areas, local political organizations appear to be very weak and, frequently, almost nonexistent. This appearance of weakness, however, may be overestimated because political organizations tend to be much more conspicuous in urban than in rural areas, and the resulting tendency is to discount the rural organizations without careful examination of how strong they are, or indeed, of whether they exist at all.

A fundamental question in the consideration of local politics is whether one should consider local government as a political activity and as a part of the political structure of the state. Should local government be looked on as the ground level of the state's political system; or is local government different from other governments, and thus off-limits for partisan political activity?

It certainly is not clear from a study of the situation in Illinois whether local government is or is not a political activity. The main impression one gets from the present Illinois picture is confusion, probably for two main reasons: the structure of local government and the mixture of partisan and nonpartisan elections at the local level. A multiplicity of local governments exists in Illinois, and there has been a concerted effort to separate these governments and to make them independent of one another. This separation has tended to make it most difficult, if not virtually impossible, for *one* local political organization to work successfully in all local elections.

The other complicating factor has been the movement in this country and this state to make local governments nonpartisan. The arguments advanced by both sides are mentioned in some detail later. Generally, the nonpartisan movement has been aimed at taking national politics out of local government. Nonpartisan local elections in Illinois have been widely

accepted by municipalities and special districts, less widely accepted by townships, and not accepted at all by counties. Even where nonpartisanship has been accepted, it is not unusual for local political parties (i.e., parties with names other than Republican or Democratic) to exist. These local parties vary considerably from place to place; in some parts of the state they are on-going, well organized groups; in others they are more or less *ad hoc* groups organized for a single election.

Local Elective Officials

With the multiplicity of local governments in this state, one would expect, and actually finds, a large number of local offices filled by election. There has never been a tabulation of the total number of elective officials in Illinois, although such a total figure would undoubtedly be extremely large. However, such a figure alone would be rather meaningless because of the varied powers and duties of the many elective officials, and in many cases, because of the general lack of public concern with the offices. The only significant fact to emerge from such a tabulation would be that the "short" ballot movement has had little impact on Illinois local government. On the other hand, the "long" ballot in Illinois is nowhere as extreme as in jurisdictions elsewhere because contests for local offices are held at several different elections. Thus, the number of offices to be filled at any one election (other than statewide general elections, which include both state and local offices) generally is not unwieldy.

In county governments, eight elective officers are common to all 102 counties, with the larger counties having certain additional elective positions. (The separate organization of Cook County results in more county-wide officers being elected there.) All of the county officers, after having been nominated in April party primaries, are elected for four-year terms at general elections in November of even-numbered years. About half the county officers are elected in presidential election years, and the others are elected in off-year general elections. Incumbents of two offices (sheriff and treasurer) can not succeed themselves, and this has had considerable effect on local politics, especially in regard to competition for these two offices.

Township elections are held in the spring of odd-numbered years. In each township a supervisor is elected for a four-year term; in the larger townships, assistant supervisors are elected, the number determined on the basis of population. In larger city-townships, such as Springfield and Rockford, as many as seventeen assistant supervisors are elected (half at one April election, the remainder at the April election two years hence). These elections provide an example of a truly "long" local government ballot. In addition to the supervisors and assistant supervisors, other township officials

are elected for four-year terms. A different elective organization is found in commission counties.

Unlike county office nominees, township office nominees are generally selected by party caucuses (or by petition) rather than by a formal primary. Party caucuses vary considerably in the degree of formality. In some townships printed ballots are used; in many others a show of hands at an open meeting determines the nominee. City townships in cities having boards of election commissioners hold regular primaries for township offices.

The offices to be filled by election in municipalities vary considerably from community to community, depending on the population of the community and its form of government. All municipalities elect a mayor, or equivalent officer, in spring elections, in addition to other legislative and administrative officials. The situation in regard to the selection of nominees for municipal office follows the general pattern for townships. The nominations can be made by primary, caucus, or petition, depending on the population and form of government and on whether organized political parties participate formally in local elections. The cities with commission government are required to have special "run-off" primary elections.

In addition to the elective officials for general purpose governments, popularly elected governing boards administer many special district governments in Illinois. Most of these are school districts; others include drainage, sanitary, park, soil conservation, and wildlife districts.

Local Election Calendar

It has been mentioned that there are many local elections held at different times. The present confusing calendar emphasizes the separateness of the various local governments, although it is not clear whether the present situation is due to a concerted legislative effort to separate one government from another or to legislative oversight. Along with the tendency to emphasize separateness, the election calendar makes it possible for partisan politics to play an influential role in one government and not in another.

The present election calendar provides that in even-numbered years there are to be school elections in April (usually on a Saturday), a general primary in April (the county board of school trustees is *elected* at this primary), and a general election in November. In addition, there are June elections in most even-numbered years for circuit or supreme court judges.

In odd-numbered years, the pattern is more confusing. In most places there are both township and municipal caucuses or primaries (probably held on separate dates) in February or March; and the city and township elections in April, probably on separate dates. Under the new justices-of-the-peace law, the spring election pattern is further confused, as the justices and constables are nominated and elected from election districts not co-terminous with any single local governmental unit. Also, park board mem-

bers are elected in April, usually on a date separate from that of other elections. In commission counties, a primary is also held in April for the office of county commissioner alone, and in November the general election is held for county commissioner. In addition to these many regular elections, special elections are frequently held to fill vacancies or to consider bond or tax referenda.

Although statutory dates for city elections vary from community to community, the individual voter, who participates only in the election in his own city, is not affected. However, when the township election date is different from the municipal election date in the same community, considerable confusion results. Furthermore, occasionally municipal and township elections, or other special district elections, are held on the same day but in different polling places.

The present calendar tends to reduce voter participation in the several elections, particularly at the township and municipal levels, although exceptions to this generalization can be cited. In elections for county officers, voter participation is generally about 10 per cent less than the vote for the top of the ballot in the general election (i.e., for President, U.S. senator, or state treasurer). Participation in general elections is, as a rule, considerably higher than in local elections. There is no evidence, however, that the larger number of participants in general elections for county offices are more or less concerned or informed about county government and its problems than they are about the problems of other local governments.

Competition for Local Office

The extent of competition for local office varies with the different levels of government although there seems to be more competition for county office than for either city or township offices. However, even at the county level it is not uncommon for one of the parties not to contest an office.

At the county level in the six elections in the period 1948-1958, one party failed to place a candidate on the general election ballot for the eight offices common to all counties in 549 instances. Even where there are two candidates on the ballot, there is no assurance of a real contest, for some candidates may offer only token opposition. The office least contested is that of county judge, while the office of sheriff is most frequently contested. Table 3 shows the no-contests during the ten-year period. If the two offices (sheriff and treasurer) where incumbents can not succeed themselves are eliminated from this tabulation, the degree of competition is about the same in presidential and nonpresidential years.

To give some indication of whether the lack of competition is widespread or concentrated in only a few counties, Table 4, on county slates partly or completely noncontested, was prepared.

At the township level, there seems to be even less competition for

TABLE 3. "NO CONTESTS" FOR COUNTY OFFICE, GENERAL ELECTIONS 1948-1958^a

	Republicans without candidate	Democrats without candidate	Total
(number of counties)			
<i>Presidential Elections</i>			
<i>1948, 1952, 1956</i>			
Coroner	6	70	76
Circuit Clerk	11	66	77
State's Attorney	13	88	101
(Sub-Total)	(30)	(224)	(254)
<i>Nonpresidential Elections</i>			
<i>1950, 1954, 1958</i>			
Judge	18	88	106
Sup't of Schools	13	82	95
Clerk	8	48	56
Treasurer	0	27	27
Sheriff	0	11	11
(Sub-Total)	(39)	(256)	(295)
Total	69	480	549

^a In using this table it should be noted that each office was subject to election in all 102 counties in three elections, for a total of 306 possible contests for each office.

elective office than at the county level. From a survey of the available data, it would seem that offices go uncontested in about one-third of those townships having partisan elections. In townships using local party labels there is even less competition, and in nonpartisan townships "no competition" is more frequently the case than real competition. Thus, it seems quite clear from the available data that more competition exists when national party labels appear on a township ballot. However, more study is needed to determine whether the nonpartisan or local party ballots are adopted be-

TABLE 4. PARTIAL COUNTY SLATES, GENERAL ELECTIONS 1948-1958

	Republicans	Democrats	Total
(number of counties)			
<i>Presidential Elections</i>			
One office not contested	21	54	75
Two offices not contested	4	46	50
No offices contested	0	27	27
Total	25	127	152
<i>Nonpresidential Elections</i>			
One office not contested	27	52	79
Two offices not contested	6	38	44
Three offices not contested	1	18	19
Four offices not contested	0	15	15
No offices contested	0	7	7
Total	34	130	164

cause there is little competition or whether competition falls off when the form of the ballot is decided.

The data are too inadequate to venture a generalized statement on the amount of competition in city elections. Examples of partisan cities with little or no competition can be cited, as can examples of cities with non-partisan commission government or with local parties having considerable competition. One might guess that the degree of competition is more closely tied in with the size of the municipality than with the form of the ballot; the larger cities are apt to have more competition than smaller municipalities regardless of the method of electing local officials.

It has been said that the real competition for local office, particularly at the county level, takes place in the primary. Unfortunately, the data to test this statement are practically nonexistent. However, data for the 1960 Illinois primary for county offices are available, and if this primary is typical, then it would seem that there is little competition here. To learn whether there is more competition in larger counties, a tabulation was made for the offices found in the most populous counties. It would appear that there is slightly more competition in these counties. The data were also analyzed to see if there is more competition in one-party counties than in counties with strong interparty competition. From an examination of the ten most Democratic and the ten most Republican counties, it can be concluded that there is about the same amount of competition in these counties as in Illinois counties generally.

A limitation to the use of the 1960 primary for a generalization on competition is that the county offices contested in presidential years are thought, as a group, to be of less importance than the offices up for election in nonpresidential general elections. Comparable statewide data for earlier nonpresidential county primaries are not available, but in four rather strong one-party counties (Bureau, DeKalb, Stark, and Wayne) data are available and suggest that there may be more competition for the offices contested in nonpresidential elections than for the offices contested in presidential elections. This is particularly true for the offices of sheriff and treasurer.

Generally, it does not seem that there is enough competition for county

TABLE 5. COMPETITION FOR OFFICE IN ILLINOIS COUNTIES, 1960 PRIMARIES

Office	Republican Primaries			Democratic Primaries		
	No Candidate	No Contest	Contest	No Candidate	No Contest	Contest
Coroner	7	69	26	29	57	16
Circuit Clerk	8	79	15	28	62	12
State's Attorney	15	64	23	43	50	9
Total	30	212	64	100	169	37

TABLE 6. COMPETITION FOR COUNTY OFFICE IN NINETEEN MOST POPULOUS COUNTIES, 1960 PRIMARIES^a

Office	Republican Primaries			Democratic Primaries		
	No Candidate	No Contest	Contest	No Candidate	No Contest	Contest
Coroner	..	12	7	1	13	5
Circuit Clerk	..	16	3	2	14	3
State's Attorney	..	13	6	3	9	7
Recorder of Deeds	..	11	8	1	10	8
Auditor	..	12	3	2	10	3
Total	..	64	27	9	56	26

^a The counties included in this table are Adams, Champaign, Cook, DuPage, Kane, Kankakee, Lake, La Salle, Macon, Madison, McLean, Peoria, Rock Island, Sangamon, St. Clair, Tazewell, Vermilion, Will, and Winnebago.

office in primaries to justify the view that primary competition fills the gap left by "no contests" in general elections. Considerably more study is needed before a reason can be found for the widespread absence of competition in county primaries and general elections. It is possible that there is a general lack of interest in these offices, or it might be that there is such tight party control in the various counties that it effectively discourages competition.

Partisan versus Nonpartisan Elections

The issue of whether local elections should be partisan or nonpartisan is not new. Over the years, the nonpartisan movement has gained considerable support in this state and elsewhere. Nationally, most cities with populations of more than 5,000 have nonpartisan elections. The movement has had less success at the county level, and in only California, Minnesota, and North Dakota have nonpartisan county elections been the rule. This difference between city and county governments may be partly explained by the use of the county as the primary territorial base of party organization, as is the case in Illinois.

The argument that "there is no Republican or Democratic way to collect garbage" is considered valid by many civic leaders, who argue that there is no relationship between national and local issues, and that a person elected to a local office should be chosen on the basis of his stand on local issues and not simply because he runs under the label of one of the national parties.¹ It is argued further that when national party labels are used in

¹ Much of the discussion here on the question of nonpartisan local elections has been taken from my paper "Inter-Party Competition" in *Illinois Political Parties*, the background papers for the Assembly on Illinois Political Parties (Urbana: Institute of Government and Public Affairs, University of Illinois, March, 1960). In its findings on local elections, that Assembly said: "Intra-party contests are *not* substitutes for inter-party contests. Inter-party competition should therefore be encouraged, and partisanship at the local level should not be discouraged."

local elections, a person affiliated with the national party that is a weak minority in a particular community is, in effect, disfranchised.

The opponents of nonpartisanship argue that it is not uncommon for the local political parties to participate actively in nonpartisan elections, thereby negating the nonpartisan concept. They say it is generally considered desirable to strengthen the parties and that this can be done by encouraging young people to seek political elective office. Thus, if political parties are encouraged to participate actively in elections from the township level to the national government, a "political career ladder" system can be established. And lastly, it is argued that the concept that national and local issues are unrelated is becoming obsolete in our changing federal system. It is not unusual today for county and city officials to have direct relationships with federal agencies in Washington.²

Partisanship and Local Elections

The extent of partisanship in local elections, as indicated earlier, varies considerably at the different levels of local government. County elections are conducted with national party labels throughout the state, and these offices are filled at statewide general elections. Only rarely does an independent candidate file for county office; in the Illinois county elections in the period 1948-1958, only twenty-four independent candidates ran for office, and of these only three were elected. Although independents occasionally file for county office, third party candidates (with one exception, the Progressive party slate in Cook County in 1948) have not filed in recent years.

National parties are also important in township elections, although they are not as frequently found on the ballots as in county elections. A survey of about one-third of the townships in the 1959 township elections shows that 80 per cent had Republican or Democratic party labels on the ballot. (In a few instances there was a third party label, sometimes taking the place of the Republican or Democratic label.) About 9 per cent of the townships surveyed had only local party labels, while 10 per cent had no party labels at all. In about 10 per cent of the townships with national party labels, there were also independent candidates on the ballot.³

In general, there is little consistent pattern in the use or nonuse of party

² The present system of mixing partisan and nonpartisan local elections can have some strange effects in our changing federal system. In the 1959 election in Champaign, the winning candidate for mayor held a state government position subject to the federal Hatch Act. (Mayor is not a full-time position.) Because the elections in Champaign are nonpartisan, this individual was eligible to run for office, but he would have been ineligible in the neighboring city of Urbana, which has partisan elections. This unusual situation is probably more of a commentary on federal regulations than on nonpartisan local elections.

³ Data for this survey were taken from available local newspapers. No attempt was made to use a random sample.

labels in township elections. From the townships surveyed, it seems that most of the nonpartisan or local party elections are held either in the northeastern part of the state or in the Illinois area across from St. Louis. Some strong one-party counties have partisan township elections, while other one-party counties have nonpartisan or local party systems. There seems to be no relationship to the economic background of a county, to its past voting behavior, or to other obvious factors in determining whether township elections are to be partisan or nonpartisan.

Even within a single county, considerable variations can be found. In small Stark County in 1959, for example, two townships had Republican and Democratic tickets on the ballot, four townships had local parties opposing the Republican slate, one township had only local parties competing, and the eighth township had no party labels at all. A somewhat similar situation was found in neighboring Bureau County.

The decision to use national or local party labels or none at all on the ballot is a local decision for the township. However, for certain cities—those having the commission form of government and those having the council-manager form without wards—state law requires that elections be on a no-party-label basis. Under the other forms of city and village government, the “party or no party” decision is made locally. Although accurate figures are not available, it is quite clear that many more cities use nonpartisan or local party labels than do townships.⁴

The practice among municipalities in using party labels in local elections follows no pattern, and it would seem that local custom or history is the basis for the decision. Relatively small communities use partisan elections, as well as do large ones, and, contrariwise, both large and small communities use local party labels or nonpartisan elections. The partisan election cities are well scattered throughout the state. Some of the partisan cities are found in one-party counties, and others in counties with strong interparty competition. This confusing picture can be illustrated by a partial list of cities having partisan elections: Urbana (1950 population: 22,834) and St. Joseph (941), Champaign County; Pana (6,178), Christian County; Cicero (67,554) and Evergreen Park (19,732), Cook County; LaHarpe (1,295) and Warsaw (2,002), Hancock County; Emington (150) and Kankakee (25,856), Kankakee County; Carlinville (5,116), Macoupin County; Monticello (2,612), Piatt County; Moline (37,797), Rock Island

⁴The 1960 *Municipal Yearbook* includes data on elections in cities of over 5,000 population (1950 population except for cities which had special censuses since 1950). Of the 160 Illinois cities in this category, 102 were listed as having nonpartisan elections. (Thirty-six of the 102 had the commission form of government and were by law nonpartisan.) The other 58 cities were listed as having partisan elections, but the compilers of the *Yearbook* grouped cities using both national and local party labels into the partisan category.

County; and Minonk (1,995), Woodford County. Chicago has a mixed pattern, with the mayor being elected on a partisan basis at the same time as the fifty aldermen are elected on a nonpartisan basis.

In Chicago, and in other places throughout the state, the nonpartisan elections are nonpartisan in name only. Many examples of open partisan participation in nonpartisan elections can be cited. The participation in Chicago aldermanic elections is quite open, as it is in Chicago Heights, according to a recent study of that community.⁵ In other commission cities, the candidates for mayor and commissioners run as a slate, a fact which is openly cited in the newspapers. Sometimes (for example, in Downers Grove) a slate runs with a local party label in newspaper advertisements, although the label is not found on the ballot. More frequently, however, the candidates for mayor and commissioner in commission cities run as individuals, and voters generally disregard the candidates' party affiliation, even if it is known.

There is one other local election practice that has developed in certain communities, particularly in the suburbs of Chicago. This is the selection of "agreed" slates by local groups prior to the election. These slates are seldom contested. In Winnetka, where "agreed" slates have been the practice for over fifty years, candidates are nominated by a fifty-member caucus committee. The candidates and party platform are then approved at a caucus meeting. A similar practice has developed in La Grange, and in both communities the citizens frown on people "vying for public offices." The chairman of the Winnetka caucus was quoted as saying: "A lot of honest people are willing to serve if they don't have to subject themselves to political sniping, and that's what you get when you have rival parties."⁶ It obviously takes a homogeneous community for this type of system to be successful.

It is exceedingly difficult to generalize about local political parties in Illinois. In some communities they are on-going groups with definite programs; in others they are groups banded together for a single election; and in still other communities the local party label is solely a device for getting the name of the candidate on the ballot. Even where the groups are on-going, there is no assurance that the party will use the same name in every election. Since established political parties by law must hold nominating conventions or primaries, name changes are made so that the party can nominate candidates without holding either a convention or a primary.

In at least one community (Belleville, St. Clair County), local parties are more than *ad hoc* groups, and run candidates in both city and township

⁵ Charles S. Liebman, *Some Political Effects of the Functional Differentiation of Suburbs*, unpublished Ph.D. dissertation (Urbana: University of Illinois, 1960).

⁶ Thomas E. Sunderland, quoted in the *Chicago Sun-Times*, April 9, 1959.

elections, thereby providing the machinery for a close and effective working relationship between these two governmental levels. Belleville has a city township, with township boundaries coterminous with those of the city.

Most of the on-going local parties are found in the suburban communities in the Chicago metropolitan area. These parties usually have platforms and advocate local programs; in Brookfield, for example, the parties had very specific platforms in 1959. In several communities in the central part of the state, Anti-License or Citizen Temperance parties, which obviously are concerned with local liquor problems, appear on the ballot.

Most of the special districts have nonpartisan elections, although the Chicago Sanitary District trustees and the bi-county East Side and Prairie DuPont levee and sanitary districts trustees are elected as partisans.

Consequences of Partisan and Nonpartisan Governments

An obvious question to be raised in connection with the confusing role of political parties in local government is, what are the consequences of the present arrangement? Most of the discussion in this paper has been on the role of the parties in local elections; some of the consequences are found in election results, but more important consequences are in the actual administration of local governments. Although very little research has been done on the effect of the mixture of partisan and nonpartisan local governments, it seems that the present arrangement can hardly help but encourage conflicts in intergovernmental relationships.

For example, consideration has been given to the establishment of urban counties in Illinois and elsewhere. These counties would perform many municipal-type services, and would necessarily have to work closely with the municipal and township governments in a county. In some cases it might be necessary to transfer a function or service from a local government to the reorganized county government. But in Illinois the desirable local governmental relations would be impeded by the emphasis on partisan politics at one level and on nonpartisan politics at another. This would be particularly true of the transfer of a function involving the movement of personnel who might have been employed on a patronage basis. The best example of an urban county that performs municipal-type functions is Los Angeles County, California. There all local governments, including the county, are nonpartisan, and concurrently there has developed a high degree of personnel professionalization. As a result, the intergovernmental relationships exist without the partisan considerations that one would find in most Illinois counties and that well might work against the establishment of an urban county here.

Another type of intergovernmental conflict in Illinois that is brought about by the confusing situation is the relationship between the county board (with its mixture of legislative and administrative responsibilities)

and other county elective administrative officers. The legal relationships between the board, which is composed of supervisors and assistant supervisors elected from townships, and the several elective officers (sheriff, county clerk, etc.) is not clear, although the practical relationship is probably improved when the majority of the board and the elective officers are active in the same political party. But when the supervisors and assistants are elected on a nonpartisan basis, as is the case in several counties, and the elective officers are elected as partisans, as is the case in all counties, the possibility for conflict is greatly increased.

In some twenty Illinois cities, there are so-called city townships where the boundaries of both the city and township are coterminous and annexations to the city are automatically added to the area of the township. In some cases the township officers are elected as partisans and the city officials are elected as nonpartisans. This is the case in Champaign, for example. Although the city and township have separate governmental service responsibilities, there must be a certain amount of cooperation between the two governments.

Similar questions on intergovernmental relations between special district governments and other general purpose local governments can be raised. Special district governments, particularly school districts, are as a rule truly nonpartisan. However, the elective school officials must work closely with the other local officials on many matters. If there is a partisan view on the part of one set of officials and a nonpartisan view on the part of the other set, the possibility for conflict is great.

It has been suggested several times in this paper that it sometimes is difficult to understand why a particular community has established a partisan election system and another a nonpartisan system. This point can well be illustrated by the practices in the adjoining cities of Champaign and Urbana. Champaign has nonpartisan elections, while neighboring Urbana elects its city officials on a partisan basis. The two communities are quite similar in regard to social and economic factors, and the University of Illinois plays an important role in the life of each community. But the present partisan-nonpartisan election pattern has been well established and accepted. There is no indication that partisanship has hindered the relationship between the two communities. A few years ago, when there was a campaign and election to merge the two cities, the question of whether the new combined government would have partisan or nonpartisan elections was never publicly raised as a campaign issue.

Conclusions

The main point for discussion from the preceding material is the question of whether local government is a political activity. If the answer is in the affirmative, there are certain moves that could be made to strengthen

the political role. If the answer is in the negative, the opposite actions should be taken to reinforce the independence of local governments.

If local government is to be looked upon as a political activity, the local election calendar should probably be revised to provide for the election of all local officials in a single election, or, at most, two separate elections. If local government is not a political activity, the separation of local government elections probably should be continued, and county government elections should be separated from state and national elections.

If the local election calendar were to be revised, there might result a very "long ballot." Whether this would be a problem depends on whether one considers the arguments of the proponents of the "short ballot" valid, or whether one has confidence that the voters can evaluate the candidates for a large number of local offices. The "long ballot" might not be considered a problem if all local elections were conducted on a partisan basis and party circles were provided for straight-ticket voting.

If local government is to be looked upon as a political activity, concern can be raised about the relative amount of competition now found for local office. Thus, steps should be taken to encourage more interparty competition in local elections.

And lastly, if local government is looked upon as a political activity, local officials should probably be elected as partisans, and existing nonpartisan elections should be discouraged. On the other hand, if local government is not to be considered a political activity, the nonpartisan movement should probably be extended to include elections for all local government offices.

LEGAL STATUS OF LOCAL GOVERNMENT

I

AN OUTLINE OF LEGAL RELATIONSHIPS

GEORGE M. PLATT

The number of local governmental units runs into the thousands in Illinois; their activities vary from the broad functions of counties, cities, villages, and incorporated towns to the limited functions of many special purpose units, such as districts for schools, soil conservation, mass transportation, and mosquito abatement. In a broad sense, the legal status of all these local governmental units is directly affected by the constitution, although they may be created solely by statute.¹ By this it is meant that the constitution imposes limitations on the Illinois General Assembly which it must observe when contemplating statutory enactments. For example, in all cases where a general law can be made applicable, no special law shall be enacted; certain constitutional requirements as to procedure for passage must be observed; property must not be taken without due process of law. There are other such constitutional directives and limitations, but these serve to demonstrate the point that the constitution generally affects all local units which may be created and controlled by statutes enacted by the Illinois General Assembly.

Despite the fact that all local governmental units are affected by the constitution, only a few kinds of these local units are specifically affected by constitutional provisions to the extent that the General Assembly's supreme authority to abolish them is impaired. These local units whose continued existence is insured as long as the provisions of the constitution remain unaltered include counties, school districts, and the City of Chicago. With these exceptions, the legal status — in fact, the very existence — of all local governmental units is within the discretion of the General Assembly. Thus, it is legally possible for the General Assembly to alter, abolish, or combine all, save the exceptions noted above, of the thousands of local governments throughout the state.

Counties

The most important provisions relating specifically to the legal status of

¹The constitution referred to throughout this paper is the Illinois Constitution of 1870. The statutes referred to are those compiled in the *Illinois Revised Statutes*, 1959, Illinois State Bar Association Edition. For a tabular summary of local governmental units in Illinois by county, see the Appendix to this volume, on p. 83.

counties are those dealing with their organization. Pursuant to these provisions, three distinct types of county government exist in Illinois: township form organization, commission form organization, and the form of organization for Cook County.

Of the 102 Illinois counties, 84 are organized under the township form. Although it is possible constitutionally for the electors of a county to vote to abolish the township form of government and adopt the commission form, the General Assembly is precluded by the constitution from abolishing the township form by statute. The constitutional provision having this effect is the one which directs that the General Assembly "shall provide" for township organization. As a result, it apparently would take an amendment of the constitution before the General Assembly could abolish township government by statute, a fact which is a continuing comfort to the advocates of the township form and a continuing stumbling block to those who contend that the township form of county government is hopelessly outmoded and should be abolished.

The second type of county government is the commission form, which is in operation in only 17 of the 102 counties. The continuation of this form of government is also guaranteed by the constitution, so that it may not be abolished by a legislative act of the General Assembly. The electors of a county, however, may vote to change from the commission form to the township form. Therefore, the control of the legal status of the commission form of county government is denied to the General Assembly, just as it is with respect to the township form of government.

The third of the three types of county government is that found exclusively in Cook County. The constitution decrees that the county be governed by a board of fifteen commissioners. However, township government continues to exist in the area of Cook County outside the corporate limits of Chicago. This peculiar arrangement is protected by the constitution from any unilateral action by the General Assembly aimed at abolishing or changing it. Even the electors themselves are precluded, short of constitutional amendment, from changing this form of government in Cook County.

Cities, Villages, and Incorporated Towns

Cities, villages, and incorporated towns, of which there are now well over 1,100 in Illinois, are creatures of statute and, with the exception of the City of Chicago, can be altered or abolished at the will of the General Assembly. Several peculiarities presently exist with respect to the legal status of such municipalities.

Most Illinois municipalities are incorporated under the general law relating to cities, villages, and incorporated towns. However, at least thirty municipalities, mostly incorporated towns, still operate under special laws passed prior to and left undisturbed by the Illinois Constitution of 1870.

The constitution in effect in Illinois before 1870 permitted special, "private" acts, dealing by name with a municipality, which delineated its governmental powers, duties, and functions. Since the adoption of the Illinois Constitution of 1870, such "private" laws have been prohibited, except those relating to Chicago, and the number of special charter municipalities has dwindled to just thirty holdouts. Even in these thirty municipalities, the general municipal law has certain effects, but its operation in the special charter municipalities is limited.

Despite the unique nature of the charters of the special law municipalities, the General Assembly at any time can abolish their special legal status and force them to incorporate and operate under the general municipal law of the state. Also, special charter municipalities may at any time voluntarily give up their charters and reincorporate under the general municipal law if they can comply with the basic requirements relating to population. Many observers have urged that special charters be ended in Illinois for the sake of a more uniform system, but such exhortations to date have been fruitless.

The City of Chicago, as usual, is in a class by itself when the legal status of municipalities is considered. The constitution permits the General Assembly to enact special laws dealing with Chicago by name, but only if such laws are first submitted to a referendum and adopted by the electors of the City of Chicago. As a result, the city operates under a portion of the municipal law made exclusively applicable by name to Chicago. Any amendments to this portion of the law must first be passed by the General Assembly and then be approved by the Chicago electors before they can take effect. This is as close as any Illinois city comes to home rule.

Despite this rather specific constitutional language, which makes mandatory a referendum on any law directly affecting the municipal government of the City of Chicago, there is a way around this language which is commonly employed by the General Assembly. Many provisions of the general municipal statutes are drawn so that they apply in "cities of over 500,000 inhabitants," or words to that effect; these provisions are, in fact, intended to apply only to Chicago, but they purport to apply to a class comprising, or in the future to comprise, more than one municipality. Such laws, once made by the General Assembly, become binding in Chicago without ever being submitted to a referendum in Chicago. Thus, the General Assembly can attain its end without running afoul of the constitutional provisions requiring a referendum in Chicago.

The explanation of this apparent contradiction is one based in technical legal theory, long adhered to by the Illinois Supreme Court. This theory maintains that there is a difference between laws which refer by name to Chicago and laws which refer instead to "cities of over 500,000 inhabitants"

despite the fact that Chicago is now the only city in that class and is likely to remain so. It would be interesting to observe the reaction of the Illinois Supreme Court if it were confronted with a statute enacted in terms applicable to cities of over 500,000 which would set out a mandatory system of government completely different from Chicago's present form of municipal government as it exists under the law specially applicable by name to Chicago. If the Supreme Court should hold such a statute invalid because it directly affected the City of Chicago contrary to the constitutional requirement of a local referendum, then all of the presently existing provisions — and there are many — drawn in terms applicable to cities of over 500,000 inhabitants would be placed in legal doubt. On the other hand, a holding by the Illinois Supreme Court that a statute which would completely change the form of municipal government of cities of over 500,000 is valid would have the effect of rendering meaningless the constitutional provision requiring that any statute directly affecting the government of the City of Chicago must be adopted at a referendum in Chicago before it can take effect.

That the Supreme Court of Illinois would ever be presented with the dilemma outlined above is at best a remote possibility. However, the dilemma posed illustrates the unusual legal status of the municipal government of Chicago and its relationship to the power of the General Assembly.

Special Purpose Local Government

In addition to the more generalized county and municipal units, there are at least thirty-two kinds of special purpose local governmental units. The total number of the various kinds of special purpose units is well over 3,000, with somewhat over half of them being school districts. In addition to school districts, there are special districts for sanitation, drainage, mosquito abatement, hospitals, street lighting, port development, and parks, to name only a few. This partial list serves to emphasize the diversity of services performed by these local units.

The purpose of this type of local unit is highly specialized, a characteristic which can make such a unit significantly different, at least in degree, from the county and municipal governmental units with their broad and varied purposes and powers. The extent to which a specialized function set forth in law is really a limitation on the role of local government was considered in the first paper in this volume. It is clear, in any event, that in creating these units, the General Assembly as a practical matter has determined that the traditional local units — the county, city, village, and incorporated town — are incapable of performing successfully the specific function desired. This incapability may arise from the lack of a sufficient tax base to support the special activity or from geographical and territorial limitations which prevent effective handling of such problems as soil erosion and floods. In these and similar cases it is obvious that new jurisdictional

boundaries must be designed with a view to the nature of the thing sought to be accomplished. Presumably, the lack of sufficient tax base to finance the complexity of modern education has been the chief factor in the creation of such units as consolidated community school districts.

As a result of these and other special problems, the local unit with a specialized legal existence is flourishing, and the territorial limits of such specialized legal entities have generally taken form without reference to existing county or municipal lines. For example, a public library district may be composed of territory lying in as many as five counties; surface water protection districts may consist of territory in two counties; mosquito abatement districts must be located within one county, but the size of the district within that county is limited only by practical considerations.

Although the legal capacity and the jurisdictional boundaries of the special purpose districts are usually different from the capacity and boundaries of counties and municipalities, the legal status of such special purpose districts is determined essentially by the same principles which govern the status of counties and municipalities. With respect to the legal status of special purpose districts, the constitution specifically requires only that a system of free schools be provided in some form by the General Assembly. The method and form of such a school system is left largely to the discretion of the General Assembly, but the school system may not be utterly abolished by the legislature. Otherwise the control of the General Assembly is supreme over the legal status of local specialized governmental units. Thus, with the exception noted, the General Assembly may freely create, alter, or abolish special districts.

Conclusion

The legal status of special purpose local units gives rise to two general observations. First, the effect of the establishment of special districts may be to disorient the citizen-taxpayer. For example, it is almost a certainty that a citizen could not begin to trace the boundary line of an airport authority which his tax money supports. His comprehension of the geography and the functions of such a local unit as an airport authority is thus greatly limited. On the other hand, his knowledge of the size and boundary of his county or village is apt to be much more exact. He can at least, if he chooses, find such boundaries on most up-to-date road maps. Generally, the citizen is in effect disassociated from the special local unit, with a resulting attitude of indifference on his part toward the conduct of its affairs.

The second general observation suggested by the legal entity of special purpose districts has to do with local control. The special districts generally tend to be bigger than the traditional city, and in some cases county and township, units. The reason in large measure probably is economic. A village may not be able to afford to have its own library, but if the number

of taxpayers can be increased to a number sufficient to support such a venture by enlarging the territory of the library district, then the village will have its library. However, the village gives up exclusive control of the government of the library and agrees to abide by the rule of the majority of the electors in the specially created district, a large number of whom may know nothing of the needs and affairs of the village involved.

Whether the loss by a citizen of a high degree of association with and control over special units is or is not desirable is not the subject of this paper. The role of local government in perpetuating democratic institutions has been suggested in the opening paper. It is increasingly apparent that special purpose units, in a legal sense, are here to stay and will continue to increase. In terms of legal status, the legislature with but few exceptions is in the enviable position of being able to create, combine, alter, or abolish all local governmental units. Only practical policy considerations limit this authority of the Illinois General Assembly.

II

THE HOME RULE EXPERIENCE²

ILLINOIS MUNICIPAL LEAGUE COMMITTEE ON HOME RULE

Illinois municipalities, working through their Municipal League, have been increasingly successful in the last few years in expanding the scope of activities permitted cities and villages and in limiting the imposition of restrictions and requirements on cities and villages. The most important manifestations of this success are seen in the permissive sales and utility taxes and in the veto of legislation requiring minimum salary payments to certain classes of municipal employees. It remains our unshaken belief that wages and working conditions of municipal employees are matters for local negotiation and determination.

In commending this recent liberal state action, the League has consistently characterized it as action "in support of the home-rule principle." By so doing, the Illinois Municipal League has demonstrated its awareness of the fact that home rule is not a black or white affair. We have approached it as a kind of philosophy of government whereby state officials tend to restrain themselves from imposing requirements or restrictions on

² Reprinted from *Report of the Illinois Municipal League Committee on Home Rule*, approved by the Executive Committee of the Illinois Municipal League, August 31, 1956, pp. 6-12.

municipal governments and tend to maximize the freedom of choice granted municipal governments in making policy decisions. Every decision affecting municipal government that is made by the state legislature or by the governor accepts or rejects that philosophy, depending on how great a conflict there is between the interests of the municipalities and the interests of other groups in the state. We recognize that other groups have legitimate interests which may conflict with those of the cities and villages and that the role of the state is to resolve those conflicts.

We have considered municipal objectives in four major areas with a view to assessing the present adequacy of local freedom of choice and the likelihood of state-imposed restrictions on such freedom. Our "home-rule" legislative objectives flow logically from this assessment.

1. *The structure and form of municipal government.* Local freedom of choice is at a high level in this field. Illinois municipalities, other than Chicago, may organize under any of the four popular forms of municipal government — aldermanic, village, commission, or manager — and may change from one form to another at the will of the voters. The enabling legislation in each case is generally liberal; the General Assembly has shown no reluctance to respond to requests for needed amendments and improvements.

An improvement favored by the Committee is legislation authorizing the mayors and presidents of non-manager cities and villages to delegate limited administrative authority to a professional assistant. A relatively minor problem in the Committee's consideration of the state-local relationship in the area of structure and form of city government was some dissatisfaction with state-imposed limits on salaries of certain city officials. We are confident that ordinary legislation can improve this situation and see no reason to feel that "home rule" either is seriously lacking in this area or is likely to be expanded by constitutional amendment.

2. *Service powers of municipal governments.* The multiplicity of local units of government and Illinois' large variety of special districts cut significantly into the service powers required by Illinois cities and villages. The local governments concerned with services which are not provided by cities and villages (e.g., school districts, park districts, sanitary districts) will not benefit from an expansion of city and village home-rule powers. The cities and villages themselves do not now appear to be anxious for an expansion of powers in the service field, although we firmly oppose any lessening of such powers.

The record of those cities in other states "enjoying" constitutional home rule in the area of service powers would not justify any major effort to achieve such status for Illinois cities even if the numerous special districts did not virtually pre-empt the service area. State courts interpreting con-

stitutional home-rule provisions have declared such important service functions as education, public housing, public utilities, and public health to be matters of state concern rather than local or municipal affairs and, therefore, within the continuing control of the state legislature. For example, in New York the courts have held that public education is essentially a state and not a city function and that the state's education law is controlling in case of conflict with a city charter.

The public housing field, although not a matter of special concern to downstate Illinois municipalities, furnishes an important clue to the scope of municipal service powers in as model a constitutional home-rule state as Colorado. The Supreme Court of Colorado has held that the state legislature was not foreclosed from creating a housing authority for Denver, despite the fact that the city was operating under a constitutional home-rule charter which, by express constitutional provision, is supposed to supersede state law in local and municipal matters.

Neither the public utility nor public health service functions would be subject to increased local control by the adoption of constitutional home rule in this state. The Illinois Supreme Court has held that the creation of the Illinois Commerce Commission removed from municipalities all regulatory power over the instrumentalities of a public utility or the public utility business. In the considered judgment of the Chicago Home Rule Commission expert staff, "A constitutional grant of home-rule . . . would probably not disturb the dominance of the State so clearly established in this field."³

In the public health service area, constitutional home rule was of no avail in Juneau, Wisconsin, when the State of Wisconsin ordered the city to provide a sewage treatment system. The language of the Wisconsin Supreme Court made short shrift of Wisconsin's home-rule provision:

While it is provided by section 3 of the same article, that cities and villages organized pursuant to State law are empowered to determine their local affairs and government subject only to the constitution and such enactments of the legislature of State-wide concern, there can be no question that the promotion of a protection of public health is a matter of State-wide concern.⁴

In summary, we find no important service powers which Illinois cities are disabled from performing by the absence of constitutional home rule, and we are pessimistic, on the basis of experience elsewhere, about the possibility of liberalization even if there were service powers which we feel we should exercise but now can not.

3. *Police powers of municipal governments.* Existing statutory grants

³ *Chicago's Government: Its Structural Modernization and Home Rule Problems*, report of the Chicago Home Rule Commission, 1954, p. 259. Also published as Chicago Home Rule Commission, *Modernizing a City Government* (Chicago: University of Chicago Press, 1954).

⁴ *State ex rel. Martin v. Juneau*, 238 Wis. 564, 571 (1941).

provide Illinois cities and villages with a substantial measure of police power—that is, power to enact laws for the promotion of the health, comfort, safety, morals, and welfare of their residents. The Chicago Home Rule Commission analysis concluded that it is “difficult to find any major area of municipal concern in the exercise of its police-power functions for which statutory authorization has not been given.”⁵ The major impediment to free municipal activity in the police-power field has not been legislative or gubernatorial reluctance to grant power, but rather the tendency of the courts to construe such power very strictly, because of the inevitable clash between exercise of the police power and constitutional guarantee of due process and equal protection of the laws. A narrow view has been taken of broad, undefined delegations of police power, and where there is any reasonable doubt concerning the particular application of such broad delegations, the doubt will often be resolved against the municipality.

Unhappily, however, this is again a deficiency in municipal powers for which constitutional home rule is not a specific. Consider, for example, the New York Multiple Dwelling Law, enacted by the state legislature and, by population classification, applicable only to New York City. The law dealt with the problems of tenements and the prevention of unsanitary and dangerous living conditions, plainly a proper subject of police-power legislation. Under the home-rule section of the New York Constitution, if the subject matter dealt with the “property, affairs or government” of the city, the legislature should not have been able to act without a request from New York City’s mayor and council. No such request had been made. Nevertheless, the New York Supreme Court sustained the act, holding that it dealt with a matter of state concern and was therefore beyond the limitations of the home-rule amendment.⁶ Although this decision is more than twenty-five years old, it has been characterized recently as “a blow . . . from which home rule has never recovered.”⁷

Experiences in the exercise of municipal police powers in other constitutional home-rule states are not much more encouraging. Despite apparently generous home-rule grants, the police power has been sharply curtailed in Oklahoma, California, Ohio, and Missouri. The conclusion seems inescapable that in this area of municipal activity, as in the field of service powers, constitutional home rule in and of itself, no matter how carefully drawn, will not do the job that seems necessary.

In the view of the Committee, the police-power job that seems necessary and for which authority is presently lacking is in the field of licensing for regulation (as distinguished from licensing for revenue). An inability to

⁵ *Chicago's Government, op. cit.*, pp. 266-267.

⁶ *Adler v. Deegan*, 251 N.Y. 467 (1929).

⁷ W. Bernard Richland, “Constitutional City Home Rule in New York,” *Columbia Law Review*, LIV (1954), 311, 329.

secure such power has been the major municipal difficulty in the police-power area. The Illinois courts apply a strict construction of legislative intent in the police-power field, a point noted above. The consequence appears to be a need to spell out each business or occupation which may be subjected to regulatory licensing. For example, statutory authority to regulate dealers in "junk, rags, and any secondhand articles whatsoever" has been construed to exclude power to regulate dealers in secondhand motor vehicles, trailers, tires, and parts. Secondhand stores of many kinds, certain appliance-repair services, and a limited number of other businesses would be licensed, strictly for regulation, by many Illinois municipalities if they had the power to do so. We think it is important that such power be granted, but we are doubtful that any generalized kind of grant will achieve the objective.

4. *Revenue powers of municipal governments.* There is no question but that the action of the Illinois legislature in its 1955 session in granting authority to cities and villages to impose a one-half-cent sales tax without referendum and to impose a consumers' utility tax represented a significant forward step in the home-rule movement. It should be understood, however, that although these sources, when added to other available revenue sources like the wheel tax and amusement tax, ameliorate the municipal revenue problem, they do not answer the need for home rule in the revenue field. Home rule in revenue requires the elimination of tax rate limits and an opportunity for municipalities to choose between broad-based non-property taxes. Despite the success of the municipal sales tax—a success that is admitted by its most vehement opponents—some of our cities would be better off if they could impose a low flat-rate tax on income and eliminate the sales tax. We are not now arguing for such a tax, but rather are taking our stand with those members of the Illinois Legislative Commission on Municipal Revenue who, in 1953, said that such choice constituted home rule and that "Home rule of this kind is the essence of decentralized, representative government."⁸

An appropriate inquiry in the revenue field, as in the areas of form and structure of government, police powers, and service powers, is whether a constitutional grant of home rule is a useful technique to minimize state control and maximize local authority over municipal revenue policy. With the exception of California, broad municipal autonomy in the tax area has not been sustained consistently in any of the constitutional or legislative home-rule states. Admittedly, the liberal approach in California, where municipal taxation has been deemed a matter of municipal concern, has made it possible for California cities to levy a variety of business, occupa-

⁸ "Minority Report," *Municipal Revenue Problems*, report of the Illinois Legislative Commission on Municipal Revenue, 1953, p. 32.

tional, privilege, and excise taxes. In such celebrated home-rule states as New York, Pennsylvania, Texas, Michigan, West Virginia, and Oklahoma, municipal revenue autonomy does not exist. Rather, the taxing power of cities and villages is circumscribed either by the need for specific legislative authority to enact a particular tax, by the power of the legislature to pre-empt a tax field, or by the power of the legislature to restrict or deny the imposition of a tax by a municipality.

Professor Jefferson Fordham, one of the handful of real legal authorities in the home-rule field, finds little cause of encouragement in considering constitutional home rule and municipal revenue:

Without financial independence, it is a question whether high sounding grants of home rule powers are very meaningful. Yet, it is in this very area that home rule municipalities enjoy least advantage. They are usually subject to constitutional or statutory property tax and debt limits. The property tax is still, with some exceptions, their chief source of revenue. Generally speaking, moreover, it cannot be said that there is wide municipal freedom in imposing excises.⁹

Writing in the *Northwestern University Law Review* during the period of this Committee's study, Professor Rubin G. Cohn reached a similar conclusion:

In almost every state in which constitutional provisions express some form of municipal home rule, the reservation of legislative control over municipal revenues belies the concept of local autonomy, making illusory the political idealistic conception of home rule. Until a reconciliation is effected which bridges or narrows this gap between the political ideal and the constitutional reality, municipal autonomy in revenue will depend largely upon legislative grace.¹⁰

In short, it appears to be the judgment of informed specialists, confirmed by our consideration of the evidence, that constitutional home rule, as traditionally understood, is likely to have little impact on Illinois municipal revenue problems. There is a good likelihood of the adoption of a pre-emption doctrine or of explicit or implicit reservations of legislative power to restrict or amend exercise of municipal autonomy in the revenue field. As a consequence, we can not recommend, as an appropriate way to safeguard recent revenue gains or to extend local freedom, support for a constitutional amendment which makes broad grants of power to municipal governments.

⁹ Jefferson B. Fordham, *Local Government Law* (Brooklyn, N.Y.: Foundation Press, Inc., 1949), p. 101.

¹⁰ Rubin G. Cohn, "Municipal Revenue Powers in the Context of Constitutional Home Rule," *Northwestern University Law Review*, LI (March-April, 1956), 29.

MUNICIPAL SERVICES IN ILLINOIS

CHARLES M. KNEIER

People living in urban areas have felt a need for governmental services which are not provided by the state, the county, the township, special districts, or any other unit of government. This accounts in large part for the incorporation of cities and villages with power to meet the special problems which arise in urban areas or the problems which may be found in rural areas but are presented in an accentuated form in urban areas. Rather than entrust these services to other existing units of government, cities are created. This places the making of decisions in the hands of representatives of the people directly concerned and permits a grass-roots approach to the problem of municipal services.

In determining whether a service should be rendered by local government and, if it should be, by which unit (county, township, city, special district, etc.) it should be rendered, there are factors to be considered other than efficiency and economy in the performance of the service. Among the factors to be considered are obtaining maximum participation in government and assuring the people an opportunity to determine whether a service should be performed and how it shall be done. The resistance at the local level to consolidation, simplification, or elimination of some units of local government has shown that voters are interested in factors other than mere economy or efficiency in the performance of services.

Legal Aspects of Municipal Services

Illinois cities may undertake functions and render services only as they have been authorized to do so by the state. Power is conferred not by constitutional provision, but by acts of the General Assembly. As stated by the Supreme Court of Illinois, “. . . cities in this State have no inherent powers but only such as are delegated to them by law and such as are necessarily incident to those granted, and a delegation of power will be strictly construed.”¹ And the court has emphasized by frequent restatement that “. . . it is thoroughly established that municipal corporations, being creatures of the statute, have no inherent powers. . . .”² City officials must look to the statutes for a grant of power authorizing a proposed new service or function. If the power has not been granted, the performance of the service will not be sustained by the courts.

¹ *Ambassador East, Inc. v. Chicago*, 399 Ill. 359 (1948).

² *Chicago v. Cuda*, 403 Ill. 381 (1949).

Pressure Groups and Services

In considering whether a service should be rendered, city officials may find they are faced with conflicting interests and pressures. There may be some groups who are interested primarily in keeping the tax rate low, even though it means less services. Other groups are interested in having the city government undertake a new service which will be of particular value or interest to them. A group interested in downtown business may want off-street parking lots to prevent the development of suburban shopping centers; a parents' organization may want flashers and crossing guards for the safety of children; another group may seek a new or improved recreation program; and another may want a "small appropriation" for a commission on human relations. Members of groups seeking new municipal services are usually also interested in keeping the tax rate down and, if they do not actually oppose, often have little enthusiasm for the new services sought by other groups.

Classification of Municipal Services

Municipal governments provide for their citizens' goods and activities, such as police and fire protection, streets, recreation programs, and water from a municipally owned plant. This is what we usually have in mind when we refer to municipal services. Regulations which restrict or limit the activity of some part of the municipal population as a means of promoting the general welfare may also be looked upon as a service. Licensing of taxicabs, taverns, and other businesses, with conditions attached to the grant relative to the way the business is to be conducted, is a service of this type. The objective in both cases is to making living in urban areas more desirable.

Municipal services (or regulations) may be placed in three classes:

1. Those services (or regulations) about which there is general agreement that they should be performed by and through city governments. Police and fire protection, the maintenance of streets, and the regulation of traffic are in this group. As urban areas reach a certain point in population growth, the desirability of, if not the necessity for, services in this group becomes apparent. There is little or no choice on the part of the residents of the city or of city officials as to whether such services should be rendered. Rather, the choice in these cases is one of the standard or level of performance.
2. Those services (or regulations) about which there is no general agreement, but which are usually provided by the city. Municipal water supplies and recreation programs are illustrative.
3. Those services (or regulations) which are unusual in that they are found in only a small minority of cities and, when proposed, are usually

the subject of heated discussion and need to be justified to the citizens. Human relations councils, municipal radio broadcasting stations, and financial aid to attract industry are in this category.

Obviously all services (or regulations) do not neatly fall into one of these categories. Municipal ownership is illustrative. While municipal ownership of water is commonly accepted in Illinois, only four cities own their electric plants. Such a classification may be helpful, however, in considering whether services should be expanded by upward mobility in the three classes: from the unusual to the commonly accepted, or from the commonly accepted to consensus or general agreement. And if such upward mobility is desirable, should city officials assume the responsibility of leading public opinion in this direction?

Current Problems in the Field of Services

No attempt will be made to survey all municipal services. The discussion will be limited to those services where questions as to whether they should be performed are involved, or where there is a policy question as to the method of performance.

An old issue in American local government, and one which still continues, is whether cities should own the public utilities. Extensive power of municipal ownership of public utilities has been conferred upon Illinois cities. The question is presented as to whether the city should depend upon privately owned utilities with regulation by the Illinois Commerce Commission, or whether it should provide the service directly through a municipal plant. The arguments for and against municipal ownership are beyond the space limitations of this paper. What should be done generally depends on the city, on the satisfaction with the services and rates of the privately owned utility, on the degree of cooperation between the city and the utility, and especially on the type of utility. As Table 7 indicates, municipal ownership of water supply has been generally accepted as a proper municipal service in this state. In 92 per cent of the municipalities having a public (citywide) water supply, it is municipally owned.

Only four cities own their electric plants: Bloomington, Bushnell, Jacksonville, and Springfield. In all four cases there is a competing privately owned utility. The small number of cities owning electric plants may be a result in part of the argument that a city has not been found to be an economic unit for the generation of power. Generation at a few central points and distribution to cities over a wide area are pointed to as the most economical method of generation. An attempt has been made in some states to meet this problem by passing enabling legislation for the creation of public power districts. Several cities can then be served from one central generating plant, with distribution a function of either the power district

TABLE 7. SOURCE OF WATER SUPPLY IN ILLINOIS MUNICIPALITIES^a

Source of Supply	Number
Total number with public supplies	912
Supplies privately owned	75
Supplies municipally owned	837
Supplied by other municipalities (total)	158
Supplied by Chicago	55
Supplied by East St. Louis	16
Supplied by another municipality	87

^a Source: *Data on Public Water Supplies in Incorporated Municipalities*, Department of Public Health, State of Illinois, 1955; Addendum No. 1, July 1, 1960.

or the city. If the latter, then the city purchases its power from the public power district serving its area.

In the case of most public utilities, municipal ownership presents a problem of policy. There is, however, a question as to whether in many cities municipal ownership of a system of mass transportation will not become one of necessity if public transportation is to be available. Rather than a question of municipal versus private ownership, it becomes a question of publicly owned public transportation or none. In an increasing number of cities, private companies are finding public transportation will not pay expenses of operation and a fair return on the investment. The issue seems to be whether the city government will do nothing and let service come to an end, or will feel this is a necessary service for which it has a responsibility.

If the city government does accept the position that public transportation is so essential that the city should assume the responsibility of seeing that it is continued when private enterprise finds it can not be made a profitable venture, what are the alternatives? One would be municipal ownership and operation of the bus lines at a rate the traffic will bear. Any losses would be met out of general revenues. Another alternative would be to continue private operation with a subsidy from the city. It has been suggested that cities contract with the private bus companies for operation on a mileage basis. If fares did not meet this agreed-upon mileage cost, then the city would pay the difference to the company. Under such a plan the city government would fix the fares of the bus company and specify the routes, the frequency of runs, and other standards of service—questions now under the jurisdiction of the Illinois Commerce Commission. This approach to the problem of bus services would require new legislation by the General Assembly.³

³ Attention might be directed to the Illinois statute which provides that "Any city of this State may contribute such sums of money toward erecting, building, maintaining and supporting any non-sectarian public hospital located within its limits as the city council shall deem proper." *Ill. Rev. Stat.*, 1959, Ch. 24, sec. 45-1.

Statutory authorization has been made to local governments to own and operate airports. The argument can be advanced, and has been successfully advanced, that a service which local governments can and should render is to provide adequate airport facilities. The importance of having air travel facilities in cities is compared with the advantage cities had earlier of being "on a railroad." That local governments have taken advantage of the statutory grant of power is shown by the fact that as of October, 1960, there were in Illinois twenty airport authorities; twenty-three airports; five county airports under the General Act and two under the Airport Act; two under park districts; and one under a port district — a total of fifty-three public airports.⁴

Under statutory grants of power, cities may establish municipal hospitals. Where private initiative has not met the problem of adequate hospital facilities, there is an opportunity for the city government to provide an essential service (see Table 8).

The part to be played by city government, or the service to be rendered, in the disposal of garbage and other wastes presents a problem of policy. Sewage disposal has been accepted as a responsibility of local governments, either the city or a special district. In most cases this is financed by taxation, but in some cities a sewage charge is made.

Small cities and villages may do nothing about the garbage problem, but as the population grows, municipal action becomes necessary. Some cities in this country meet the problem by licensing private sanitary haulers, laying down requirements as to the standards of sanitation to be observed by these persons, and providing public dumping grounds. A charge for the license is often made, the proceeds being used to cover the cost of enforcement of the ordinance and the maintenance of the dumping grounds. Some cities maintain incinerators for disposal of the garbage rather than depending on dumping.

TABLE 8. HOSPITALS OWNED BY LOCAL GOVERNMENTS IN ILLINOIS^a

Local Government Unit	Number Owning Hospitals
City	16 ^b
County	25
Hospital District	18
Sanitarium District	1
Township	3

^a Source: 1960-1961 *Directory of Hospitals and Accredited Schools of Nursing*, Department of Public Health, State of Illinois, Springfield, 1960.

^b Beardstown, Champaign, Chicago (one contagious diseases and one tuberculosis), Clinton, DeKalb, Marion, Moline, Monmouth, Ottawa, Peoria (TB), Princeton, Rochelle, Rockford (TB), Savanna, Sterling, and Sycamore.

⁴ *Airport Owning Municipalities*, Illinois Department of Aeronautics, Springfield, 1960.

Other cities provide this service directly. They maintain a fleet of trucks and use municipal employees, and the householder deals with and pays the city for this service, either in the form of taxes or as a service charge. Some cities also consider garbage disposal a proper municipal service but let a contract to one individual or company to perform the service. The contract price is then paid by the city out of tax revenues. These cities, whether the service is rendered directly through municipal employees or indirectly through a contractor, believe that the total cost to the residents of the city is less where there is one collecting agency. They consider collection by competing private carriers, with the duplication of facilities, as not being the most economical plan of meeting this problem. They also believe the problem of maintaining proper standards of sanitation (cleanliness of trucks, littering of streets with garbage falling from trucks, etc.) is simplified. Clearly, here is a question of policy in providing a service.

Air pollution and fluoridation are two current problems in the field of public health. The prevention of air pollution is a service which is being undertaken to an increasing degree by American cities.⁵ Smoke control ordinances have been upheld in Illinois where the court found them to be reasonable; ordinances which the court considered to be arbitrary and unreasonable have been held to be unconstitutional.⁶

There are those who believe that fumes from automobiles contribute to the air pollution problem and that some form of government control may become desirable or essential in the future. If this is thought desirable, then the method of control and the level of government at which it should be exercised become important.

An effort was made to meet the smog problem at the 1960 session of the California legislature. The act requires the installation of devices on all cars throughout the state, but counties may exclude themselves from the provisions of the act. This is done by the Board of Supervisors if it is established at a public hearing that there is no air pollution problem in that county. The law sets up a timetable for installation of devices measured from the day the State Motor Vehicle Pollution Control Board, which is in the State Department of Public Health, certifies that it has issued certificates of approval for two or more devices.

If the exhaust fumes from motor vehicles in Illinois cities ever become a sufficiently serious problem to require government action, then the ques-

⁵ On the problem of air pollution, see *Metropolitan Area Services*, second report of the Northeastern Illinois Metropolitan Area Local Governmental Services Commission (Urbana: Institute of Government and Public Affairs, University of Illinois, 1959), pp. 24-29.

⁶ *Kankakee v. New York Central Railroad Company*, 387 Ill. 109 (1944); *Harmon v. Chicago*, 110 Ill. 400 (1884). Also see *Northwestern Laundry v. Des Moines*, 239 U.S. 486 (1916).

tion as to state and local responsibility must be met. Is it a problem for state or local action, or for joint and cooperative action of the state and local governments? A new statutory grant of power may be needed to enable local governments to cope with the problem.

Where there are several adjoining cities, can the smoke problem be effectively met by the separate action of each? If not, is cooperative action the answer, and are the statutes adequate? Or can this problem be met most effectively by the creation of a smoke abatement district covering a group of adjoining cities, and should the statutes be amended to provide for this as an optional approach?

The fluoridation of water indicates the need for city officials to have under continued study and consideration the question of new services or improvement in existing services. It also illustrates the conflicting pressures brought on city officials when a decision is made as to a new service. This question has generated bitter debate in many cities involving the value of fluoridation and the question of interference with the religious beliefs of certain groups.

The advantages of having a city plan to direct the orderly growth of the city in the future and to remedy some of the defects of the past are generally accepted. And controlling the use of private property through a zoning ordinance has also been accepted as a desirable service which city governments can render. Some cities have failed, however, to take advantage of the statutory grants of power relative to city planning and zoning. A complaint made against some cities is that they have a city plan in the paper stage but that it has not been implemented or put into effect; another complaint is that in actual administration there are so many exceptions made to the zoning ordinance and so many variations granted that it becomes meaningless. Statutory grants of power have been made to cities and villages in Illinois for city planning and zoning.⁷

Closely related to city planning is the problem of subdivision control.⁸ Is there a service to be rendered by exercising control over new subdivisions, regulating the acts of the subdivider so as to prevent action on his part which may require costly remedial action in the future? Statutory authority has been granted to cities having planning commissions to exercise control over subdivision development within the city and for one and one-half miles beyond the corporate limits. Whether the grant is adequate and whether

⁷ *Ill. Rev. Stat.*, 1959, Ch. 24, Arts. 30, 53 and 73.

⁸ The adequacy of the statutes on this point was considered in the first report of the Cities and Villages Municipal Problems Commission (1959). For statutes on the point see *Ill. Rev. Stat.*, 1959, Ch. 24, Art. 53; for control by counties over subdivision control outside cities, villages and towns see *Ill. Rev. Stat.*, 1959, Ch. 34, secs. 414-415.

adequate use has been made of the powers granted can be answered only on the basis of a study of the experience of cities in this field.

The General Assembly has granted authority for local low-cost housing programs, slum clearance, and urban redevelopment. A separate chapter of the Illinois statutes is devoted to "Housing and Redevelopment," with provisions for the creation by cities of over 25,000 or by counties of housing authorities⁹ and for cooperation of municipal corporations with such housing authorities and the federal government.¹⁰ Among the statutory grants on slum clearance are the Blighted Areas Redevelopment Act of 1947; the Blighted Vacant Areas Development Act of 1949; the act for the Conservation of Urban Residential Areas of 1953; and the Neighborhood Redevelopment Corporation Law of 1941.¹¹ Clearly there is statutory authorization for action and through such action for service. Twenty-one local housing authorities have been established in Illinois; five of these are city authorities and sixteen are county.¹²

Officials in some cities are being presented with the problem of new shopping centers being developed beyond their borders, with a resulting loss of business by merchants in the central city. Is there a responsibility on the part of the city government to take action and render new services which may check the movement of city shoppers to the suburban shopping center? It is believed that one of the attractions of the suburban shopping center is the fact that adequate parking facilities are available so that downtown traffic congestion can be avoided. One way in which cities have attempted to meet this challenge, and to save business for the merchants who through taxes support the city government, is to provide off-street parking facilities, and through city planning to improve traffic conditions in the city.¹³ Thus, at the same time, the city government is rendering a service to both shopper and merchant.

Through recreation programs cities have been meeting the problems presented by the increase in leisure time available to their citizens. Acting under statutory grants of power, they are providing supervised and directed recreation programs under trained personnel. Statutory provision is made for recreation programs under city or park district control.¹⁴ In this general

⁹ *Ill. Rev. Stat.*, 1959, Ch. 67½, secs. 1-27e.

¹⁰ *Ill. Rev. Stat.*, 1959, Ch. 67½, secs. 28-34.

¹¹ *Ill. Rev. Stat.*, 1959, Ch. 67½, secs. 64-95. Also see Ch. 24, sec. 23-103.1 for statutory authorization to municipalities to acquire property which is "necessary or appropriate for the rehabilitation or redevelopment of any blighted or slum area."

¹² As of July 27, 1960, information supplied by Public Housing Administration, Housing and Home Finance Agency, Chicago.

¹³ For statutory authority to provide off-street parking facilities see *Ill. Rev. Stat.*, 1959, Ch. 24, Art. 52.1.

¹⁴ *Ill. Rev. Stat.*, 1959, Ch. 24, secs. 57-1 to 10; Ch. 105, sec. 8-10. The Department of Recreation, University of Illinois, reports that as of November, 1960, "there

area of leisure-time or recreation activities, services or programs for which there is statutory authorization include coliseums for "general educational and amusement purposes," community buildings, convention halls, harbors for "recreational use and benefit of the public," swimming pools, stadiums, recreation centers, and the maintenance or employment of a municipal band for musical purposes.¹⁵ And cities have been authorized to create Art Commissions to approve works of art erected on public property.¹⁶

Regulation of Conduct

It has been said that one of the disadvantages of living in a city is that by government action the freedom of choice of the individual is more limited than in a nonurban area. Such action on the part of government is highly desirable in many cases and necessary in others. The personal conduct of the individual and the use to which he puts his property become matters of common interest and result in government action. Building codes, zoning ordinances, compulsory connection with sewers, and the way in which garbage is disposed of are illustrative. Regulating and limiting the conduct of the individual in furtherance of the general welfare become essential services in cities.

The problem of policy involved here is determining how far to go. Some citizens may complain because their city government fails to prohibit the keeping of cows or pigs in the city, or the conducting of a business in a residential section which depreciates their property values or makes living conditions undesirable. Other citizens complain that cities go too far in regulating the conduct of the individual. Censorship and the regulation of morals are frequently criticized as going too far in this direction.

One method used by cities to promote the general welfare is to use the licensing power to control the action of individuals engaged in certain types of business. By licensing and attaching conditions to the grant, such as no sale of liquor to minors by taverns, with the threat of suspension or revocation for violation of the conditions, cities and villages have available an effective method of control. Prohibition of certain action, such as the sale of liquor to a minor, with threat of a fine if found guilty of a violation, is considered to be less effective than the threat of suspension or revocation of a liquor license.

Cities, villages, and towns have been expressly granted by statute exten-

are, as near as we have been able to determine, 94 municipalities in the State providing full-time, year-round, recreation program services with tax funds derived from special levies as provided by enabling laws within the Cities and Villages Act and the Park District Code.¹⁷

¹⁵ *Ill. Rev. Stat.*, 1959, Ch. 24, secs. 26-1 to 15, Ch. 24, sec. 32-1; Ch. 24, secs. 34-1 to 9; Ch. 24, Art. 41.1; Ch. 24, Art. 50; Ch. 24, Art. 57; Ch. 24, Art. 64.

¹⁶ *Ill. Rev. Stat.*, 1959, Ch. 24, Art. 25.

sive power to license.¹⁷ The specific statutory grants of power to license give only a part of the picture. Other statutes grant extensive power to cities and villages to regulate, and the courts have held that "the power to regulate includes the power to license"¹⁸ if the courts consider it a reasonable means of regulation in the particular case.¹⁹ Municipal corporations thus have available, either by express grant or by implication, extensive licensing powers which may be used to promote the general welfare.

Another advantage cities find in the use of the licensing power as a method of control is that a charge may be made and the cost passed on to the persons licensed. And if the statutory grant includes the power to tax as well as to license, then licensing may be used to raise revenue.

Emerging Services

Is the attraction of new industries a proper function or service of a municipal government? Or is this a matter that should be left to the Chamber of Commerce or another nongovernmental organization? Those who believe this should be left to private organizations take the position that the public responsibility ends, insofar as government action is concerned, when adequate public services (police, fire, streets, etc.) are provided. At least eight states permit their local governments to issue bonds to construct plants for lease to manufacturers. In other states, cities carry on promotional campaigns to attract industry. And seven states permit local

¹⁷ For the statutory grant of power to cities, villages, and incorporated towns to license see *Ill. Rev. Stat.* (1959), as follows: Alcoholic liquor, Ch. 43, sec. 110; Athletic contests, Ch. 24, sec. 23-55; Auctioneers, private detectives, money changers, bankers, brokers, barbers, lumber yards and lumber storehouses, livery stables, public scales, ice cream parlors, coffee houses, florists, detective agencies, and barber shops, Ch. 24, sec. 23-91; Carnivals, Ch. 38, sec. 121c; Coin-operated amusement devices, Ch. 120, sec. 481b.7; Eating or amusement places, Ch. 24, sec. 23-54; Fire, salvage, and closing out sales, Ch. 121½, sec. 149-150; Hackmen, draymen, omnibus drivers, carters, cabmen, porters, and expressmen, Ch. 24, sec. 23-51; Hawkers, peddlers, pawnbrokers, itinerant merchants, transient vendors of merchandise, theatricals and other exhibitions, shows, and amusements, Ch. 24, sec. 23-54; Hospitals, Ch. 111½, sec. 145; Junk dealers, Ch. 24, sec. 23-94; Mason contractors and employing masons (cities of 150,000 population or over), Ch. 24, sec. 22-43; Motor vehicles, Ch. 95½, sec. 32a; Pin ball or bowling alleys, billiard, bagatelle, pigeon-hole, pool, or any other tables or implements kept for a similar purpose in any place of public resort, Ch. 24, sec. 23-56; Plumbers (cities of 500,000 population or over), Ch. 24, sec. 22-49, and Ch. 111½, sec. 116.50; Rooming houses (cities of 500,000 or less), Ch. 24, sec. 23-87.1; Steam boiler and elevator operators, Ch. 24, sec. 23-77; Runners for cabs, busses, railroads, ships, hotels, public houses, Ch. 24, sec. 23-52; Street advertising, Ch. 24, sec. 23-22; Vehicles conveying loads within the municipality, Ch. 24, secs. 23-53, 671; Water craft, Ch. 24, sec. 23-45.

¹⁸ *American Baking Co. v. Wilmington*, 370 Ill. 400, 403, 19 N.E. 2d 172, 174 (1938). Statutory grants of power "to regulate the sale of" and "to regulate the inspection of" have been held to support licensing. *Gundling v. Chicago*, 176 Ill. 340, 52 N.E. 44 (1898).

¹⁹ *Wilkie v. Chicago*, 188 Ill. 444, 58 N.E. 1004 (1900); *Father Basil's Lodge, Inc. v. Chicago*, 393 Ill. 246, 65 N.E. 2d 805 (1946).

governments to exempt for a period of five to ten years new industries locating within their borders.

At the 1951 session of the Illinois General Assembly, an act was passed authorizing any municipality, after referendum approval, to issue revenue bonds to finance the construction of industrial buildings for lease or sale. As stated in the act, its purpose "is to relieve conditions of unemployment" and "to encourage the increase of industry within this State, thereby reducing the evils attendant upon unemployment."²⁰

What, if anything, can or should cities and villages in this state do to promote understanding, harmony, and good will between different racial and religious groups? Is this a service that should be undertaken by city governments? By 1960, thirteen Illinois cities had created municipal human relations councils by ordinance, with limited financial support from the city in a few of them.²¹ The experience in these cities may indicate another avenue of service for local governments in this state.

One of the objectives of such commissions is to end, or at least reduce, discrimination against Negroes in employment. The only method they have to obtain their objective is persuasion and cooperation on the part of employers.

In 1950, Gary, Indiana, enacted an ordinance creating a Fair Employment Practice Commission with power of enforcement. The ordinance prohibits unfair employment practices and declares it to be such a practice "For any employer, because of race, color, religion, age, national origin or ancestry of any individual, to refuse to hire, or otherwise to discriminate against him with respect to hire, tenure, promotions, terms, conditions or privileges of employment or any matter directly or indirectly related to employment." The penalty for violation of any provisions of the ordinance or for persons who shall fail, refuse, or neglect to comply with any decision of the Gary Fair Employment Practice Commission is a fine. Prosecutions under the ordinance are brought by the city attorney, but "only after certification of a case to him by the Commission." If Illinois cities wanted to undertake such a program, it seems that a statutory grant of power would be desirable if not essential.

Liquor stores are now owned and operated by cities in some states. This activity may be defended on the ground that, with the profit motive removed, the law enforcement problem resulting from the sale of liquor will be reduced. And any profit from the business will go to the city to be used to finance law enforcement problems resulting from the sale of liquor.

²⁰ *Ill. Rev. Stat.*, 1959, Ch. 24, secs. 1211-1244.

²¹ Bruce B. Mason, "Municipal Human Relations Councils," *Illinois Government*, Institute of Government and Public Affairs, University of Illinois, Urbana, February, 1960; Illinois Commission on Human Relations, *Documents Pertaining to Municipal Human Relations Commissions in Illinois* (April, 1960).

Is this going too far? If not, then where is the line to be drawn between municipal and private ownership of the means of distribution of other goods?

These are illustrative of class-three services (or regulations) referred to earlier in this discussion. They are found in only a small minority of cities. Will they or others in this group advance at some future time to category two, the services usually provided by cities? Or will they go in the other direction and be abandoned entirely as appropriate municipal services?

A Look Ahead

There is always the question as to whether cities generally, or a particular city, are making adequate use of statutory grants of power. Obviously, all cities will not make full use of all grants of power to render service. A liberal program of service, however, helps to make the city a better place in which to live. It is one of the features of the so-called "progressive community."

Where there is a limit to the services that can or should be performed and financed, then which shall it be? Organized groups interested in particular services will have a part in that decision. And, by exercising their power of leadership in the formation of public policy, city officials can be instrumental in the decision.

Statutory provisions requiring referendum approval prior to the undertaking of some services and the levying of special taxes therefore have led to a lack of progress in meeting certain problems. The Cities and Villages Municipal Problems Commission in its first report pointed out that the compulsory referendum provision of the permissive forestry tax had prevented some cities from effectively meeting the Dutch elm problem. As stated in the report, "Referenda have in general resulted in defeat of the forestry tax proposal." The recommendation of the Commission that the compulsory referendum approval be dropped was not approved at the 1959 session of the General Assembly. The fact that no municipality was successful in levying a sales tax when approval by referendum was required is indicative of how effective such a requirement may be in preventing services from being kept abreast of needs. A compulsory referendum provision is found in many Illinois statutes authorizing municipalities to provide services.

New grants of power to render services will be needed as conditions change. Granting power on the basis of population classification is frequently used by the General Assembly. Where there is a reasonable relationship between the purpose of the statute and population, such classification will be upheld against the attack that it constitutes special legislation.

In seeking further grants of power, it would be well to consider whether, in addition to classification on the basis of population, cities and villages

might be classified on the property tax base, on sales tax income, or on some combination of these with population. A low classification here might be taken as an indication of lack of ability to support the proposed service, or a low classification might in some cases serve as indication of a needed service.

Time changes, and with it the need of municipal services. Some services may need to be transferred from the city to another unit of government, such as the county (hospitals in smaller cities), or to a special district (health, smoke abatement, etc.). And there may be some transfer of functions from other units, especially from the township, to the city. The question will be primarily one of the city taking on new services to meet new needs as they arise.

COUNTY AND TOWNSHIP FUNCTIONS IN ILLINOIS

IRVING HOWARDS

Historically, the county in Illinois, in common with counties throughout the United States, has been considered an administrative extension of the state. One of the more famous elaborations of this principle resulted from the decision in the case of *County of Cook v. City of Chicago*,¹ in which the Illinois Supreme Court declared that county and township organizations "are created in this State with a view to aid in carrying out the policy of the State at large, for the administration of matters of political government, finance, education, taxing, care of the poor, military organizations, means of travel, and the administration of justice." The Illinois county, in line with this dictum, does indeed perform basic functions for the state.

In accordance with the "administration of matters of political government," the county plays an important part in the conduct of elections. The county board lays out election districts, establishes polling places, and performs the other procedural and technical aspects of elections.

In financial matters, the county is instrumental to the entire property tax process. In the township county, assessments are made by the township assessors, but correction of inequitable assessments is the responsibility of the county treasurer, of the board of review, and, where one exists, of the appointed supervisor of assessments. In the nontownship county, the county treasurer acts as assessor in an ex officio capacity, and in one Illinois county, St. Clair, an elected board of assessors has the basic responsibility for assessing. The county also plays a crucial role in the computation of property tax rates and preparation of assessment books. Everywhere except where the township collector exists, the collection of taxes is fundamentally the responsibility of the county treasurer in the township county and of the sheriff in the commission county.

In the care of the poor, the Illinois county has an ever-increasing responsibility—primarily as an administrative agency for the state. The entire program of "public aid" is divided into general assistance and categorical aid. General assistance most closely approximates the old poor-relief program, while the categorical program includes old-age assistance, aid to dependent children, aid to the needy and blind, and aid to the permanently and totally disabled. The general assistance program involves

¹ 311 Ill. 234 (1924).

state and local money; the categorical program involves federal as well as state funds.

To administer these programs, each county has established a department of public aid. For general assistance, the township must levy a qualifying rate before the county department of public aid can receive money from the state Public Aid Commission for distribution to the township supervisor. The county board has the responsibility of levying the qualifying rate in the commission county. If the qualifying rate is not levied in the township county, the supervisor has the responsibility of distributing aid within his township at his discretion. If it is not levied in the nontownship county, the county board, through its appointed overseer of the poor, has a similar responsibility.

In March, 1958, only 238 of the 1,456 governmental units in Illinois with responsibilities for distributing general assistance levied the qualifying rate. Of this number, only 82 local governments, including Chicago, received state aid during that month. This, then, suggests that many of the governmental units levying the qualifying tax refuse aid from the Public Aid Commission in order to escape the accompanying regulations and supervision.

Where categorical programs exist, the county department of public aid acts as the sole administrative agency, distributing the money to the township supervisor (or the overseer of the poor in the commission counties) according to rules detailed not only by the state Public Aid Commission, but by the federal Social Security Administration as well.

The county's activity in the area of public health is certainly one of the basic services performed by the county for the state, even though this service is not mentioned specifically in the definitive case of *County of Cook v. City of Chicago*. It has already been noted that single- or multiple-county departments of public health, if approved by the voters, may be established in the Illinois county. The state encourages the creation of county health departments by providing that if a department meets standards set by the Department of Public Health, it will be subsidized in the amount of one dollar for each raised locally or thirty cents per capita, whichever is the lesser. Eighteen counties, in addition to their responsibilities through the county health departments, have taken advantage of statutory provisions to establish county tuberculosis sanitarium.

Highway construction and maintenance, which fall within the definition of "means of travel" as outlined in *County of Cook v. City of Chicago*, constitute another area where the county acts fundamentally for the state. A superintendent of highways is appointed in each county, presumably with the advice and consent of the Illinois Department of Public Works and Buildings. The superintendent of highways has the responsibility of repair-

ing, constructing, and maintaining roads and bridges within the county. Historically, the Illinois county has had joint responsibility with the state and the township (and the road district in the commission counties) to provide highway facilities. Under the State Aid Law passed in 1913, the state and the county shared equally the cost of constructing roads. Although this law is no longer in effect, the county still receives financial aid from the state in the form of 12 per cent of the motor fuel tax collected in down-state counties and 11 per cent in Cook County. In addition to this, counties under 500,000 population, after levying a qualifying rate, receive federal monies through the Department of Public Works and Buildings for construction and reconstruction of highways in the Federal Aid Secondary System.

In the areas of education and the judicial processes, the Illinois county also plays the role of administrative unit for state functions. Thus, part of the state's attorney's salary is paid by the state, and the entire local court structure spends much of its time expediting matters of state concern. The county superintendent of schools is in a very large sense an agent of the state superintendent of public instruction. For example, the county superintendent acts as adviser and assistant of teachers and school officers; is responsible for improving the standards of teaching and the condition of the common schools in his county; and supervises examinations prepared by the state Teacher Certification Board for candidates applying for temporary teaching permits.

Although it is true that the county in Illinois performs many basic functions as an administrative unit of the state, it would be an error to assume that the county performs no functions of a municipal character. Even within the fabric of the state-local responsibilities of the county, creation of tuberculosis sanatoria and county nursing homes suggests functions performed primarily for the county's citizens. And certainly some of the services offered in the areas of health, finance, highways, and judicial administration are performed by the county as a governmental unit in its own right. There are other areas, however, where the Illinois county more clearly approximates a municipal corporation acting with only nominal responsibilities to the state.

For example, in Illinois the county has some very specific responsibilities in the area of planning and zoning. Under an act of 1935, as amended, a county board may regulate the use of buildings, structures, and land and may specify certain districts in order to implement its zoning edicts. Statutory restrictions upon the zoning of agricultural land confine this authority primarily to urban and semi-urban areas within the unincorporated portion of the county. Under this statute, sixteen counties have adopted zoning ordinances.

As an elaboration of the county's basic responsibility for planning and zoning, especially in urban areas, the statutes provide that counties may join in a regional planning commission and advise the governmental units therein on problems associated with the development of the region involved. In 1957 the General Assembly extended the planning responsibility by passing the Metropolitan Area Planning Act. Under this act, the counties of Lake, Cook, Will, DuPage, Kane, and McHenry joined to establish the Northeastern Illinois Metropolitan Area Planning Commission. The Commission acts in an advisory capacity in order to coordinate and guide the proper development of water supply; storm water and sewage disposal; integrated air, water, rail, and highway transportation; the orderly arrangement of land for residential, commercial, industrial, and public improvements; and local municipal and governmental services.

The obligation of the county in many of these areas is not new. The county has had for some time general responsibilities to prescribe rules and regulations governing streets, public grounds, water supply, sewage, and similar matters within its unincorporated areas.

Financial responsibility of the county goes beyond the traditional area of acting as the major agency for the property tax cycle or as the collection unit for state motor fuel and retail occupation taxes. The county board very definitely has obligations as the fiscal agency for the county, including the power to prescribe the maximum fees which fee officers may retain for personal salary and office hire. Accordingly, the board prepares a budget outlining the county's functions and financial needs and then levies the tax required to meet its financial obligations. The board may utilize a county retail occupational tax along with the usual property tax for its primary sources of local revenue.

In addition to the major municipal-type functions mentioned, the county has many miscellaneous responsibilities which can legitimately be placed in this category. Thus, the county may acquire and maintain airports; determine the kind and number of licenses which may be issued for establishments selling liquor; control the number of transient lodgings, such as trailers and motels; contract with any other governmental unit for the disposal of garbage; purchase or lease a radio broadcasting station for police or fire protection; own and operate historical museums; establish and supervise parks, playgrounds, and other recreational facilities; and establish a county library system.

Structure of the County and Township

The effective carrying out of all these functions is made difficult by the fantastic number of boards, commissions, officers, and employees existing in county and township government. A brief summary of county structure will give some idea of its complexity.

Three possible county governing boards exist in Illinois: the three-member board in the nontownship county; the supervisor-county board in the township county; and the fifteen-member Cook County board. Along with the county board, there exist several mandatory constitutional officers within each county—county clerk, county treasurer, state's attorney, sheriff, coroner, and county judge. These constitutional officers, along with the county superintendent of schools, the county superintendent of highways, and the recorder of deeds, form with the county board the nucleus of what is generally understood to compose the county in Illinois. However, present-day county government encompasses far more than this traditional listing of specific offices.

In Illinois there are five possible county agencies or individuals which have major responsibility in the area of assessing. (This listing does not include the various boards of review which also have duties in this field.) These include the county treasurer acting as assessor in the nontownship county; the county treasurer acting as supervisor of assessments; the board of assessors in counties of 150,000 to 500,000; the elected county assessor in Cook County; and the appointed supervisor of assessments in the township and commission counties. It must be emphasized that this listing ignores the township assessor, who is, without question, the most important individual in this area in Illinois local government.

Illinois statutes provide for four possible tax-reviewing agencies and two county agencies for collecting taxes. The county board acts as board of review in the nontownship county; the three-member board of review, consisting of the county chairman and two members appointed by the county board, exists in the township county; counties between 150,000 and 500,000 have separate statutory authorization to establish a board of review; and finally, a two-member board of appeals exists in Cook County. In regard to county collection agencies, the county treasurer in township counties is ex officio collector; in the nontownship counties the sheriff acts in the same capacity. And these collection procedures make no mention of the township collectors who still operate in five Illinois counties.

Four distinct provisions exist in Illinois law for county auditing. Thus, county boards in counties with a population of less than 75,000 may appoint an auditor. In counties of 75,000 to 300,000 population, an auditor must be elected. In Cook County an auditor is appointed by the county board, while at the same time the county clerk, in an ex officio capacity, acts as comptroller with specific auditing responsibilities.

In the area of judicial responsibilities, the situation is no less confusing. Eleven separate judges or agencies can deal in a judicial process in which the county has some interest. These include the county, probate, and circuit judges; the clerk of the circuit court; the public defender; the

superior judges elected in Cook County; the clerk of the superior court; the clerk of the criminal court; the probate clerk; and finally, probation officers and jury commissioners. This listing does not include a state's attorney for each county and the justice of the peace, who is now a judicial officer of the county.

Two statutory possibilities are available under which the county may operate in the area of health. In the nontownship county, if there is no board of health established under the sponsorship of the state Department of Public Health, the board of commissioners acts as a board of health ex officio. Where the citizens of the county vote to establish a county board of health, such an agency is created, regardless of the form of county government, under the express guidance of the Illinois Department of Public Health. Multiple-county departments of public health are also possible. In township counties which do not have a county board of health, each township establishes a board of health consisting of the township supervisor, clerk, and assessor.

The structure of the county is burdened further by the existence of nine different boards (other than the county governing board and the boards of review), ten miscellaneous agencies, and a judicial advisory council. The boards include county boards of health for the nontownship county; county boards of health established by vote of the county; boards of directors for county tuberculosis sanitarium; boards of directors for soldiers' and sailors' burial grounds; county boards of education; boards of zoning appeals; retirement boards; county library boards; and county boards of visitation. The miscellaneous agencies vary from the superintendents of county homes to the cemetery trustees.

The governing body of the eighty-four township counties does nothing to diminish this unusual governmental superstructure. In township counties the board consists of a supervisor elected from each township without regard to population. This supervisor not only serves on the county board, but has responsibilities within the township which include being on the town board and acting as treasurer for the township and as "overseer of the poor." In addition to the regular township supervisors, assistant supervisors, who have no township responsibilities, are also elected to serve on the county board depending upon the population of the county. In counties having a population of less than 90,000, each township with a population of 4,000 or more is entitled to one assistant supervisor; the township gets an additional assistant supervisor for each 2,500 population or fraction thereof. Counties of 90,000 or more but of less than 150,000 are entitled to one assistant supervisor whenever a township has a population of 5,000 or more and to an additional assistant supervisor for each 5,000 population or fraction thereof. Finally, counties having a population of 150,000 or more

(except Cook) are entitled to one assistant supervisor whenever a township has a population of 7,500 or more and to an additional assistant supervisor for each 7,500 population or fraction thereof.

The inevitable result of this kind of representation is an inordinately large board. In Illinois the board in township counties varies in size from four to forty-nine members (based on the 1950 census). The median size of the township county board is twenty-one. Twenty-four counties have boards of thirty or more members.

Comparative County and Township Systems

The structure and functions of the county and township in Illinois are bound, as we have seen, to the rigid theoretical base of subservience to the state enunciated in *County of Cook v. City of Chicago* and implemented by innumerable constitutional and statutory provisions. The end result is an extremely complicated and delimited structure circumscribed to such an extent that experimentation is difficult. An examination of what is occurring in some other states will demonstrate this point.

In Illinois the township exists in essentially the same pattern in eighty-four counties and in the unincorporated areas of Cook County, regardless of the local needs of the area involved. The structure, in part because of constitutional prescriptions and in part because of lethargy, has not changed significantly since the present constitution was written. This is not so in some of the other township states in the midwest.

Much of the experimentation associated with township structure and functions has resulted in the outright diminishment of township powers. Thus, in Michigan the township no longer has responsibilities over township roads, whereas in Minnesota more and more township roads are being integrated into the county and state systems. In Ohio the importance of the township as a unit of government has been greatly reduced — in 1913 appraisal of real estate was transferred to the county; in 1919 health administration was taken over by general health districts; in 1925 personal property tax assessment was transferred to the county; and recently the justice of the peace courts were abolished.

Attempts have also been made to give the township government more autonomy in the hope that this will result in township government more suitably tailored to local conditions. Thus, Indiana permits the classification of the township into ten categories based on population and valuation, whereas Wisconsin, Michigan, and Minnesota permit the township to be organized as a corporate body.

The Illinois county, as we have seen, is an almost unbelievable, well-nigh incomprehensible array of boards and officials, in large part the result of excessive constitutional provisions and statutory mandates. The county, attempting to perform within this complex not only the traditional

functions, but an increasing number of municipal obligations, has had a difficult time in Illinois. In view of practices in other states, as well as of the experience in Illinois, a number of alternatives might be considered.

One of the obvious necessities is the reduction of the excessive constitutional and legislative prescriptions throttling the county. This would require a recognition that even though the county must continue to play an ever increasing role as an administrative unit of the state, it must also play an important part as a governmental unit meeting problems of a local character. As developments throughout the United States indicate, once this principle is accepted by the state and implemented by local county officials, the number of possibilities for the county is almost endless.

For example, California, Maryland, Texas, Ohio, Washington, and Missouri grant charter-making powers by constitutional provisions to all or part of their counties. In addition, some states have permitted specific counties to choose their own governmental structure in order to meet problems of a local character. Dade County, Florida, is one of the more famous examples of this policy. The charters adopted have frequently resulted in county governments with more dramatic executive leadership and more simplified structure than is the case normally.

Recognition that the county as a local governmental unit requires freedom to experiment need not result in the rather drastic changes which usually accompany the installation of a completely new charter. In Illinois, for example, we have noted the existence of a variety of elected officials who assume *ex officio* responsibilities in other areas. This unofficial type of office consolidation, if carried out in a more intensive fashion, as in Michigan, might aid in simplification of county structure and result in better performance of duties. Illinois also has had experience, albeit rather limited, with functional consolidation. The most obvious example is the operation of multiple-county health departments in Southern Illinois. In Louisiana, Minnesota, Missouri, Georgia, California, Nevada, Ohio, Pennsylvania, and Wisconsin, this policy is followed on a more extensive basis for such functions as libraries, recreational facilities, airports, fire protection, water supply, sewage disposal, and drainage. Los Angeles County in California has had an especially successful experience in arranging contractual agreements with the various municipalities within its boundaries to supply such basic services as police and fire protection as well as sewage disposal and water. Such agreements can also be arranged between counties.

In Illinois, classification of counties exists for certain purposes. As we have seen, counties are divided into three categories for fee purposes, with Cook County being in a class by itself; counties with a population of 15,000 or less may have a higher corporate rate by action of the county board than

any other counties with the exception of Cook; counties with population of 125,000 or more must have a probate judge, whereas counties with a population from 70,000 to 125,000 may if they wish; counties of over 35,000 population must have a public defender; and counties of 75,000 to 300,000 must elect a county auditor. Legislation pertaining to "counties of over 500,000 population" is classic in Illinois, and legislation for other urban counties is becoming more common. The constitution takes special note of Cook County government, as we have seen, by prescribing that it shall have a fifteen-member county board, with ten elected from Chicago and five from the "towns outside of said city."

Classification examples, then, which by implication recognize that the needs of the county vary, are numerous in Illinois. Illinois is joined in this knowledge by the states of Indiana, Wisconsin, Michigan, and Minnesota. A more complete awareness of this point, short of the adoption of special legislation on an excessive basis, would allow clear-cut distinctions to be made in the number of officials elected in and the duties required of counties in various parts of the state.

Whatever policy is adopted will require a clear recognition that the labyrinth of governmental structure and functions which have developed through the territorial and constitutional period and which have been implemented by statutory enactment, court decisions, and outright lethargy makes difficult the effective operation of the traditional as well as the newer corporate functions of the county. The preservation of the county and, to a lesser extent, of the township in Illinois depends directly upon a frank evaluation by state and local officials of the problems which emanate from this complicated situation.

APPENDIX

NUMBER OF LOCAL GOVERNMENTAL UNITS IN ILLINOIS, BY COUNTY, 1957^a

County	Total (including county gov't)	Municipalities	Townships	School districts	Special districts	Exhibit: Inter- county units — municipalities	Exhibit: Inter- county units — special districts
Adams	71	12	23	16	19	..	2
Alexander	25	3	..	11	10	..	1
Bond	21	7	9	2	2	3	2
Boone	24	3	9	5	6	..	..
Brown	17	4	9	1	2	..	1
Bureau	133	23	25	53	31	..	4
Calhoun	17	5	..	8	3	..	2
Carroll	51	7	14	19	10	..	..
Cass	35	5	11	4	14	..	..
Champaign	156	21	29	21	84	1	3
Christian	73	13	17	10	32	1	3
Clark	32	4	15	6	6	..	..
Clay	46	6	12	22	5	..	..
Clinton	59	12	15	17	14	2	3
Coles	46	6	12	3	24	..	4
Cook	446	102	30	156	157	4	7
Crawford	41	6	10	12	12	..	..
Cumberland	21	4	8	2	6	..	2
DeKalb	69	12	19	16	21	1	4
DeWitt	49	7	13	4	24	..	7
Douglas	58	8	9	5	35	1	5
Du Page	129	19	9	59	41	..	1
Edgar	80	8	15	7	49	..	4
Edwards	11	4	..	1	5	1	1
Effingham	41	10	15	5	10	..	..
Fayette	55	7	20	6	21	..	1
Ford	49	9	12	9	18	..	12
Franklin	75	14	12	42	6	2	..
Fulton	91	20	26	22	22	..	2
Gallatin	30	7	10	5	7	..	..
Greene	42	9	13	8	11	..	1
Grundy	63	13	17	28	4	1	1
Hamilton	39	5	12	15	6	..	..
Hancock	92	15	25	40	11	..	1
Hardin	22	3	..	17	1	..	1
Henderson	45	7	11	19	7	1	3
Henry	75	15	24	11	24	..	6
Iroquois	158	21	26	21	89	..	6

^a Source: U.S. Bureau of the Census, *U.S. Census of Governments: 1957*, Vol. VI, No. 11, "Government in Illinois" (Washington, D.C.: U.S. Government Printing Office, 1959), pp. 21-28.

County	Total (including county gov't)	Munici- palities	Town- ships	School districts	Special districts	Exhibit: Inter- county units — munici- palities	Exhibit: Inter- county units — special districts
Jackson	67	11	16	26	13	..	..
Jasper	41	7	11	11	11	..	2
Jefferson	65	8	16	35	5	..	1
Jersey	22	6	11	1	3	1	3
Jo Daviess	50	10	23	10	6	..	3
Johnson	37	7	..	24	5	..	1
Kane	60	18	16	9	16	..	4
Kankakee	100	15	17	19	48	2	..
Kendall	49	7	9	17	15	..	4
Knox	56	13	20	6	16	1	3
Lake	153	24	18	69	41	1	2
La Salle	135	23	37	52	22	1	9
Lawrence	55	6	9	24	15	..	2
Lee	67	12	22	10	22	..	2
Livingston	89	14	30	27	17	2	7
Logan	69	10	17	26	15	1	2
Macon	76	9	17	9	40	..	9
Macoupin	68	25	26	10	6	..	..
Madison	98	24	24	15	34	1	3
Marion	73	14	17	33	8	..	1
Marshall	38	7	12	10	8	1	4
Mason	66	9	13	25	18	..	..
Massac	21	3	..	13	4	..	..
McDonough	46	10	19	7	9	..	3
McHenry	87	18	17	31	20	1	2
McLean	99	19	30	18	31	..	7
Menard	16	5	..	5	5	..	2
Mercer	45	9	15	12	8	2	1
Monroe	21	6	..	3	11	..	2
Montgomery	62	19	19	5	18	..	7
Morgan	26	10	..	5	10	..	3
Moultrie	35	6	8	3	17	1	6
Ogle	86	10	25	43	7	..	7
Peoria	109	13	19	56	20	..	2
Perry	31	6	..	20	4	..	..
Piatt	50	8	8	6	27	1	12
Pike	61	17	24	8	11	..	2
Pope	27	3	..	20	3	..	1
Pulaski	33	7	..	19	6	..	1
Putnam	31	5	4	15	6	..	2
Randolph	33	14	..	14	4	..	2
Richland	21	5	9	2	4	..	..
Rock Island	61	14	18	14	14	..	5
Saline	57	6	13	27	10	..	3
Sangamon	92	24	27	15	25	..	4
Schuyler	27	4	13	1	8	..	2
Scott	15	7	..	1	6	..	2
Shelby	56	11	24	11	9	..	9
Stark	35	4	8	16	6	..	2
St. Clair	120	27	22	44	26	2	4

County	Total (including county gov't)	Munici- palities	Town- ships	School districts	Special districts	Exhibit: Inter- county units — munici- palities	Exhibit: Inter- county units — special districts
Stephenson	51	11	18	8	13	..	5
Tazewell	98	16	19	40	22	..	4
Union	30	6	..	19	4	..	3
Vermilion	150	20	19	58	52	..	11
Wabash	23	4	..	2	16	..	2
Warren	40	5	15	14	5	..	3
Washington	57	11	16	24	5	1	1
Wayne	65	8	20	23	13	..	1
White	53	9	10	18	15	..	3
Whiteside	128	11	22	69	25	..	7
Will	109	19	24	41	24	1	12
Williamson	41	15	..	19	6	1	..
Winnebago	87	9	14	38	25	..	2
Woodford	53	12	17	10	13	1	3

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