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RELATIONS

DR. RICHARD FROST'S PRESENTATION TO HOME RULE CHARTER COMMITTEE  
TUESDAY, APRIL 13, 1965

Mr. Chairman:

My only affidavit for taking your time is that my business is the study of local government. I have had very little experience in local government, although I served in New Jersey on the State Planning and Zoning Board, and I ran for office in a 9 to 1 Republican town on the Democratic ticket so I wouldn't have to do the job after the election.

What I would like to do is merely toss out some views of my own for a very short period, because I suspect that the last thing your group needs is some formal lecture from an academician - and then stop, Mr. Chairman, and see what you people want to talk about because you are the ones that have the responsibility to proceed here, and I don't.

First, I would like to separate absolutely the question of metropolitan problems from the question of internal organization of any local government whether it is the city, county, special district, or what have you. The metropolitan problem in America is one with which you are all very familiar.

Forms that governments are taking in this country are moving in a definite direction after a century of clumsiness and great trouble. Since World War II, a lot of progress has been made.

I suppose the prime function of groups such as yours all over the country has been to do one monstrous thing, and that is to merge administrative competence with a responsive political leadership. There has been a number of ways tried - everything from commission forms of government (to reduce the number of elected officials starting about 1905) all the way to manager forms, strong mayor or county executive forms, etc. But all have strived, and I think bravely but with not considerable success, to merge administrative competence with responsive political leadership. That has been the problem in this country. In other countries

there is a different problem. If we believe in the 'democratic process, we also believe in something called efficiency and economy. It must specifically become merged with competency and a noticeable, visible, responsive, political leadership.

Now, how to do it? Typically, in the cities of the country, the trend is toward the executive mayor system. Whether in San Francisco or New York or St. Louis or Pittsburg (you name it), in the cities that are "on the make" - that are visible and you hear a lot about - that when you re-visit, you notice are rather different places than they were, you also notice a very direct correlation between that and the fact that they probably have recently switched over from one of the older forms to something called the strong mayor system, or the executive mayor system, or what have you.

I personally feel that the same forces are at work in metropolitan counties. I am glad they are at work. This isn't to criticize those who operate what I think are obsolete structures. When one says that those structures are indeed obsolete, the time has come to tool up for what I know you people know better than I is a kind of monstrous governmental structure in urban America.

Two-thirds of all the American people live in cities. 95% of all the new population is occurring in cities, and yet our governmental structures at the local level historically have been rural in nature and rural in their organization and structure. I repeat, one is not criticizing the members of the board of county commissioners or members of the board of supervisors in counties that have boards of supervisors, when one merely notes in a kind of ho-hum way that the forces at work in metropolitan America depend upon these structures.

My personal view (and it is purely personal) - I am in the camp that likes the separation of powers system of this country, that for all its troubles approves of a presidential - congressional system at the national level, approves of the gubernatorial - legislative system at the state level, and, If I could play God and do whatever I wished to do locally, I would approve of a politically visible

executive leadership which must cope with a legislature. Legislators and political executives have very really different functions. Neither can stand alone, neither can be a substitute for the other. Both, in my judgment, make up the kind of a checks and balances system that is pretty good government in this country.

At the national level we don't elect the Secretary of Commerce, the Secretary of State, the FBI Director, and 29 other people. Most states are switching from numerous elected officials over to either one or very few elected officials. The executive system in the new constitutions for Alaska and Hawaii (the newest ones we have) are both political executive systems where they elect the Governor and, I think in one case, the Secretary of State who succeeds to the governorship. Of the old 48 states, the newest constitution is New Jersey, adopted in 1947. The Governor of New Jersey is the only elected official, the only executive elected official, in the state. He appoints everybody with the consent of the senate. And so on down to local government. The city commission form in Portland or Salt Lake City, St. Paul, Memphis, or wherever you see it (incidentally, you only see it in those places and Portland, if it works very hard, may be the last to have this form) the committee form, or government by committee, was a great improvement over what it replaced at the turn of the century. But, it too has run out of nuts and bolts, and it too simply can't provide the structural response to a very serious set of complicated urban problems. It too must go and sure as we are all sitting here, one day it will. It is just a question of time.

So, on to the question of the metropolitan county. I think the same forces are at work and I think they suggest the same type of policy. I would personally like to see some kind of elected political executive for a county such as Multnomah or Lane County which surrounds Madison, Wisconsin or Onadaga County which surrounds Syracuse, New York. You name it - there are a lot of urban county phenomenon that are like Multnomah County. My own recommendation is an elected political executive and, again, a legislature and the link between the two,

in my judgment, produces the kind of visibility and ventilating of problems which are the grounds to make progress.

I have probably said enough, Mr. Chairman. I think I have pleased some of you, upset some of you, bored some of you, so why don't I just leave it there and see what you want to talk about?

QUESTIONS ASKED OF DR. RICHARD FROST BY THE HOME RULE CHARTER COMMITTEE  
TUESDAY, APRIL 13, 1965

Miss Elliott: I would like to have Dr. Frost elaborate on the last portion of what he thinks the executive structure of the county should be. What kind of elected executive?

Dr. Frost: Well, I don't much worry about the title you give to him, but I think there ought to be an elected political executive - a county mayor - a county president - a county chairman - whatever seems to fit the political sanction, whatever word - who would be elected at large - who would be well paid. I would suggest that the way to merge administrative competence with responsible political leadership would be to provide for, under him, an appointed and well paid administrator of some kind under whom all the county departments existed. Thus you create a pyramid, a typical pyramid, like the federal government or many cities. Were a man of incompetence elected, and if he became an outrage, he could be beaten or recalled. On the other hand, working with him on programs aren't a whole series of other elected people, so that you have many political parties in search of a county to run. This is what happens when you have too many personal political parties.

Now, I know, (and you people know even better) that this has been an older American phenomenon, a Jacksonian phenomenon, that we ought to elect as many people as we can for short terms. This was Jackson's response to upper class hedgemony over government in this country. It was, I think, an appropriate response at the time. The ripple effect of it lasted for decades and we elected scores and scores of people. In fact in New England they still elect a barrel stave inspector in Plymouth, Massachusetts and a fence viewer in Portland, Maine. His responsibilities have been taken over by the zoning office, but he is still on the ballot. I suppose New England enjoys the touch with the past to elect a fence viewer but it is obsolete and nostalgic, and I think to elect constables and all sorts of executive functionaries in a county or a city or a state or a nation, while it does produce a certain amount of democratic response, it also produces a good deal of confusion and, in my judgment, the balance is in favor of not electing these officials.

Mr. Krieg: You say that you believe in the principal of balance, such as an administrator and a law making group or legislative group. With the elected executive which you have just been discussing, would you also have an elected commission of some sort?

Dr. Frost: Yes. I would like to see (again, with whatever you people thought was an appropriate title) an elected legislature for this county. Hopefully, at large, but I don't feel very sticky about that. I would almost be willing to see some kind of districting so that Gresham would be surely represented on that legislature and parts of Portland would be too. I think that could be worked out appropriately. Some people insist on having every legislature at large. I don't feel very strongly about that.

Mr. Krieg: Were you thinking of part time?

Dr. Frost: Oh, yes. Part time, \$5,000 a year, meet Monday afternoon or whenever, to have full power to ordinance under home rule, and I would give the county executive veto which could be overrun by that legislature. Then, again, there is always debate on whether it should be 50% to override or 66-2/3% or you name it.

Mr. Krieg: One step further along this line. If you have representation by districts or areas, what would be your thinking as far as partisan or non-partisan?

A. That is another kind of question, and it depends upon the area. Oregon, Washington, California, and the Rocky Mountain states, as you know, have very underdeveloped political party systems. On the other hand, the Eastern Seaboard has what I think are overdeveloped political party systems. At least, I held a lot of patronage jobs which seemed to me were wrong. I don't know. Multnomah County has partisan elections. It may be that it would be preferable to continue with that. I think on balance it probably would be. That would be my guess. I would like to say, the less amount of stark change you have to make, the better off we always are in these things when it comes to referendum. I think I would probably continue the partisan system in this country. I don't think it would hurt as much, and I think it might encourage more party responsibility in the Western states and in Multnomah County, and I think that would be alright. I don't know how you feel about it. As you know, it is six of one and half a dozen of the other. Honest people disagree. It might be you do too about that.

Mr. Swan: How large a board are you considering?

A: Well, Sir, they go in Missouri and New York State up to 60 or 80 members. I have always found these elements perfectly absurd. I would think somewhere between 8 and 16 would be a workable number. Again, what you are looking for is representation and, secondly, a divisibility into good working committees so that 8 may be to little. Upwards to 15 or 16 does give you standing committees of 3 or so that can really go to work, and you have enough people to divide up the labor.

Mr. Sonderen: Well, Dr. Frost, wouldn't it be adding to the taxpayers burden by getting a lot of legislatures in here at \$5,000 a year and still have all these departments.

A. Well, I suppose that symbolically you are adding to the taxpayers burden in the sense that those salaries in total would be more than the three commissioners that exist now. Whether, in fact, that would show up as more than a penny on your tax bill or mine, I don't know. I doubt if it would show up as much more than that. Secondly, as Oliver Wendell Holmes once said, "When I pay taxes, I buy civilization". I must confess I have never understood the willingness to spend money for tooling up the private world we are in, but somehow reluctance to tool up the public world we are in. My institution spends a lot of money trying to do a good job. Yet, somehow, the county isn't supposed to tool itself up or government isn't supposed to tool itself up. Obviously, you and I would certainly have a fairly fundamental disagreement, but that would be my point of view on it.

Mrs. Damskov: Going back to the matter of separating the legislative from the administrative again. Would you see the elected executive presiding over the legislature as a violation of that? I'm thinking of an arrangement somewhat like the Vice-President of the United States presiding over the Senate.

A. Yes, which is again, mostly ritual. He is rarely there and the Senate provides for a pro-tem to do the work. As you know, since Mr. Nixon, the Vice-Presidency has become a quite important executive office. Thanks to President Eisenhower and Mr. Nixon. I don't have any strong view about that, Mrs. Damskov, whether he should preside or not. I think I prefer the more cleanly struck division of letting the legislature elect its own chairman or whatever and have the executive clearly separate, particularly if he can veto. One wonders if you would want him in the body whose actions later he might veto. I tend to think not. It is an impression more than a strong view.

Mrs. Damskov: Are you thinking that possible districting of Multnomah County would represent some real differences of interest among the people of the county or would this be a political thing?

A. Oh, I believe in districting, generally. I'm not sure I could carve out exactly why I think that a representative from Gresham might think differently than a representative from the Eastside of Portland or the Northside of Portland, but I think there are considerable differences and I think they probably ought to be recognized. Suburban areas have different versions of the metropolitan problems and I think they ought to be recognized in such a way that those problems are clearly represented. The converse is what I fear more, and that is that the party system could run a slate of mostly urban or Portland or rural representatives and that the party could get them elected. Then there would be noticeable important areas of the county that would not be represented. I think that would be a shame.

Mr. Brunner: Do you favor the executive being elected on a partisan basis?

A. Well, that is part of the same question this gentlemen asked. My personal view about Multnomah County in that it has partisan elections is that it probably ought to continue.

Mr. Swan: Is the plan you propose in use in any other metropolitan areas?

A. Are you talking about counties or cities?

Mr. Swan: Counties.

A. The county executives in this country you usually find in urban counties. Nassau County in New York has an elected executive. Westchester County in New York.

Mr. Swan: Do elected executives, in fact, usually end up being just political figures or professional people trained in....

A. They are both. Again, I have found it is dangerous to compare a political system like one finds in New York State with Oregon. New Jersey, for example, is a small state you can put in Oregon eleven times, although I wouldn't recommend it. One of the differences is that the parties there are almost wholly professional. They are a business. Some people are in the shoe business and some people in New Jersey are in the party business. They make a living this way. On the other hand, the top executives of government that they nominate are generally pretty good. If you look at the government in New Jersey of either party, Driscoll, Myer, and those people, they have done pretty good, and similarly at the local level. I think it is dangerous to suggest that because the party system is so highly developed and, in my judgment, so suspicious in many of the Eastern cities that that would happen here. I don't think it is a result of the structure there. I think the structure is almost irrelevant to it. In the days of Frank Hague in Jersey City it was a commission form of government. It wasn't a strong mayor government at all. He had no power whatsoever that the other four commissioners didn't have, except that he owned everyone of them. So people say that if we go to the strong mayor system in Portland, we run the risk of a Jersey City. The answer is that Jersey City was a commission form just like Portland. I don't think that structure is the answer to that. I think that I am trying to respond to a set of problems that are rapidly rising and trying to match a governmental machinery to those problems, and, hopefully, that other things won't get in the way or ruin the efforts to do that.

Mr. Swan: Would they have four or six year terms?

A. The executives?

Mr. Swan: Yes.

A. No, at most four. As for the legislators, they are often two, three, or four, and in some cities they can't succeed themselves more than once. Your political executives in Multnomah, if you recommend it and it were passed, I think I would suggest that it be a two term limit as we have at the federal level and the state level. No matter how good a man is, I think after eight years he is a little fatuous to suggest that he has that much more to give us, and, if he isn't very good, I am sure glad that there is a two term limit.

Mr. Sonderen: Do you believe that a strong executive type of government in the county could operate without this additional legislative board effectively? That is to say we now have a legislature who gives the county commissioners their laws to be operated under.

A. You mean the state legislature?

Mr. Sonderen: Right.

A. I may misunderstand Oregon's home rule process, but in most home rule processes a group like this recommends not only the structure but the powers of the government and I don't know (Mr. Merrell maybe could clear it up for us) how big are the enabling acts under which counties in Oregon take on power. Are they plenary? Can they take on all functions the cities have?

Mr. Merrell: Yes.

A. Well, in that case, I should think you would want to award such a county government all of the powers that the City of Portland or anybody else had, to cope with what are now some very complicated urban problems.

Mr. Sonderen: Then you believe it would probably be a unwieldy situation unless you could have a local legislature to establish your local law as it pertains to Multnomah County rather than sending them on to the state legislature?

A. Yes, if I understand your question. I would hesitate a great deal and always have to the suggestion that a state legislature meeting from time to time in Salem can decide Multnomah County's problems. I just don't believe they can. I think that has been one of our problems for a long time. In fifty states, not just Oregon. Legislators from 500 miles away in some desert country are telling an urban area how to cope with their problems.

Miss Elliott: Is there anywhere where there might be a legislative commission that wouldn't be paid anywhere near the sum that you mentioned, but would serve almost on a patriotic gesture with a per diem, say, for the meetings they have? Is there such a thing?

A. There isn't to my knowledge, but I don't have any strong view about it. I think in a sense one hesitates to ask people to run for things that are going to cost a lot of money. I think I would worry about that. As the man in the store says, "If the \$2.00 ties won't sell, mark them up to \$10.00 and somebody will buy them". I would hesitate to see an office which would cost you or me, say, three or four thousand dollars to run for out of my pocket or somebody else's pocket who then would have a hand in my pocket. I would be a little concerned about that.

Mr. Anderson: You say you favor the elected executive which means that you have some reservations as to the manager form or the chief administrative officer form for some reason.

A. Well, again, I must merely express my own stance with regard to the argument about this all over the country. I personally prefer elected political executives in this country, as that has been the American tradition right from the start. Real power in America is almost always elected. It is almost never appointed. My observation of manager plans in big cities has been that they have had great difficulty, since the manager was not directly mandated by the constituency. He was an appointee of the legislature. What that produced was administrative competence, but it didn't produce effective political leadership with it. I think that is where the trouble is. Manager plans for small towns, on the other hand, I am much more favorable to, but not in big cities. Interestingly enough, of the fifteen biggest cities in America, only San Diego and Cincinnati have the manager plan - an appointed political executive. I think appointed political executives have not been the American tradition, and I'm not sure I like to see them encouraged. That is, appointed political executives. I would rather see one elected, but working for him, a chief administrative officer of some competence, and in that way, try to merge the competence with the responsive leadership that I think makes the ticket at any level.

MR. ROBERT MYMAN'S PRESENTATION TO HOME RULE CHARTER COMMITTEE  
APRIL 27, 1965

First of all, let me say it is a pleasure to be here today. I have at least a half-way interest in what you are considering and what you will recommend. I want to qualify my comments by saying that basically I am not here today to tell you what is good for Multnomah County, but I would like to tell you what I think is good for county government in general. I think that although I may appear a little dogmatic in presenting some of the arguments that I want to provoke thought with today, I would like to say that I would probably agree, when the chips are down, that almost any form of re-organization would be superior to county government now, particularly as you find it in Oregon State. That will probably be all the general comments I shall make. I will be, of course, vulnerable to questions after these comments, and I will not run from them.

I would like to talk, if I may, about the manager plan since this is the plan that I have had the most experience with - actually nearly eight years now - in county government and some cities before that time and with private organizations. One of the basic features of the manager plan which I think you have all heard before but maybe we ought to think about a little more is that responsibility for overall administration is typically centralized in one position where you can pinpoint responsibility. This means, in effect, that non-political matters (and that means non-policy matters) are handled by someone who is not a policy maker and is non-politically motivated, we hope. This, I think, has its strongest value not in efficiency but in the fact that the legislative body can more easily check on the administrative body. I think also (which is to me important) it minimizes "buckpassing". The manager is someone who can be removed by the legislative body who is ultimately responsible for administration. Also, I think that this type of administration is professional in nature based on choice not chance. Experience would logically play a very important part in selecting an administrator, and hopefully, the experience would be in local government. I have found some problems with selecting outside of local government, not so much with the agency but with the problem of adjusting, because local government, particularly on the county level, is extremely different than any other type of government. Of course, the same is true of private enterprise.

The third point I would make in my general statements is that the manager form, I think, is the logical way to run an organization. Major business firms almost always use this form and I don't think many of us would think of running our own private businesses in any other way. Most of us probably wouldn't run our homes in any other way (although this can be subject to confusion so I have avoided the real problem by not saying that the husband should be the administrator - it may be the wife).

Those are my generalization about what I think the manager plan is. I haven't gone into all the typical details because you can read these and probably already have. I am sure most of you know from your own experience what I am talking about.

I would like to then go to brief discussion and some demonstration of just how broad the manager plan is in use today. I think it is kind of interesting and I found out quite a bit more in doing research prior to attending this meeting. You will see as we go through the political divisions that the largest user of the manager plan is the county government - not the city government. Let me read just a few of the larger communities in the United States today that use the manager plan. This is the manager plan as dogmatically and arbitrarily defined by the International City Managers Association and I will explain a little more on the caustic remarks I am making at this point relative to ICMA of which I am a member.

	<u>Population</u>
Phoenix, Arizona	447,000
Oakland, California	367,599
Long Beach, California	344,000
Sacramento County, Calif.	650,000
San Diego, California	628,000
San Jose, California	288,000
San Mateo County, Calif.	508,000
Santa Clara County, Calif.	811,000
Dade County, Florida	935,000
Miami	291,000
Fulton County, Georgia	556,000
Des Moines, Iowa	209,000
Wichita, Kansas	254,000
Montgomery, Maryland	340,000
Flint, Michigan	196,000
Grand Rapids, Iowa	202,000
Kansas City, Missouri	475,000
Albuquerque, New Mexico	201,000
Monroe County, New York	586,000
Yonkers, New York	190,000
Charlotte, North Carolina	201,000
Forsythe County, N.C.	189,000
Milford County, N.C.	246,000
Meckleberg, N.C. (County)	272,000
Cincinnati, Ohio	502,000
Dayton, Ohio	262,000
Toledo, Ohio	218,000
Oklahoma City, Oklahoma	324,000
Austin, Texas	186,000
Corpus Christi, Texas	172,000
Dallas, Texas	679,000
Ft. Worth, Texas	356,000
San Antonio, Texas	587,000
Arlington County, Virginia	163,000
Fairfax County, Virginia	275,000
Richmond, Virginia	219,000
Spokane, Washington	184,000
Tacoma, Washington	150,000
San Juan, Puerto Rico	432,000
Quebec City, Canada	238,000

That concludes basically the list of major cities and counties in the world. Now International City Managers Association covers the whole world although the bulk of our people are in the United States. Those are cities and counties that are classified as council - manager cities or counties by whatever arbitrary definition, i.e., it meets a certain criteria. One is that the manager must appoint department heads and, too, I believe, he must prepare and submit the budget. This is pretty misleading, because across the country many administrators, although perhaps they do not have the final authority on appointment, do, in effect, have that authority because they make recommendations. In many other places they may have even a lesser function. But, when you think about where are the large counties and cities in the United States that an administrator works full time and who deeply influences the administrative structure and typically supervises, even if he doesn't appoint, then you have to add in quite a few others:

	<u>Population</u>
Maricopa County, Arizona	663,000
Alameda County, California	978,000
Contra Costa County, Calif.	468,000
Fresno County, California	398,000
Kern County, California	312,000
Los Angeles, California	6,500,000
(County)	

If you know Lynn Hollinger who is the county administrator there and you know the organization, you know that Lynn Hollinger is running Los Angeles County and influencing the major decisions that are being made there as a manager should.

Marin County, California	473,000
Monterey County, Calif.	210,000
Orange County, California	970,000

The fastest growing county in the country.

Riverside County, Calif.	369,000
San Bernardino County, Calif.	587,000
San Diego County, Calif.	1,164,000

An outstanding county, and many county managers and city managers in California at one time worked for San Diego County. That is the training field in our business.

San Joaquin County, Calif	265,000
Santa Barbara County, Calif.	226,000
Sonoma County, California	164,000
Stanislaus County, Calif.	167,000
Tulare County, California	179,000
Ventura County, California	252,000
Chapman County, Georgia	188,000
Jersey City, New Jersey	276,000
Newark, New Jersey	405,000
The county in which	
Cleveland, Ohio is located	1,647,000
Hamilton County, Ohio	864,000
Lucas County, Ohio	456,000
The county in which	
Youngstown, Ohio is located	300,000
Plymouth County, Ohio	513,000
Charleton County, S. C.	200,000
Hamilton County, Tennessee	200,000

This is interesting to me because I haven't looked at the list for quite a while and I didn't realize, as most people don't realize, that the manager plan is broadly used and in very large areas.

In the 10,000 to 25,000 group 43% of the cities in the U.S. have manager plans.

25,000 to 50,000	52%
100,000 - 250,000	48%
250,000 - 500,000	40%
over 500,000	19%

I think this is a very interesting documentary of just how extensive the manager plan is. I think most of the political scientists that I know, and I certainly consider myself a political scientist, would say, I think without any equivocation, where the manager plan has been used in the United States you have the most effective local government. It is used in over 2,000 cities and counties at the present time.

I might also add that some of the counties using the manager plan have been rated outstanding. Sacramento County was a runner up in the All American City Award for outstanding local government.

Those are the basic facts and preliminary arguments that I would like to leave you with. At this point I would like to answer questions or debate perhaps a little bit.

QUESTIONS ASKED OF MR. ROBERT NYMAN BY THE HOME RULE CHARTER COMMITTEE

Mr. Swan: What did Washington County have before the charter was adopted?

A. Washington County was organized before the charter in the same way that most of the other counties in Oregon are. They had a three man county court. The head of the county court was the county judge with two commissioners. All three served basically full time handling both policy and administration.

Mr. Swan: The charter provides for your position?

A. The charter provides (and incidentally I brought a copy) that the board must hire a county administrative officer. One of the strengths of this charter in many respects is that it is similar to the U.S. Constitution in that it has a minimum of words and leaves much to be determined by the board. I think this is good because it makes a flexible government subject to change. After all, the board does have to stand election and they are also responsible. But, the board must hire a county administrative officer, and the requirements here are simple and, I think, they cover basically the important things. "He shall be appointed solely on the basis of executive and administrative qualifications, and need not be a resident of the county and state prior to his appointment." The charter requires that the board enact an ordinance (and it had to be enacted within the first year) which provided for the basic reorganization for the implementation of the charter and also assign the various duties and responsibilities. This ordinance (of which I also have a copy) is the basic document that extends to these various departments and myself our responsibilities and duties. I will read down the line what those involve for the position of county administrative officer:

"The Department of Administrative Management shall be under the direction of the county administrative officer. The county administrative officer shall be chief administrative officer of the county and responsible to the board for supervision and coordination of all administrative departments; the administration of policies, rules, ordinances, orders, and regulations adopted by the board; the preparation and recommendation of the annual budget and employee compensation plan; recommendations as to the appointment or dismissal of key administrative personnel; recommendation of policies and procedures; advice regarding the status of county government as it relates to finances, administration, public health, safety, and public relations; the administration of other affairs placed in his charge." In addition, the ordinance goes on to provide that the Department of Administrative Management specifically shall also be responsible for such things as budgetary planning and control; planning, direction, and supervision of internal management organization work methods; purchasing; custodian maintenance of buildings and grounds; supervision of central services, personnel, equipment, and data processing facilities; providing board with current reports; personnel management services not included under the civil service; provide services to veterans; operation and direction of motor pool; civil defense; and on down the line. Those other activities are separated simply because they are typically handled by divisions within the Department of Administrative Management and it was convenient to list it that way. The Department of Finance handles those typical activities found in the county clerk's office, plus those typically found in the county treasurer's office. In other words, both disbursing and the treasurer's functions are consolidated into one department. Department of Revenue and Taxation handles administrative activities of preparing the millage rates and developing the tax roll. It provides for the appraisal activities, which is another division, and then the next division is the collection division which is the activities handled by the Sheriff in most other counties. The Department of Records and

Elections has three divisions. One is the clerk division which is the agency handling the typical county clerk activities, except disbursing. The recording division which handles the recording of writs, deeds of trust, etc. The elections division. So, there are three there. The Department of Public Works in our case right now is handling only two activities - highway transportation and sanitary land fills. The County Surveyor's office is a separate department. The Department of Public Safety is headed by the sheriff who is the only elected department head. It has three divisions; the criminal division, the civil division, and the jail division. The Department of Public Health is self-explanatory and the Department of Planning. There are no elected department heads except the sheriff which was retained in the charter. However, this charter provides, again, for the overall administration being vested in the board and the board can delegate as it sees fit, and it has delegated overall supervision to the CAO. Also, the board has the authority under this charter to revise the county structure in any way it deems necessary. That is a blanket paragraph there which provides them with authority they need in case something happens. They can abolish departments and consolidate departments. Apparently they can eliminate elected departments, they can create policy which provides for the department heads to be elected if they should want to, and on down the line. It is a very broad authority for the board.

Mrs. Nemer: You indicated that in one county (I think it was Los Angeles) that the manager made all the decisions, as he should. If he is the one that is administering the law and he is also making all the decisions, who and what are the elected officials?

A. No. I said he influences the decisions. Which a manager should do, of course. He should, by providing adequate recommendations, well documented by facts, influence the policy that is ultimately decided, but he doesn't make policy. He influences it.

Mrs. Damskov: You said that where the city manager form of government has been in effect we have (am I quoting you right) the most effective government in the country?

A. On the local level.

Mrs. Damskov: What are your standards for judging what is the most effective?

A. Well, my standards would be pretty arbitrary. However, I think the League of Women Voters in some of their studies have concluded this because I think almost throughout the country they have had as a continuing study policy advertence that there be a management form and that administrative policy be separated. The League has consistently had this viewpoint. I would think that most political scientists, if asked, would agree that this is a reasonable statement. I think that the other organizations in the country who are interested would also agree.

Mrs. Damskov: Yes. But, going beyond what the League thinks, or what anybody else thinks, what are the standards they use?

A. I think freedom of corruption is probably one that would rate very highly, and I think that the manager plans being implemented in many communities are the result of a change because of the public's concern over corruption in office.

Mrs. Nemer: Why is a manager less corrupt than an elected official with administrative responsibility?

A. My own opinion would be that he approaches his job with a more professional viewpoint.

Mrs. Nemer: I don't understand what you mean. Why is his viewpoint any different than an elected official's when you give him the same responsibilities?

A. Well, it is awfully hard to define what I mean by a professional viewpoint. I think we have found through time that people who are professionally trained in a particular field, let us say administration, tend to be more concerned with performing in their field than perhaps getting involved in activities that might cause their demise.

Mrs. Nemer: More so than say the governor?

A. I am being very nebulous. I am not implying that people who are not appointed managers are corrupt, but I am pointing out that this has been substantiated by facts throughout the country. Perhaps, corruptness isn't the strongest point, but that would be a point that, I think, the public has viewed in various states across the nation as a motive for enacting manager plans. The county I came from in California has a charter dating back to 1933 which is a spite charter. They obviously didn't trust the board of county supervisors. Throughout the charter you can read these little things that the board shall not do. They shall not do this and not do that, it shall be left to the manager. These features are not used in fact. No manager would be foolish enough to do that, but you can obviously see that the public, and I understand the district too, did not trust the board. They went too far the other way, perhaps, in their spite. But all throughout the country you will find that change to the manager plan has been motivated by, many times, corruption. Now, this doesn't mean you won't have corruption in office. Our organization has removed two members that I know of since I have been in it for unprofessional conduct. One for getting involved in local politics, influencing the election or trying to influence the election of council. Incidentally, this is a little bit corny, maybe, but on the back of this document which you find on the back of most ICMA documents, is the city managers code of ethics. They are pretty meaningful to most of us. We feel pretty strongly about them. We pride ourselves on being professionals. I have seen a lot of good managers in this country resign or be fired because they stood on principals. I think they are less willing to compromise.

Mrs. Damskov: I hope you won't think I am being argumentive, but I don't think this is enough evidence to make you say that the city manager plan is more effective for local government. You can throw out the guy that is in because you don't like him or if he has been corrupt. To my mind this does not make a case.

A. But the public has not usually done this until a crisis developed.

Mr. Anderson: You have listed one item as corruption. What other items are there?

A. I think administrative efficiency because you are hiring someone who, at least a council should, is trained in administration and who has experience. Actually, I think your best evidence can come from unbiased sources that you might want to rely on. I have suggested a few - there are many others. The ones I suggested are the people who have made evaluations and I am sure there are a lot of people who can give you some impartial information.

Mr. Anderson: I think we have material from the League and other sources in that regard. I suppose what we are trying to pin you down to here is the best arguments you have. You have listed two now. One is efficiency and the other is freedom of corruption.

A. Well, under efficiency, we are talking about a lot of things. We are talking about planning, experience in administrative planning of programs. We are talking about handling of personnel, economy. Your imagination is probably a pretty good guide as to how many things are involved here. I am trying to avoid being specific such as ABC so as to avoid insulting your intelligence. These are things most of you know, i.e., what administrative efficiency means.

Mrs. Nemer: Since we are interested in the concept of good government, we are asking questions not in criticism, but in trying to evaluate. For instance, if it is an absolute truth that a hired administrator or manager will always be better than a politician, then why shouldn't we hire a governor?

A. Well, I am talking about the local level. You see, I qualified that, I hope, from the beginning. I am not experienced at the state or federal level. There is quite a bit of difference. I have had experience with people who have come from the higher levels and they have some problems in adjusting. I am not talking about those levels - I am really not competent to speak for them. At the local level, however, I am convinced in my own mind that this is the best way to organize a local governmental agency.

Mr. Etter: I am not sure it is proper for me to ask a question, but I think it is relative to the interchange that is taking place. Do the city managers still cite the conclusions of the book by Stone, Rice, and Stone of about 25 years ago to the effect that the city manager form of government brought the greatest value per dollar of expenditure?

A. I haven't seen this reference lately in the ICMA publications. I certainly would not use it. I might add another extraneous point here, perhaps. I am not sure that our goal should be economy and efficiency in that sense. There are a lot of things that are more important. One is effectiveness. How effective is the government being served. I think this can be done with economy and should be a goal. But, again, I want to emphasize that so many times people think we are going to save money by reorganization, and usually we do, but I am not sure that this is the most important end goal. Effective government is a lot more important I think. Sometimes we have to spend money, as you all know, to save money. I think a good example is Washington County where we have spent the money and planned the return for it.

Mr. Sonderen: In your county you have three commissioners that act as your legislature, so to speak?

A. Five.

Mr. Sonderen: In these other counties that you have cited, is there any amount that is recognized as the most efficient?

A. This is probably the most nebulous thing in the world to arrive at a conclusion about - about as nebulous as the concept of span of control. How many people can someone supervise - I don't have the answer. Los Angeles County still has five. Five is a reasonably good number. You can argue that five doesn't provide enough people to effectively represent the full community. It is hard to argue against it. It is also hard to argue for it.

Mr. Swan: As I recall, yours are elected by district, are they not?

A. Three by district - two at large. This is, incidentally, not a bad way to do it. It tends to take care of both of the problems. One, that you are concerned about the geographic representation and also the concern about if they are all elected by district, won't you have a lot of gerrymandering in terms of projects which you cannot have. In California that is somewhat of a problem where (not in all counties) typically they are elected by district. That is somewhat of a problem, i.e., "I voted for your bridge last year, you should vote for mine this year." I think having this division, some at large and some by district, tends to take care of that pretty well.

Mrs. Damskov: How many people are represented by each?

A. It is approximately equal between the three who represent districts. Our population is 112,000, and the districts as set up by the charter are still in effect. I think they are approximately equal in population.

Mr. Anderson: Do you have provision in your charter for amending the boundaries of a district?

A. Yes. I believe (I am not sure) that it provides review on a periodic basis and also when one district becomes more than 115% more than the other it also provides for adjustment.

Mr. Swan: I can't recall how your commissioners are compensated and how they serve?

A. Our five board members, under the charter, are compensated on a maximum basis of \$150 per month on the basis of meetings. They meet once a week at the present time except when there are five Tuesdays in a month. They are allowed, under the charter, to divide their salaries any way they see fit according to the number of meetings. If they want to have three meetings, they divide the \$150 by three. If they have four, they divide it by four. That is left up to them except that the charter says that they must have one meeting a month in the day and one meeting a month at night. One position still retains the salary of its former position before the charter. That will be taken care of in time by the passing of time.

Mr. Sonderen: Your commissioners serve on a part time basis. Do you know of any of the larger counties where their commissioners serve on a part time basis?

A. This is a problem defining what we mean by part time. If we mean part time on the basis of how much they are paid, that is one thing. I think most people when they say part time frequently are confused. They often times confuse policy, where the board handles both policy and administration. If they are full time, people consider that they do both jobs. This causes confusion. If you mean part time, based on salary basis, our commissioners are part time. If you consider that they primarily make policy, they are also part time.

Mr. Sonderen: Well, I am talking about part time meaning that they have another outside source of income. That they have another office or something of that nature. That they spend of their time on county business and part of their time on personal business.

A. It is even more complicated there. One of our members is the Chairman. She is married and her husband has an income of sorts. Two of them are directly operating businesses. The other two have farms plus other financial interests of their own.

Mr. Sonderen: Again, do you know of any of the larger counties where commissioners serve on this type of basis rather than devoting their full time to the county?

A. Well, that was the problem I was hinting about when I talked in terms of a definition. Sacramento County is a good example, since I worked there so long. The board members right now receive \$650 a month. They do make policy. They typically attend two meetings a week which are full day meetings. They attend other committee meetings and, of course, they spend a lot of time with their constituents.

Mr. Anderson: Did you say they do or do not make policy?

A. They make policy. That is their job. There is a separation there, clearly. They spend an awful lot of time there as you can see. Two meetings a week plus all the committee meetings, but still they are policy makers. They are not assigned the responsibility for administration. You see the problem I am trying to get at. How do you define whether or not they are part time. If you use the salary approach, you might say they were full time. One of them is a pretty wealthy man and I am sure he would consider that salary as part time. Take the Los Angeles County Board of Supervisors, I am sure that their job is such that they are in meetings almost full time. The salary is also such that you could call them full time. But they basically make policy and the administrator handles the administration. You see this problem. I hope I have communicated to you that you have to define what you are talking about. We need to do that all the time because there is a lot of confusion. People say, "Well, because of the salaries." Now, if you argue that the salaries ought to be high so that you attract the most competent people to run for office, this is a popular argument. That doesn't mean, though, that they should be in the courthouse full time making administration as well as policy.

Mr. Fitzgerald: I would like to ask how many commissioners there are in Sacramento? Were you talking about city or county?

A. County. Five. Five in all counties in California except in the City and County of San Francisco, as I recall.

Mrs. Damskov: How do you define in a charter whether a commissioner is part time or full time? By his salary, by his duties, by the meetings that are required of him?

A. I think you can define it (1) by determining whether they should be both the administrative body and the policy making body and then by salary. I think you have to approach it both ways. Of course, it is probably the other way around. You define what they should do and what they should be paid and then you can speculate as to whether they are part time or full time. It is kind of unreconcilable.

Mr. Anderson: When you are dealing with a city or a county which has a population of less than 100,000, you are dealing in a situation where the government has few employees and where the political force exercised by the manager is, let us say, somewhat restricted because of that. Now, it seems to me, that I have heard questions raised about whether it is desirable or any more efficient or any more responsive government to have an appointed executive over a strong mayor because of this question of responsiveness and because the manager does just what you described, and that is, have a great deal of influence over what policies are made. Isn't this likely to be the case when you are in a situation where you have close to 600,000 population in a county like this, where you have a lot of employees and a lot of political power, over a smaller area?

A. It depends upon what you mean by political power. If you mean political in the sense that two people together talking about something and one influences the other's political decision, I couldn't argue with you. If you mean political power as we traditionally think of it, I would argue that the appointed executive really has political power. That is one of the problems. Again, we run into definitions, I realize this. I don't think the size of the agency makes any difference. The problems of local government are the same. I think in local government we are concerned with providing certain types of services that can be provided in an agency, no matter how large, effectively by this plan. I really wouldn't believe that it would be any more responsive, certainly, if the chief executive were elected. We spend an awful lot of time being responsive to the public. Believe me, I spend most of my time trying to work with members of the public in solving their problems and trying to facilitate them in preparing their presentations to the governing body so that they can get their problems solved. In the county I came from, we had nine people on the staff and one of the functions in my division was citizen contact and complaints. We had a public information office. No one ever complained that we were unresponsive. People will say you are unresponsive when you don't do what they want, and our job is primarily to provide government, not to take care of individual problems per se, although, obviously you have to do this to provide government. Again, I am not trying to throw frustration into typifying this. I don't think it is really simple. I think it is very complicated. I do think the manager form has been very responsive. I don't think size matters. Let's take the largest corporations in the country. They operate under this basic plan. I doubt if any of them would go to a committee approach. I am not saying that they don't use executive committees, but these are policy making groups. Typically, the management is in a pretty steep pyramid so that you can hold people responsible right down the line. I think there is a problem in agencies where you have a strong elected mayor who also has, serving as staff, an administrator. This can raise some real problems and has in some instances in communities where they have taken that approach.

DR. DONALD BALMER'S REMARKS TO THE HOME RULE CHARTER COMMITTEE  
APRIL 27, 1965

I will be very brief. Being a member of the Metropolitan Study Commission I know about these chairs, the length of these meetings, and the effects of these meetings on the stomach and other parts of the anatomy. As a matter of fact, as we were dragging on and on in the cycle of one of the courses in which I am involved, and when we finally got to the French Revolution, oh how I wished for a Napoleon to put some order into the chaos of local government. At least that is one way to do it.

Seeing the tape recorder here reminds me of another military leader. I find that when I speak in front of a tape recorder, it turns out that I have the Eisenhower syntax also. It is perfectly awful, and I trust that the secretary or someone will put my remarks into sentences! We all, especially academicians, used to criticize the General's press conferences until we had seen some of our own verbatim transcripts.

Some years ago, I gave a talk to the League of Women Voters on county government. The best part of the talk was the title, "Deep Roots or Deep Ruts". Having heard that I had given the talk, I received a call from the County Commissioners' office wanting to know if I had a copy, since very obviously the title itself suggested something. Fortunately, and typically of me, it was on the back of an old envelope and there was no copy.

Let me give some general remarks that perhaps might have come before Mr. Nyman's statements. He is a practioner, and he is an expert in his own right. I don't have the kind of detailed background of information that he does, so we must back up. I will do this very briefly so that you can get on with your business.

I start with the idea that government is a problem solving device - that government is natural. It is created by people in order to deal with problems they cannot handle privately. Government must be appropriate to the society in which we find ourselves, and if it wont solve certain problems, people will find other ways to deal with these problems. They will find another government. They will find another structure. They will find some different people. These problems are important, and if they can't be dealt with privately, they will be dealt with. Democratic constitutional government is marked by the opportunity to select meaningful alternatives, i.e. alternative leaders and alternative policy. In the United States we have some 800,000 elective offices. Clearly, this asks too much of the people. The electorate, therefore, responds accordingly. Like any over-worked organism, it just doesn't respond - it doesn't participate.

Portland State College has recently made a study of voter participation in units of local government. No one is surprised at the results. We just ignore, as I did the other day, when I drove right by my water district office where a sign said "Vote Today". I went right on. I assume that the superintendant and his family voted and that does the job. I do not have time for that. It is not meaningful participation. I am not alone, I am sure. You all know what I am talking about. Just having elections per se is not a guarantee of adequate government - adequate democratic government. We, of course, now recognize, and we have had some discussion of this today and earlier, the wisdom of electing policy

makers and the folly (perhaps) of trying to elect administrators. The line between the two is not always clear, but it has clearly been violated in the present county governmental structure of Multnomah County as well as many other counties.

Local government in the United States, then, is in danger of bogging down. Government is often viewed as a system with in-puts and out-puts. The system filters the in-puts and decides that some are frivolous and some are important. The system processes them accordingly. And there is some out-put. There are some policies (some laws) that come out of the other end of the governmental process. Our system is overloaded, and our local governmental system is badly constructed, therefore, there are few adequate out-puts. As I said before, people demand out-puts, and they will get them from the federal government or the state government if they don't get them from the local government.

Local governments, it seems to me, engage in making self-fulfilling prophecies. I am particularly concerned about the alleged closeness to the people, the receptiveness to the people's wishes (as local government has been characterized). Local government seems to think that it is absolutely essential that it very frequently, daily if possible - weekly if not, hold open house, inviting citizens to come in and gripe and complain and ask for special exceptions in their cases. Of course, by doing this, people do come - they do gripe - they do complain - and they do ask for special exceptions - and they often get them. So government turns around and says, "See, the people like to come and gripe and complain and set aside general laws which were thought to be adequate but turn out not to be adequate." I would submit that if the federal government or the state government held open house every week - "Come on down and if you make a good enough case, we will change the laws in your case. We will set aside the rules.", you would get a big crowd. I don't think you would have any better government. I think you would have worse. We say we have to do this. Why? Because we are doing it and people come. I don't know that we have to. I think we have made possible this kind of feed back which isn't necessarily the effective way or the best way of dealing with problems that are public in nature. We often find private special solutions by using public apparatus that aren't really appropriate. I would like to suggest simply that we govern our county with a small group of legislators, a county board or council, who serve part time. I would suggest a chief administrative officer, appointed to administer the ongoing programs and those that are developed. We must recognize that the manager is going to be a political officer in part (he can be termed political not in the partisan sense but in the broadest sense as one who helps reconcile conflicts and helps adjust differences and who is concerned with things political and things public). Political scientists are increasingly aware that the manager is not some political unit who is just administering policy. He is, of course, a factor. Every participant in the process is a factor. There are ways of structuring this so that they are more or less of a factor - that they are more or less responsible. Perhaps, what then is needed is an aamsgottsman that we hear a lot about now in Scandinavian countries - a hearing officer who is there. We can then say to people, "Come in if you want to complain. Come to him and he will hear your complaint." Especially complaints of some wrong doing that is arbitrary on the part of some public official. In that way we take some of the pressure off of the policy makers (not that they should be totally immune from them).

I am not at all sure that there should be a chief executive officer elected by the people or at least a chief political spokesman, i.e. an elective spokesman heading up the executive branch of county government. I know that Dick Frost has suggested this. But, I suppose that my hesitancy is created in part by recognition that county government doesn't exist in a vacuum. You have a large city here; we have some other counties, and we have to have some sort of intra-governmental unit or super-governmental unit coming up. Of course, it is difficult for you to anticipate what is going to happen. It reminds me of my income tax. I have to fill out the Oregon Income Tax and put down my U. S. Income Tax, but I don't know what that is until I figure out the Oregon Income Tax which I can't figure out until I figure out the other. This creates some problem. You are aware of this, and I think you have to be concerned about the possibility of creating a very powerful position which may not be essential to the operation of county government in an effective efficient way but on the other hand might be potentially very disruptive in the metropolitan community of which we are a major part. That is what I would say.

QUESTIONS ASKED OF DR. BALMER BY THE HOME RULE CHARTER COMMITTEE

Mrs. Damskov: Why does it follow that a strong county manager would be disruptive of a metropolitan area?

A. Not a strong manager. But say you had an elected county mayor as Dr. Frost has suggested. I don't know this. I am just saying that certainly this must be crossing your minds. Whether you are talking about it, I don't know, but somebody should talk about it. You then may have two voices speaking for the social or economic entity that calls itself Portland. I am the Mayor of Multnomah County and you are the Mayor of Portland. I speak for your constituents, all of them, plus some others. You speak for all your constituents but not for as many as mine. I have run on the platform that I am going to take care of you or you have run on a platform that you are going to take care of me. I think that a city, legally (we are talking about a home rule charter and that is something different from the traditional concept of county government) and traditionally, has a broader mandate than a county. It may be possible to carry on the affairs of the county in an effective appropriate way without creating this office, but I doubt that it is possible to do that in a large city. The limitation on the manager plan for cities is in relation to size. A big city does need a central political leader. Where the city and the county are overlapping in population, that means that it would give us two strong powerful executives. The city, I would think, without question needs that voice. I am not sure that counties, as we usually think of them, do. Now, you may have other duties coming up for the county that would make this argument less valid.

Mrs. Nemer: Why would this one voice be any harder to deal with than the three voices we have now?

A. There would be two factors at work. One would be the part time principal which you have already explored here. I think the decisive definition of part time is not actual hours or money but rather that your legislators or councilmen are busy, not dabbling in administration, but are busy making policy. But, if you have a chief of the county government who is elected, he will obviously be involved in carrying out policy. You are also going to have to have a county manager, whether you call him chief administrative officer or county manager, because it is not likely that the elected county mayor such as you are thinking about will have either the time or the skill that is necessary to administer county business. If he has a powerful political base, he is going to be a likely person to be governor, a likely person to be congressman or senator - it is going to be a springboard for many other activities.

Mrs. Nemer: If we don't have the elected mayor, and let us say we have three or five elected legislators, they will still each visualize themselves in this position. They are still elected, and they are still going to think they are in competition with whoever heads up the city for the next political move.

A. This is true, and then you think backwards, i.e., we are thinking in two directions. What would be the impact of this on the ongoing business of the county, the rather routine administration, if your head is out picking fights with somebody else? It may make it difficult for the ongoing civil servants to carry on their duties, cooperate with their counterparts in other units of government, etc., and they may be dragged in. Much more so than if it is a council member or a legislator.

Mrs. Nemer: You think if it is diluted enough it will make it less significant then?

A. It seems to me the question is how we can run the affairs of the county most effectively in terms of efficiency and in terms of representativeness and responsiveness to the people? The question may boil down to whether we want to have a manager or a mayor with an administrative officer where you have two people. All I am suggesting is that I am not sure that counties are quite like cities in that they need that single elected chief executive such as Frost thinks they do, and my hesitancy there stems from the very nature of county government. Is it different from city government? Is it more routine? Is it more a tool of the state or an instrument of the state and less, from the ground up, an operation which we usually associate with municipal corporations? Also, in the metro situation, you don't need another strong voice. Creating another strong voice may have some undesirable side effects which you have to think about. Nobody knows what the metro situation is going to be yet. We don't know if it is going to be any different from what it is now. We don't know, just as you don't know, if county government will be any different when you are all through here. But I am thinking about it. I just wonder who then speaks for this part of the metropolitan area, the Mayor of Portland or the Mayor of Multnomah County.

Mr. Birnie: Wouldn't the fact that we are given the authority by the constitution of home rule, and I gather from that we have the power to give the county virtually the same authority the city has.

A. Except where the city already exists.

Mr. Birnie: Yes, but we are not talking about the number of people now. We are talking about the quantum of powers which even a small city can have. If a mayor is good for a city, would he not also be good for a county since we can invest the county with essentially the same powers that the city now has?

A. I think it would logically follow, but I am not sure that it does because the county still encompasses the city. A city resident will still vote for the county mayor even though the authority of the county is going to be somewhat limited by the fact that the city also is a home rule body.

Mr. Birnie: Well, yes. I think that is true, but our overall job would be to take care of and mother the people of Multnomah County. Some of them will already have some of the services that we think we can furnish because they are living in the City of Portland. There is quite a number who are not living in the City of Portland and who want some of those same services. The fact that we have cities in our boundaries doesn't mean that we shouldn't give those services to people not living in cities who are in our boundaries.

A. It may not mean that to you.

Mr. Birnie: Well, we are sitting here trying to draft a charter now. That is one of the things we have to determine. My question to you was: If we determine to go the full way and to give all the power, as Washington County has done, to the county in a charter which would invest it with all of the powers that we can possibly give a county, I would think that we would vest the county with just about the same jurisdiction, authority, power, and quantum of business to be done that the city now enjoys.

A. And then, therefore, you are suggesting that it follows that if a mayor is good for a large municipality and, in effect, Multnomah County becomes a large municipality, then why isn't a mayor good for them?

Mr. Birnie: Yes, that is the question I am asking.

A. Then, I would have to agree with Dr. Frost. Yes, I would think if, in effect, you are going to have the City of Multnomah, a home rule county that is going to undertake countless municipal functions, and in order to achieve that status, to do battle with the state legislature, to get from the federal government the increasing flow of funds, etc, you would need someone with the prestige of elected office.

Mr. Birnie: Let me ask this question. If we give the county virtually no more power than it now has and just shuffle around administration, you would think that your comments regarding the administrative officer would be valid?

A. Yes, I think that is right. If we are talking about the typical county government as it now exists or county government under home rule in a less populated part of Oregon, then I would think that an administrative officer is the answer.

Mrs. Nemer: I am interested in what you say about elected officials being responsive to the people (and certainly those of us who have heard the citizens coming to complain know what you mean) but I wonder how elected officials then are to know what the people want. I know from experience that neither you nor I think the party county central committee conveys this intelligence very meaningfully. I am not necessarily sure they should get this message by campaign contributions. In what way are they supposed to have their finger on the pulse of the people?

A. I am thinking along these lines. It seems somehow quite marvelous that we can govern a large entity such as the state or the United States with a part time legislature. Congress does spend more and more time in session but they are not there all year round yet. Our state legislature deals with very complex problems, certainly every bit as vital to citizens as local government deals with. There we have opportunities to be heard. We arrive at a pattern where we have made a decision. Now let us live with it for a while instead of saying we have made a decision, we say, "Now if you don't like it, you come in (especially if it is zoning), and we will set it aside in your case, if you will come in often enough, and nobody else shows up". This seems to me, as I say, a self-fulfilling hobby. Of course, people love to do that, and if you thought that you could come in and complain about your income tax rate, and maybe in your case we could make it lower from say 11% to 9%, you would surely say, "Alright, we will go testify on that."

Mrs. Nemer: I agree with you that this is not the way to do it, but what is the way?

A. I have not studied carefully the Canadian cities, but it is my understanding that they have less frequent sessions. Perhaps every couple of weeks they hold an evening session with the city council. They feel the pulse in that way. If people have complaints, they bring them to the public relations officer of the department, so that in general they learn that it does not pay off and they don't come. I think certainly that elected officials are going to be able to distinguish between policies that need changing and special pleadings. I think our structure is an invitation and it becomes unfair in effect. Those who don't make the special pleadings don't get the special benefits.

Mr. Birnie: Do you have an opinion as to whether or not a county charter should vest that county with full authority, i.e. all the possible authority which the county can have so far as county government is concerned? You see as we interpret our authority here, one of our jobs is to determine to what extent we should prevail in drafting the charter to give the people of the county officialdom control over the people of Multnomah County. We can give them a charter to describe the duties and functions that the county now enjoys or we can give them more. We can give them sanitary service, water, fire protection, and a whole quantum of new services in other areas as well.

A. My opinion would be that you should take advantage of the opportunity to give extensive powers to the county. You can't count on certain other arrangements. This is your job here and now. The great failure has been to have adequate authority locally. Most states are not as generous as Oregon in allowing local groups to govern themselves. As a result, you have the federal dealing with these problems when they could be dealt with locally if you also had appropriate governmental machinery. Certainly with the present machinery, I am not sure it would be very healthy to expect this kind of mechanism to use that extensive power wisely. An appropriate mechanism would make more certain that the powers would be used appropriately.

Mr. Anderson: Should the governing body be run on a partisan basis?

A. I would think so. The elected officials now run on a partisan basis. I would say yes because I think we have failed to develop any rallying point for alternative leaders and policies under non-partisan arrangements. For example, political scientists study government. We don't pay any attention to school matters. Yet, it is the biggest enterprise we have for expenditure, investment, employment, etc. I am not at all convinced that we have developed an adequate way of discussing school policies in the non-partisan approach. I don't favor partisanship here, but I am just saying that there must be something else we can do besides pinning notes on children that say, "Vote Yes" as I always do because if you vote "No" you are a bad guy. So you can either vote "Yes" or nothing or be a bad guy. That is not really what democratic government is. Democratic government should have some alternatives. I am afraid that making it non-partisan makes it difficult to rally these alternatives. In this particular application where you have a one party county, it may be even more difficult because of the partisan label, but at least it is a rallying point and the parties are unbelievably weak. They hardly exist. A cab driver couldn't take you to the Democratic or Republican headquarters. He could take you to the Labor Temple or the Chamber of Commerce or some other sources of power, but he couldn't take you to either of those headquarters. So, because it would provide this way of supplying alternatives, I would select it. If you only have the choice of voting yes on the good guys, then you might as well appoint, even if it is the governor.

WALTER MERRELL'S PRESENTATION TO HOME RULE CHARTER  
COMMITTEE - MAY 11, 1965

In hearing from various officials of Multnomah County, academicians, and officials of other jurisdictions, the Home Rule Charter Committee has heard the term "separation of powers" repeatedly. This term enters into the concepts of government structure and refers to the separation of the executive, legislative, and judicial powers with the checks and balances of one branch of government over the other. A review of the various types of government structure must consider this concept, but it should be pointed out at this time that the constitutional requirement of separation of powers is generally not applicable to local government, and the traditional separation is not common in counties.

Commission as Administrative Board. Let us first examine the traditional county government structure in Oregon, the three man commission form of government, the one utilized by Multnomah County at the present time. The Board of County Commissioners is a three man board sitting in judgment as a group. As a body, they establish policy and do some legislating in those areas where authority has been granted by the legislature, they render decisions on the administration of county business, and they render judicial decisions on appeals in matters coming before them over which they have jurisdiction. It is perfectly clear, aside from legislative restrictions, that the three man board exercises both legislative and executive powers as well as considerable judicial.

Depending upon the issues involved, this board sits as an administrative board examining and passing on the day to day operational and administrative problems ranging from the acceptance of a low bid on coffee to the content and design of a new hospital wing; as a legislative body creating policy ranging from the use and care of county vehicles to the content and enforcement of the plumbing code; and as a judicial body ranging from acceptance of a petition to a hearing on an appeal of a zoning ordinance. It is perfectly clear that aside from legislative restrictions this three man board exercises all the powers in

the county, and the separation of power concept is left for other jurisdictions.

There are good arguments for a commission type of government, and there are arguments against each of these arguments. The most popular argument for an administrative board such as we have in Multnomah County is the "best judgment of the majority". The theory behind this majority rule concept is the argument that the public will get the views of three men on administrative matters, the public is better protected with full and open discussion on all of the issues, and the public will get the best judgment of two out of three.

Opponents of the administrative board system say that there is more fallacy to this argument than validity. They say the public hears the votes of three men but rarely the views because most of the issues coming before the board are of such little comparative significance that they receive no discussion. Most actions of the board in a metropolitan county do not come before the board in a public meeting because the sheer volume would create endless meetings. Opponents would argue that the best judgment of two out of three is fallacious. Most administrative decisions are resolved by a unanimous vote and, accordingly, the same decision could be made more efficiently by any one of the three or by a single executive officer. And in those cases where there is a split in the vote, one man resolves the matter anyway. In these cases he is known as the "swing" vote.

Other arguments for the commission type structure include the argument that you have varied interests on the board, that department heads must justify their actions to three men, and all expenditures of public funds, no matter how small, get a much closer scrutiny. Opponents answer that the varied interests are most assuredly present, and these varied interests give rise to log rolling and back scratching; that the justification of actions by department heads to three men merely causes matters to take three times as long to accomplish; and that closer scrutiny of expenditures is fallacious, for a single individual delegated authority to approve expenditures would give much closer scrutiny if he were held responsible.

Furthermore, board members are high salaried personnel and they should spend more time on overall policy and legislation and less in administrative details.

Single Executive. It will be noted that none of the arguments against the commission type of government lend themselves to arguments against multi-man legislative and judicial bodies. All of the arguments are against the administrative board concept, and various boards themselves have recognized the need for an executive arm. California counties have a chief administrative officer, Washington County has an administrative officer, Hood River County has a manager, and Multnomah County, within the general law of Oregon, has an assistant to the board who in fact functions as a chief administrative officer without portfolio.

If a need has been established for a single executive officer, the next question is "What kind of an executive officer should the county have?" There are three basic types of executives in local government. These are the chief administrative officer (CAO), the manager, and the elected executive.

Chief Administrative Officer. The law of Oregon does not generally allow the Board of County Commissioners to delegate any of its power. Hence, the assistant to the board in Multnomah County is an administrative officer without portfolio. If the board had the authority to delegate their administrative powers, and if the board exercised this authority either generally or specifically, the assistant to the board would be in fact an administrative officer. Under this concept, the board would retain the powers and the responsibilities but might delegate part of the administrative power to a subordinate. Since they would have the authority to delegate, they would also have the authority to withhold any or all of these powers. If they had the authority to withhold, they would also have the power to take it away after it has been delegated.

The argument for this arrangement states that the board is responsible so they must have the power to safeguard their responsibilities. These safeguarding powers are the powers of appointment of a professional administrator outside of politics and the power of decision as to how much authority the administrative

officer has at any given time.

Opponents say that this violates the basic concept of separation of powers, and that all the powers remain in the hands of a few. They argue that the administrative officer has an unwritten obligation to protect the board and each of its members; that he must hide their errors in judgment to protect his job; that he is very much into politics, legislation, and policy making, in fact, if not in theory. With full time boards the members continue to enter into administrative decisions and with part time boards the administrative officer, particularly if he is strong, becomes the backroom head of government.

Manager. A manager is an administrative officer with the power of appointment and certain of his administrative powers spelled out in a charter. Proponents of the manager plan say that this overcomes the handicaps of the administrative officer by making him responsible to the people in those areas of administration and executive leadership. Opponents say that the manager concept is little, if any, better than the administrative officer plan in that the manager continues to owe his loyalty to the board, he is still obliged to hide errors in judgment of board members, and the board still directs the administration through the powers of hiring and firing the manager. They argue further that this is still not democracy as set up by our forefathers setting forth the separation of powers concept.

Chairman as Elected Executive. Umatilla County had a charter on the ballot in the last election. It was defeated, but it is germane to this discussion because of its executive structure. The Umatilla County charter called for a board to legislate and develop policy giving the chairman, elected at large and as chairman, the executive functions. The arguments in favor of this arrangement stated that department heads had one boss, that the people could pinpoint executive responsibility and hold one man responsible, and by being a member of the board the chairman would be in a position of having a voice in the policy he must

administer. The argument against this arrangement is singular and states that the separation of powers concept is still violated. A compromise states that the chairman presides over the meetings but has no vote except to break a tie. The argument against this is simply that, as chairman, the executive controls the agenda and can too easily control the matters coming to the attention of the board.

Elected Executive. Proponents of an elected executive system who do not favor the chairman-executive plan ask for the complete separation of legislative and executive functions. They favor what is known as the strong mayor plan with a legislative body to enact ordinances and make policy and an executive, elected at large, to enforce the ordinances and to carry out the policy. They say that this takes care of the question of loyalty in that an elected executive responsible only to the people who elected him has the freedom to criticize legislation and policy with which he disagrees.

Boards. The various factors describing and prescribing government bodies are many, and the number of different types are almost as numerous as the counties in the United States. Boards range from three man boards in Oregon to five man boards in California to forty, fifty, seventy, and more member county courts and legislatures in the Eastern and Southeastern states. Tradition has much to do with this size. A fifteen man legislature was defeated in a Nashville-Davidson County, Tennessee charter but the charter passed when it offered a forty man legislature.

How well informed can a part time body be? Should elections be partisan or non-partisan? Should members represent districts or all of the people?

These are questions requiring considerable discussion and research, but it is not necessary to answer them before a decision is reached on the question of structure and executive hierarchy.

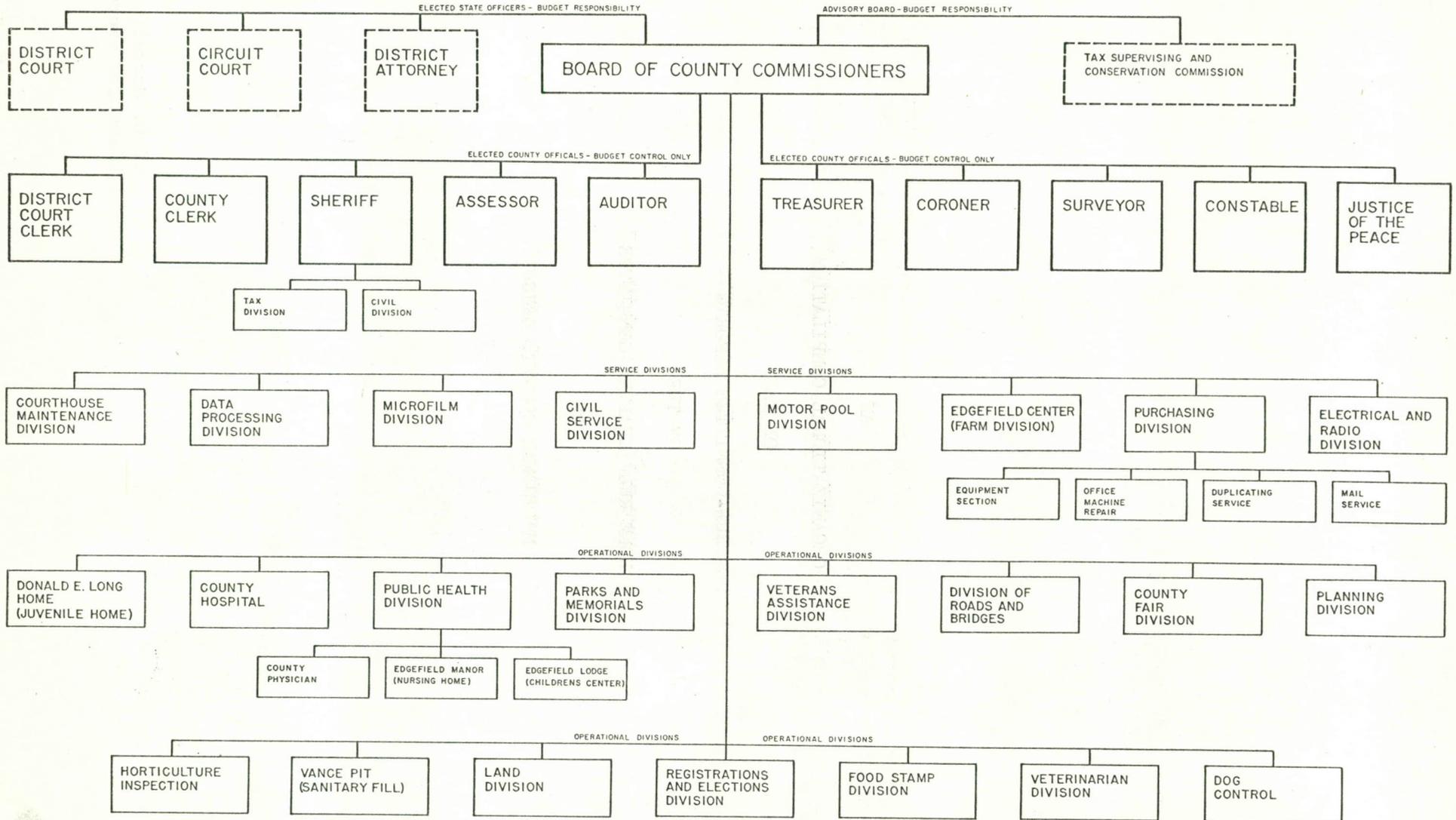
Conclusions. At one time or another, I have been a proponent of each of the executive structures discussed including the administrative board. Depending upon the circumstances such as economics and size, I continue to favor all of them. For a small community either the administrative board or one of its variations is excellent, for in a small community even the small items, as we think of them, are of public interest and get public attention. Either the administrative officer or the manager plan is excellent when a \$500 expenditure gets press coverage. But, in a community where the budget approximates \$35 million and it takes a sizeable expenditure to get public notice, I would favor a government structure composed of a board of at least five members with authority to devote full time to legislation and the making of policy, but restricted to legislation and policy, and an elected executive to carry out policy. This board, as I view it, would also have the quasi-judicial responsibility of hearing appeals to their own legislative and policy decisions, the actions of the elected executive, and such other judicial functions as indicated in the state law.

AN  
ORGANIZATIONAL COMPILATION  
OF THE  
SUB-COMMITTEE REPORTS  
OF THE  
HOME RULE CHARTER COMMITTEE  
OF  
MULTNOMAH COUNTY, OREGON

W. C. Merrell  
Executive Secretary

PRESENT

MULTNOMAH COUNTY ORGANIZATION CHART



STATE OFFICERS

- District Attorney
- Circuit Court
- Trial Bench
- Probate Court
- Domestic Relations
- Juvenile Court & Donald E. Long Home
- District Court
- Justice of the Peace
- Coroner
- Agriculture Extension Agent
- Veterinarian
- Weed Control
- Horticultural Inspection

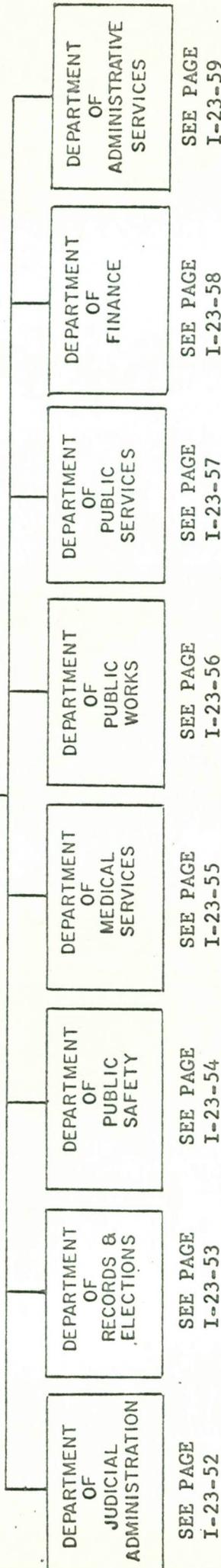
GOVERNING BODY

AUDITOR

SEE PAGE I-23-51

EXECUTIVE

SUB-COMMITTEE PROPOSALS



On May 25, 1965 the Home Rule Charter Committee of Multnomah County heard organizational recommendations from six sub-committees. This report is a compilation of all the sub-committees as they relate to the organizational structure of Multnomah County under a charter form of government. It should be noted that this organization as depicted is not necessarily the organization as seen by the committee as a whole; it is merely the reconstruction of the functional units after analysis by sub-committees.

The sub-committees have recommended collectively an organization consisting of eight functional departments operating under an executive officer. The election of the executive by the people or the appointment of the executive by the governing body is a question yet unresolved by the committee. The election of an Auditor, however, has been recommended. Following is a summary description of each organizational component as recommended to the committee as a whole from the sub-committees.

FUNCTIONAL STATEMENTS OF A PROPOSED ELECTED AUDITOR  
AS RECOMMENDED BY THE SUB-COMMITTEE ON FINANCE

Auditor. To fully protect the people and the governing body, an elected auditor is recommended by the Sub-Committee on Finance to make continuing investigations by internal audit. The Auditor is viewed as an elected official, qualified in accounting, and responsible only to the people through the governing body. His functions should be as indicated on the accompanying chart.

ELECTED AUDITOR
Maintains continuing audit of county financial condition. Maintains continuing internal audit of county departments. Reports to governing body on discrepancies found and affixes responsibility.

FUNCTIONAL STATEMENTS OF A PROPOSED DEPARTMENT OF JUDICIAL  
ADMINISTRATION AS RECOMMENDED BY THE SUB-COMMITTEE ON COURT  
SUPPORT

Department of Judicial Administration. A single department to be known as the Department of Judicial Administration has been recommended by the Sub-Committee on Court Support to perform the clerical and ministerial duties relating to the administration of the courts currently performed by the Constable, District Court Clerk, County Clerk, and Sheriff. This department will be under the supervision of an appointed Director with qualifications either in law or in business management or public administration. The Department of Judicial Administration is viewed as performing those functional duties indicated on the accompanying chart.

DEPARTMENT OF JUDICIAL ADMINISTRATION

FILING & DOCKETING

Receives all cases for filing before all courts.  
Dockets all cases for all courts.  
Prepares calendar for all courts.

TRANSCRIPTS & RECORDS

Files all records of cases before all courts.  
Prepares transcripts of court records.

SERVICE & EXECUTION

Receives summons and processes.  
Supplies and executes writs of attachment.  
Places liens against property.  
Issues bench warrants on direction.  
Serves summons, orders, writs, or processes.  
Executes decrees of all courts.

NOTE: Both the Department of Judicial Administration and the Department of Public Safety contain functional responsibility for service and execution of process.

FUNCTIONAL STATEMENTS OF A PROPOSED DEPARTMENT OF RECORDS AND ELECTIONS AS RECOMMENDED BY THE SUB-COMMITTEE ON COURT SUPPORT

Department of Records and Elections. A second department to be known as the Department of Records and Elections has been recommended by the Sub-Committee on Court Support to combine those remaining duties of the County Clerk related to licensing, custodian of public records, and recorder of conveyances with the functions of the Registrar of Elections. The Director should be an appointed official with qualifications in business management. The Department of Records and Elections is viewed as performing those functional duties indicated on the accompanying chart.

DEPARTMENT OF RECORDS AND ELECTIONS

RECORDS

RECEPTION

Maintains control records of documents.  
Operates mailing unit of recording function.

INDEXING

Maintains index to recorded documents.

RECORDING

Maintains receiving book.  
Records data regarding documents received.

PHOTOCOPY

Makes reproductions of documents.  
Assigns book and page numbers to documents.

LICENSING

Processes and issues county and state licenses.

ELECTIONS

REGISTRATION & TALLY

Registers qualified electors.  
Receives and verifies signatures of petitions.  
Receives declarations of candidacy.  
Devises and prescribes contents of ballots.  
Makes abstracts of votes on tally sheets.  
Makes and delivers certificates of election.

PRECINCT SUPERVISION

Establishes and divides precincts.  
Designates polling places  
Appoints election boards for precincts.  
Trains election officials.  
Directs and instructs election officials.  
Inspects and observes administration of election officials.

FUNCTIONAL STATEMENTS OF A PROPOSED DEPARTMENT OF PUBLIC  
SAFETY AS RECOMMENDED BY THE SUB-COMMITTEE ON LAW ENFORCEMENT

Department of Public Safety. Another department of county government has been recommended by the Sub-Committee on Law Enforcement to protect the public from all physical dangers and to be known as the Department of Public Safety. The present law enforcement functions should be supplemented with disaster control and fire protection. If the Committee decides upon an elected executive for the government, the Director should be an appointed official with qualifications in law enforcement; if the county executive is appointed by the governing body, the Director should be elected by the people. The Department of Public Safety is viewed as performing those functions indicated on the accompanying functional chart.

DEPARTMENT OF PUBLIC SAFETY

LAW ENFORCEMENT

Patrols county roads and enforces traffic laws.  
Patrols rivers and enforces boating laws.  
Conducts criminal investigations.  
Maintains records.  
Maintains communications system.  
Enforces dog control laws.  
Service of all legal papers and court orders of every description.  
Enforces all legal directives and orders.

CUSTODY

Maintains custody of prisoners and inmates.  
Conducts training programs for rehabilitation of felons.

FIRE PROTECTION

Administers county fire districts.  
Acts as county fire marshal.

ADMINISTRATION & DISASTER CONTROL

Recommends administrative policy.  
Conducts research projects.  
Plans and conducts training programs.  
Plans and coordinates disaster control.

NOTE: Both the Department of Judicial Administration and the Department of Public Safety contain functional responsibility for service and execution of process.

FUNCTIONAL STATEMENTS OF A PROPOSED DEPARTMENT OF MEDICAL SERVICES AS RECOMMENDED BY THE SUB-COMMITTEE ON PUBLIC HEALTH

Department of Medical Services. A Department of Medical Services has been recommended by the Sub-Committee on Public Health to include all county functions relating to sanitation, health, and medicine. The Department of Medical Services is viewed as performing those functional duties indicated on the accompanying chart.

DEPARTMENT OF MEDICAL SERVICES

COUNTY PHYSICIAN

Admitting officer for county hospital and Edgefield Manor.  
Provides medical care to indigents.

NURSING

Makes home visits to ill.  
Visiting school nurses.  
Provides bedside nursing when needed.  
Provides pre-natal counselling and post-partum follow-up.

INDIGENT MEDICAL CARE

Provides medical care to indigents.

SURVEY CENTER

Conducts TB X-Ray detection.  
Conducts diabetes detection.

EDGEFIELD MANOR

Provides nursing home care.  
Provides home for aged.  
Provides rehabilitation therapy for disabling conditions.

MENTAL HEALTH

Diagnoses and treats mentally ill and emotionally disturbed children.  
Provides follow-up care to patients released from state mental institutions.  
Provides treatment for patients of Edgefield Lodge.

EDGEFIELD LODGE

Provides in-patient care for emotionally disturbed children.

SANITATION

Inspects eating establishments.  
Inspects farm labor camps.  
Inspects public bathing facilities.  
Inspects school water supply.  
Provides insect control.  
Provides plumbing inspection & enforcement of plumbing code.  
Provides pollution inspection.

MULTNOMAH HOSPITAL

Provides medical treatment for indigents.

NOTE: Both the Department of Medical Services and the Department of Public Works contain the functional responsibility for the administration of the plumbing code.

FUNCTIONAL STATEMENTS OF A PROPOSED DEPARTMENT OF PUBLIC  
WORKS AS RECOMMENDED BY THE SUB-COMMITTEE ON PUBLIC WORKS

Department of Public Works. A Department of Public Works has been recommended by the Sub-Committee on Public Works to fulfill the current responsibilities of the Division of Roads & Bridges, County Surveyor, enforcement of building and zoning codes, design and construction of county facilities, and administration of public utilities. The Director should be an appointed official qualified in engineering. The Department of Public Works is viewed as performing those functional duties indicated on the accompanying chart.

DEPARTMENT OF PUBLIC WORKS

ROADS & BRIDGES

Engineering and design of roads and bridges.  
Construction and maintenance of roads and bridges.  
Operation of rock quarries.  
Surveying.

CONSTRUCTION & MAINTENANCE

Enforcement of building, sanitary, and zoning codes.  
Design and construction of county facilities.  
Administration of Assessment District Improvement Fund.  
Maintenance of county facilities and grounds (other than custodial).

PUBLIC UTILITIES

Sanitary disposal facilities.  
Administration of sewage facilities fund.  
Administration of county service districts.  
    Sewage district.  
    Water district.  
    Street lighting district.  
    Drainage district.

NOTE: Both the Department of Public Works and the Department of Medical Services contain functional responsibility for administration of the plumbing code.

FUNCTIONAL STATEMENTS OF A PROPOSED DEPARTMENT OF PUBLIC  
SERVICES AS RECOMMENDED BY THE SUB-COMMITTEE ON WELFARE  
AND THE SUB-COMMITTEE ON PUBLIC SERVICES

Department of Public Services. A recommended Department of Public Services is a part of the organizational structure composed of the work of two sub-committees (Sub-Committee on Welfare and Sub-Committee on Public Services) and includes the administration of community services such as park administration, cemetery operation, and the county fair as well as social services including the administration of welfare programs, Youth Task Force, and liaison work with the Office of Economic Opportunity. The Director should be an appointed official qualified in social work. The Department of Public Services is viewed as performing those functional duties indicated on the accompanying chart.

DEPARTMENT OF PUBLIC SERVICES

COMMUNITY SERVICES

Operation of county parks and park districts.  
Operation of county cemeteries.  
Operation of county fair and exposition complex.  
Planning and budgeting liaison with library.

SOCIAL SERVICES

Administers approved social programs such as Youth Task Force and Work Relief Program.  
Administers Veterans' Assistance.  
Administers Food Stamp Program.  
Maintains budgetary liaison with Metropolitan Youth Commission.  
Coordinates activities of other departments of county government with citizens groups and Office of Economic Opportunity regarding the War on Poverty.

FUNCTIONAL STATEMENTS OF A PROPOSED DEPARTMENT OF FINANCE  
AS RECOMMENDED BY THE SUB-COMMITTEE ON FINANCE

Department of Finance. A Department of Finance has been recommended by the Sub-Committee on Finance to include all the functions of financial management currently performed by the County Auditor (except auditing per se), the County Treasurer, the Assessor, the Tax Collector, and the Land Division. The Director should be an appointed official qualified in financial management. The Department of Finance is viewed as performing those functional duties indicated on the accompanying chart.

DEPARTMENT OF FINANCE

TREASURER

Collects taxes levied on real and personal property.  
Receives all money due and accruing the county.  
Disburses money upon proper order.  
Maintains trust accounts.  
Maintains funds and makes collections for other jurisdictions when required.  
Invests idle funds for interest gains.

ACCOUNTING

Performs all accounting for county departments and funds.  
Processes all demands against county and draws order on Treasurer for payment of just bills.  
Prepares payroll.  
Performs tax accounting and maintains tax rolls.  
Reconciles with Treasurer.  
Prepares financial reports including annual report.

PROPERTY

Disposes of tax title real and personal property.  
Handles rental and lease of county land.  
Handles accountability of county equipment and disposal of surplus equipment.

APPRAISAL

Maintains assessment roll and Property Owners Index.  
Assesses value of all taxable property.  
Approves exemptions on ad valorem taxes.  
Maintains maps of real property and taxing districts.

FUNCTIONAL STATEMENTS OF A PROPOSED DEPARTMENT OF ADMINISTRATIVE SERVICES AS RECOMMENDED BY THE SUB-COMMITTEE ON COUNTY SERVICES.

Department of Administrative Services. All the housekeeping and service functions for all departments of county government have been recommended for inclusion in a Department of Administrative Services by the Sub-Committee on County Services. These include personnel administration, purchasing, data processing, operation of the county farm, custodial service, etc. The Director should be an appointed official with qualifications in office management. The housekeeping and service functions of county government are indicated in the accompanying chart.

DEPARTMENT OF ADMINISTRATIVE SERVICES

PERSONNEL

Recommends personnel policy and administers approved policy.  
Conducts salary surveys and recommends structure.  
Administers safety, health and welfare, and retirement programs.

PURCHASING

Makes economic purchases of materials by formal bid or negotiation.  
Prepares contracts and specifications for items purchased.  
Maintains storeroom of consumable supplies.

DATA PROCESSING

Performs data processing for all departments.

EDGEFIELD CENTER

Operates heating plant for Edgefield Manor, Correctional Institution, and Edgefield Lodge.  
Operates laundry facilities for all institutions.  
Operates farm to produce farm products, dairy products, and meat for county institutions.  
Operates work center for inmate rehabilitation.

BUILDING MAINTENANCE

Performs housekeeping functions for activities located in courthouse.

OFFICE SERVICES

Provides duplication services.  
Provides microfilm services.  
Repairs office machines.  
Provides mail and messenger service.

MOTOR POOL

Maintains motor pool of automotive equipment.  
Plans automotive needs for county.

COMMUNICATIONS

Designs, operates, and repairs communications systems including telephone and radio systems.

State Officers. The last legislative assembly disestablished the office of the County Coroner as an elected official of county government and created the position of Assistant State Medical Examiner to be effective when the present Coroner leaves office. Accordingly, the Coroner has been treated as a state officer in the same manner as the district attorney, judges, etc. The Donald E. Long Home, by statute, is under the administration of the Juvenile Court. The Veterinarian, Weed Control Officer, and Horticultural Inspector have been treated as state officers.

Boards and Commissions. While two sub-committees recommended advisory boards and commissions, others chose to wait until the committee as a whole took up the question of boards and commissions. Accordingly, this report does not include those recommendations.

Duplicated Recommendations. There are two functional areas wherein the sub-committees have made different recommendations. Service and Execution of court papers and process are included in the functional statements of both the Department of Judicial Administration and the Department of Public Safety. Enforcement of the plumbing code is included in both the Department of Medical Services and the Department of Public Works. These are duplications that are not necessarily disagreements, but they are questions to be resolved by the committee as a whole.

Conclusions. With the exception of the two questions of functional placement, the organizational compilation appears to be a workable organization as it is. Individual members may very well have suggestions for changes in functional placements as may sub-committees after seeing the entire structure.

3801 NE 21 Avenue  
Portland, Oregon  
June 10, 1965

Mr. Lloyd E. Anderson, Chairman  
Multnomah County Home Rule Charter Committee  
Multnomah County Court House  
Portland, Oregon

Dear Lloyd:

Thank you for the invitation to present my views on county reorganization to the Home Rule Charter Committee. As a student of local government, I certainly appreciate the enormity of the task and responsibility that has been entrusted to the Committee. More than half a million citizens of Multnomah County must look to you for advice and recommendations for improvements in county government. The decisions that you make could provide a model of governmental reform, or it could result in a calamity of political altercations with related waste of our manpower and resources.

Today there is a popular misconception that if you live in Portland, you are not part of Multnomah County. Frequently, I hear the expression that "so-and-so lives in the county", as opposed to those who live in the city. To me, this points out one of the fundamental problems of our county government that must be corrected. County government must be the recognized servant of all county citizens. It should represent their interests equally, and not favor the residents of the incorporated or the unincorporated areas.

Secondly, I feel that the idea of a home rule charter for Multnomah County is stimulated by the need for urban services in the unincorporated parts of the county. I certainly recognize that steps must be taken to provide and coordinate urban services in the unincorporated area. But I abhor the thought of a home rule charter that would, in fact, incorporate the whole county as a city in order to provide city-type government to a quarter of the population of the county. To my mind, such a plan would increase the areas of duplication and intensify the competition that now exist between our local governmental bodies. I feel that, fortunately, Portland city residents, who constitute a majority of the county voters, would not accept such a plan for county government.

Recognizing both the compelling need for urban services in the suburban area and the just requirement of equal representation of all county citizens in county affairs, I have proposed that any new charter for Multnomah County provide for an interlocking of city and county governments. I have enclosed an organization chart of such an interlocking government, for discussion purposes. In this chart, the arrangement of boxes and assignment of duties are really of secondary importance. The important feature is that elected city and county officials are locked in one common county council, with complete authority to govern county affairs.

Mr. Anderson

-2-

June 10, 1965

Such a proposal is not a new idea, for it is being used in varying forms in several states. To me, such a form of government offers the best possible solution to our needs for county government, and I can foresee that it could be used as a model for solving similar problems for the whole metropolitan area.

If I can be of any further assistance to the Home Rule Charter Committee, please feel free to call upon me.

Respectfully,

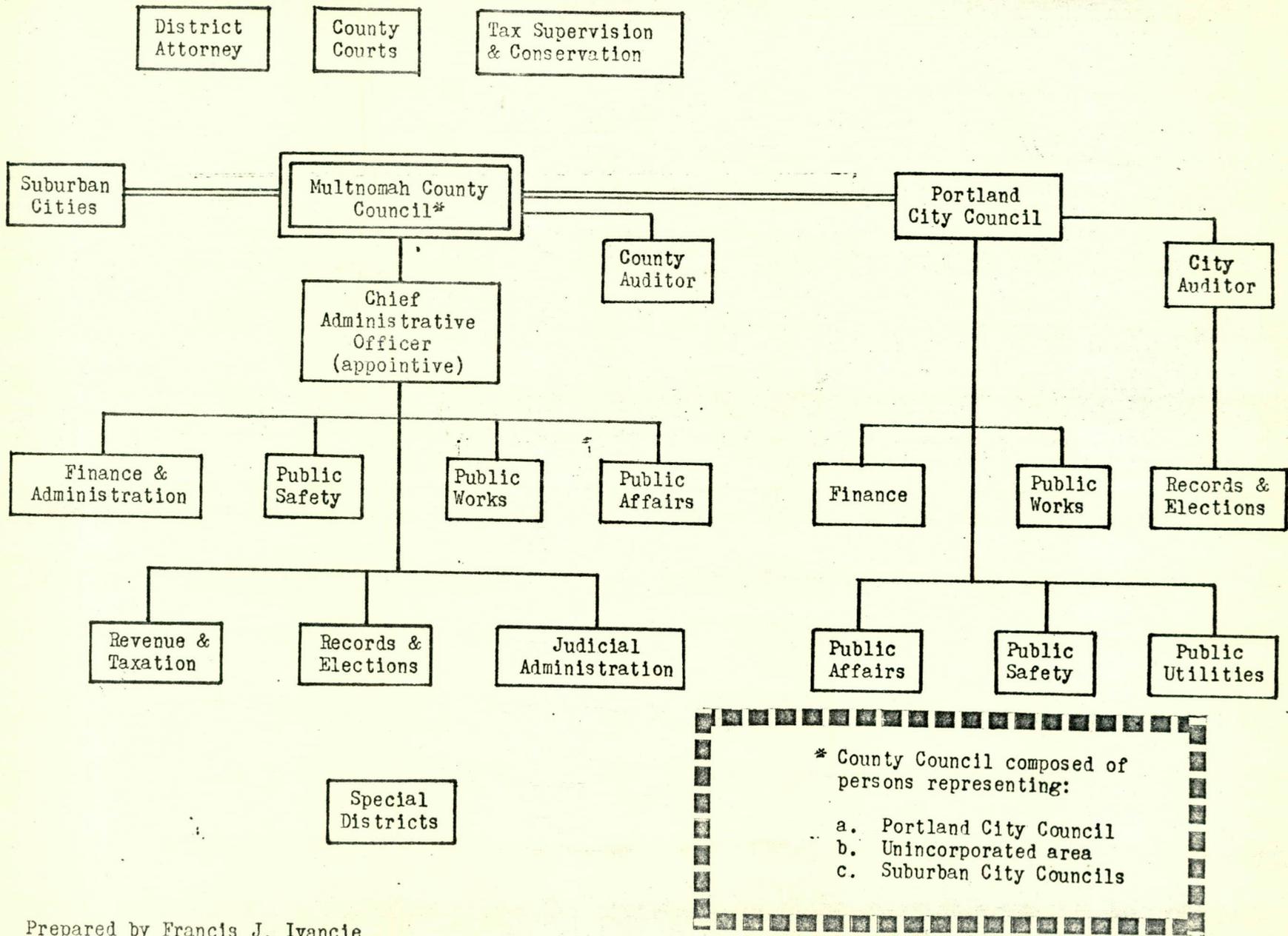


FRANCIS J. IVANCIE

FJI:1  
Enclosures

I-23-62

INTERLOCKING CITY AND COUNTY GOVERNMENTS



Prepared by Francis J. Ivancie

I-23-63

## ORVAL ETTER

LOCAL GOVERNMENT RESEARCH AND CONSULTATION  
2783 ALDER, EUGENE, OREGON 97405

June 14, 1965

Walter C. Merrell, Executive Secretary  
Home Rule Charter Committee of Multnomah County  
Multnomah County Courthouse  
Portland, Oregon

Dear Walter:

You have asked whether a partial city-county consolidation similar to the partial city-parish consolidation effected in the Baton Rouge, Louisiana, metropolitan area is legally possible in Multnomah County.

The Baton Rouge consolidation is quite complicated, as the summary description of it that I supplied you a few days ago makes clear. The description, taken from Rural-Urban Consolidation: The Merger of Governments in the Baton Rouge Area, by Professors William C. Havard and Floyd L. Corty, portrays the consolidation as effecting both an interlocking, bifurcated city-parish governing body and considerable administrative unification, with a single executive head for both the city and parish governments, but as leaving a number of pre-existing constitutional parish offices in their pre-consolidation status, and as being based in important aspects on certain basic fiscal features of Louisiana state government.

In response to my question about what features of Baton Rouge consolidation your question mainly concerns, you have indicated that the question is directed principally to the governing body and is particularly related to the suggestion of Francis Ivancie, assistant to Mayor Terry Schruck, that in the reorganization of the government of Multnomah County, a county governing body be established in which part of the membership consist of members of the governing body of the city of Portland and the remainder be elected popularly by Multnomah County voters residing outside Portland. The suggested interlock does not envisage administrative unification like that effected in the Baton Rouge area.

I believe that, so far as the Oregon constitutional authorization for county home rule is concerned, the door is open legally for the governing body of Multnomah County under home rule to consist in part of the Portland city council or of certain of its members. The state constitution provides that the voters of a county may prescribe by charter the qualifications of such officers as they deem necessary and also prescribe the mode of designating those officers. Oregon Constitution, Article VI, Section 10 (1960). I find nothing in the home-rule authorization to prevent a county charter for Multnomah County from providing that the members of the governing body of the city of Portland be ex officio members of the governing body of the county.

The charter of the city, however, probably raises an obstacle to the suggested interlock. One section of the charter reads:

"No mayor or commissioner shall, during his term of service, hold any other office, or position of profit, or pursue any other business or vocation, or serve on or under any committee of any political party. He shall devote his entire time to the duties of his office." Portland Charter, Section 2-112 (1942).

In some circles this restriction is regarded as preventing the suggested interlock between the Portland governing body and the Multnomah County governing body. Conceivably the rule about ex officio positions that is discussed below may open the door legally for the interlock, notwithstanding the quoted charter restriction, but at this writing I am not prepared to say that the rule does so, especially in view of the last sentence of the charter restriction.

If the city charter revision proposed by the Citizens League for Effective Government were adopted, one of its provisions probably would prevent the mayor from being a member of the Multnomah County governing body. Section 2-301 of the proposed revision would require the mayor to "devote his full time to the duties of that office" and to "hold no other public office except that of notary public or a member of the national guard or military reserve." Unless the rules about ex officio positions opened the door for him to function as a member of the county governing body, the charter restriction would keep him from doing so.

The proposed city charter revision would be more flexible with reference to councilmen. Section 2-104 of the revision would require that a councilman "hold no other paid public office except that of notary public or member of the national guard or military reserve." This restriction would not prevent a city councilman from serving on the county governing body if he received no compensation for the service. The restriction would prevent his getting compensation for the service, unless the rule about ex officio positions that is discussed below opened the door for the compensation.

The proposed interlock may encounter a serious obstacle in the form of the state constitutional prohibition against any person holding two or more lucrative offices at the same time. Oregon Constitution, Article II, Section 10. On its face the prohibition raises a serious question as to whether a person who is a member of a city council could at the same time be a paid member of a county governing body.

There is some doubt, however, as to whether the prohibition applies to municipal offices.

"Constitutional or statutory provisions prohibiting persons from holding two offices at the same time have been construed as not to relate to municipal offices." Note, Ann.Cas. 1915A 525, 526.

"Although there are some decisions to the contrary, express provisions of the law against dual office holding have been construed as not extending to municipal or local offices."  
42 American Jurisprudence 935 (1942).

June 14, 1965

In Oregon, however, the Attorney General has repeatedly proceeded on the assumption that the prohibition against dual office holding applies to municipal and local offices. See, for example, Opinions of the Attorney General, 1922-24, p. 743; id., 1928-30, p. 338; id., 1938-40, pp. 196 and 685; id., 1950-52, p. 72.

There is a corresponding doubt whether the constitutional prohibition against dual office holding applies to ex officio positions--that is, positions that a person holds by virtue of his incumbency in another office. Ashmore v. Greater Greenville Sewer District, 211 S.C. 77, 44 S.E.2d 88, 173 A.L.R. 397, 407 (1947). It has been said that an ex officio post or position imposed on the holder of a position is not an office, and that constitutional and statutory provisions that prohibit officers from holding other offices do not prohibit the imposition of additional powers and duties on an office. 67 Corpus Juris Secundum 137 (1950). It has been held, on the other hand, that a constitutional prohibition against dual office holding made invalid a statute that sought to make certain state legislators, a certain mayor, and a certain county board chairman members of the board of trustees of a special auditorium district. Ashmore v. Greater Greenville Sewer District, supra.

In Oregon the Attorney General has ruled that the constitutional prohibition against dual office holding prevents a paid city marshal from receiving extra compensation as the enforcement officer of a dog control district, notwithstanding the statutory authorization for such a city officer to be made an enforcement officer by the governing body of such a district. Opinions of the Attorney General, 1938-40, p. 685. Yet the Attorney General has held that the constitutional prohibition did not invalidate a statute which provided that the Columbia River Interstate Bridge Commission consist of the county commissioners of Multnomah County and the district attorney of the county and that the salary of each of the bridge commissioners be \$50 per month.

Perhaps the question of the effect of the constitutional prohibition against dual office holding on the proposed interlock between the governing bodies of Portland and Multnomah County has been answered favorably to the interlock by the opinion of the Oregon Supreme Court in Holman v. Lutz, 132 Or. 185, 282 P. 241, 284 P. 824 (1930). The court there held that the constitutional prohibition did not preclude a circuit judge from serving temporarily as a member of the Supreme Court. In so holding the court said:

"Statutes conferring on judges already in office additional jurisdiction or imposing additional duties on them are not in violation of a constitutional provision that they shall hold no other office." 132 Or. at 216.

"A constitutional provision prohibiting the holding of two lucrative offices does not prevent the assignment to one officer of the duties of another where there is no inconsistency between the two classes of duties." Ibid.

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The latter quotation raises the question whether there would be any inconsistency between the duties of members of the Portland governing body as such and their duties as members of the governing body of Multnomah County. I find no provision in the state constitution that creates any such inconsistency and, indeed, no other provision in the constitution that stands in the way of the suggested interlock. I am not aware of any statutory provision that creates any inconsistency between the two classes of duties, although I must frankly say that, the statutes on city and county government in Oregon being as numerous as they are, I am not nearly as sure about them as I am about the constitutional provisions. I stand ready to check the statutes further if you or the charter committee desires.

I also stand ready to delve further into the implications of the prohibitions against dual office-holding if you or the committee desires a more definitive answer as to how much of an obstacle they pose for the suggested interlock between the governing bodies of Portland and Multnomah County. The law on dual office holding appears to have been adjudicated much less definitively, both in Oregon and elsewhere, than I had assumed before undertaking to answer your question about the proposed interlock.

Cordially yours,



Orval Etter

city wards participated, and in two wards the ballots cast represented less than 25 per cent of the registered voters. City voters favored the plan almost four to one, two of the wards south and east of the city (six and nine) voted substantially in favor of the plan, and the small and more distant Ward Eight voted against it by a narrow margin. Opposition centered in the wards north of the city, although Ward Seven to the extreme east of the city also delivered a large opposition vote, Figure IV. In Ward Three, the most populous of the northern rural wards, more than 4,000 votes were cast and the distribution of votes was more than three to one against the plan. Although much smaller numbers were involved, the voters in Wards Four, Five, and Ten opposed the plan in even larger proportions. If the frequently used practice of requiring separate approval of such a plan by the rural and city residents had been followed, the plan of government would have been easily rejected in the rural areas, a fact calculated to encourage future opposition in some of those sections of the parish.

#### The Plan in Summary

The consolidated city-parish government which came into effect for Baton Rouge and East Baton Rouge Parish on January 1, 1949, contained the following general features. The political geography of the parish was extensively altered. The city was expanded to more than six times its former size to include virtually all of the densely populated portion of the parish outside the two small municipalities of Baker and Zachary, both of which continued to exist as separate municipalities, Figure V. The new city-parish charter forbade the incorporation of any new city, town, or village within the parish, although special districts could still be created as provided by law. In order to protect outstanding financial obligations, existing special districts were continued under the plan of government, although they would henceforth be more effectively unified under the general government with its consolidated finance and line departments (especially the departments of public works).

Three general jurisdictional areas were recognized within the parish, with correlative tax structures and service responsibilities. The City of Baton Rouge, with its expanded boundaries, was vested with the usual municipal powers and service responsibilities; its residents would pay all parish property taxes and would additionally be assessed the general city levy in order to meet the costs

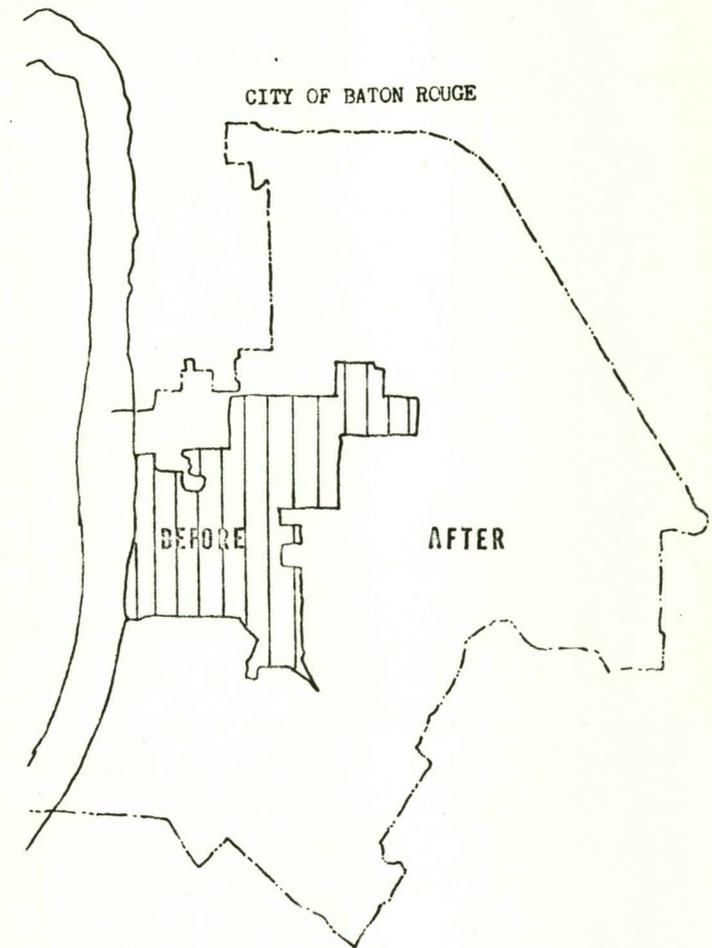


FIGURE V Relative Areas Within Baton Rouge City Limits Before and After Consolidation

of specifically urban services (garbage collection, street lighting, sidewalks, police and fire protection, etc.), which were extended throughout the area embraced by the new city boundaries. The industrial areas (see Figure VI), from which all residential property was to be excluded, were assessed only at the parish rate, on the stipulation that they were to furnish their own services of a municipal type. Failure to maintain these services within the industrial

## EAST BATON ROUGE PARISH

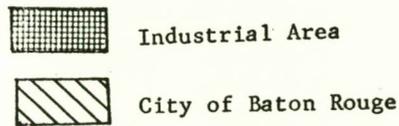
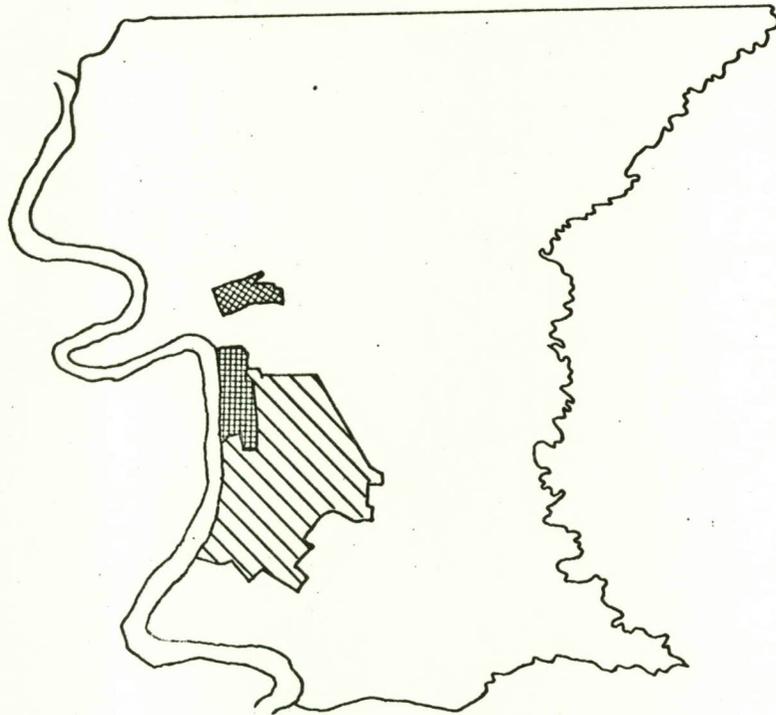


FIGURE VI City and Industrial Areas of East Baton Rouge Parish under Consolidated Plan of Government

zone would result in a reversion of the offending sectors to urban status. A portion of the parish general tax in the industrial area was eventually distributed to the three municipalities on the basis of a population formula. The remainder of the parish was to be a rural area, subject to parish taxes and beneficiary of services extended by the general parish government. For electoral purposes Baton Rouge

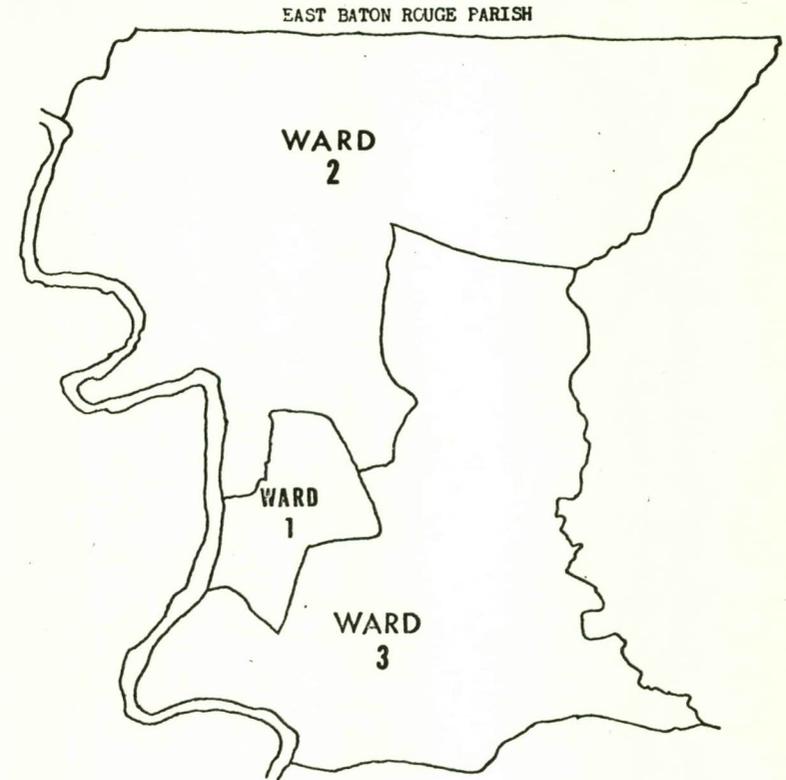


FIGURE VII Ward Divisions of East Baton Rouge Parish After Consolidation

was designated as Ward One, and the rural area was divided into two additional wards, Figure VII.

Special provisions were included for expanding the boundaries of the city and for creating new industrial areas. Municipal annexation depended on the initiative of the area to be annexed; if a majority in number and amount of property taxpayers in a compact body of land adjoining the city (but outside an industrial area) petitioned for annexation, the city council could, after public hearings, annex the territory by ordinance. New industrial areas could be formed out of a compact body of rural area land of not less than 320 acres. Petitions for establishment of these industrial areas were to be filed with the parish council, under the stipulations that the area would

be devoted predominantly to industry, that a substantial industrial plant would be constructed within five years, and that provisions would be made (at petitioner's expense) for streets, sewerage, fire and police protection, and garbage and refuse collection and disposal. The general governing authority under the plan of government consisted of two councils, a city council and a parish council, but with the membership of the two bodies overlapping. The city council was composed of seven members elected at large from the City of Baton Rouge; the parish council included these seven councilmen plus two rural members, elected from Wards Two and Three. Although the councils were to function separately insofar as governing the city and the parish was concerned (including the separate adoption of budgets and passing ordinances relating to city and parish functions), the concurrent memberships were designed to assist the coordination of their respective activities, especially in those functional areas which had hitherto been separate and were now to be unified.

The main executive officer under the plan was a mayor-president who, like the members of the council, was popularly elected for a four-year term. The mayor-president was to preside over meetings of both councils, to prepare the executive budgets for the city and parish, and to prepare an annual report for submission to the councils. He was to be chief administrator and was given the power to appoint the director of the department of public works, the finance director, the personnel administrator, the purchasing agent (all largely functionally consolidated for the city and parish), and the municipal fire and police chiefs. The mayor-president or his designated representative was also expected to serve on several boards and commissions. Certain overhead, or staff, functions were consolidated under the plan. Among the more important of these were finance, central purchasing, and personnel administration. The department of finance under the supervision of a director of finance who was appointed by the mayor-president was to assist in budget preparation, provide for a uniform accounting system, and exercise the preaudit function. Centralized purchasing was to be carried out by the division of purchasing headed by a purchasing agent appointed by the mayor-president, and the charter contained provisions which required this office to effect a central property control system. A comprehensive merit system for city and parish employees was outlined in the plan.<sup>19</sup> The administration of this program was

to be vested in a personnel director appointed by the mayor-president and a three-member personnel board appointed by the parish council.

Three other consolidated staff offices were to be filled by appointment by the parish council: the attorney, the clerk, and the treasurer. The attorney was assigned responsibility as legal counsel to both councils, to the mayor-president, and to the various departments of the city-parish government. In addition, he was to prepare ordinances and resolutions and to represent the city and parish in litigation in which they might be involved. The clerk, whose office could be combined with that of the treasurer (but was not), was made responsible for city and parish journals, thus establishing his office as the central records office of the two councils. The treasurer was made custodian of all city-parish funds and was responsible for disbursing funds properly certified for expenditure by the director of finance. The organization for consolidated city-parish government is illustrated in Figure VIII.

Of the departments performing line functions, consolidation was most fully effected under the charter in the departments of planning and public works. Since these agencies are treated fully in chapters three and four, only brief mention will be made of them here. The planning function, which is both a staff and a line activity, was a new one for the city and parish. Its administration was vested in a nine-member commission, with provision for a professional staff to work under its direction. The commission was made responsible for both general planning and the preparation of capital improvement programs. In addition, the planning commission was to serve as a zoning commission for the city (and later for the parish when comprehensive zoning was made legally possible). A single department of public works was established under the plan to replace the old parish department under the police jury and the various units of the old city commission concerned with public works activities. Certain divisions of the department were prescribed in the plan of government, apparently in the interest of separating strictly municipal functions (such as garbage collection, sewer maintenance, and inspections) from public works functions that were to be performed over the entire parish. A central garage was established for the service and repair of vehicles and equipment used throughout the parish. One of the more interesting aspects of the consolidation was the fact that Baton Rouge city streets were declared to be parish

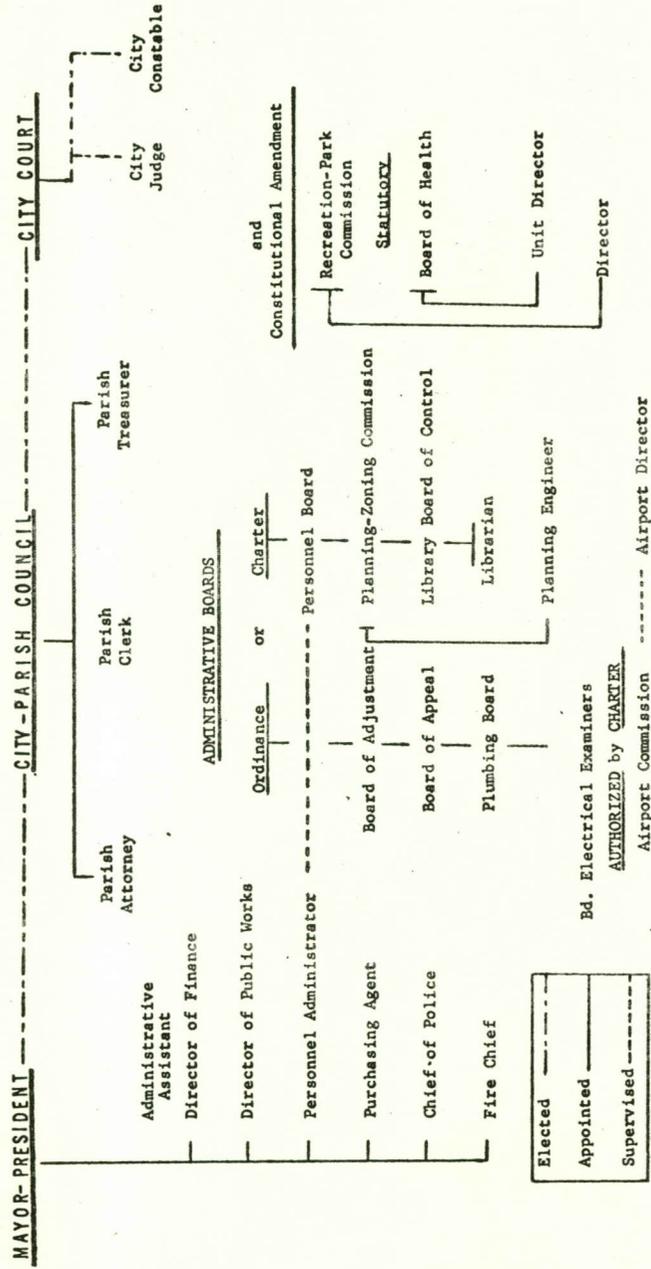


FIGURE VIII Organization of City-Parish Government Resulting from Consolidation

roads. This consolidation of the street and road system offered certain tangible benefits. In addition to unified maintenance under the consolidated department of public works, the change enabled the homestead exemption to be applied against the entire four mills of parish tax;<sup>20</sup> and, since the state reimburses the parishes out of the property tax relief fund for revenues lost to the parishes through this exemption, a considerable financial advantage was realized by this change. Other divisions or costs between city and parish budgets that were affected by provisions in the plan of government are discussed in chapter five.

The remaining functions of government touched upon by the new charter represented continuations of old programs under much the same conditions as previously and are not especially pertinent here. Fire and police departments were included within the sections of the plan applicable to the city; and the recreation and park commission was recognized as a continuing agency of independent status and was authorized to use certain services of the public works department (engineering, building maintenance, and the central garage), the purchasing division, and the personnel system. The parish library was continued and its board was given charter status under the plan; in point of fact, the city was later to include substantial items in its budget to help defray the cost of the library, although technically the library is an institution of the parish. The "constitutional offices" of the old parish government — the sheriff, assessor, clerk of court, and coroner — could not have been abolished without extensive amendment of the state constitution (and for that matter without arousing such political controversy as to endanger plans for consolidation), so they continued to perform their established functions. By the same token, such functions as education, the already consolidated public health activities, and the judicial offices in general were affected only indirectly, if at all, by the change in the local system of government in the Baton Rouge area.<sup>21</sup>

The Plan in Effect

Although the plan of government had been ratified by a narrow popular margin, its success was by no means assured. In addition to the normal transitional problems involved in so substantial a governmental change, the lingering hostility of the adamant opponents of consolidation constituted a threat, as did the possibility that, in

## Appendix A

### THE RELATIONSHIPS BETWEEN COUNTIES AND CITIES UNDER COUNTY HOME-RULE

In deliberations regarding the home-rule powers to be conferred upon an Oregon county which has a large urban area and population, it is important to note certain legal and practical problems regarding the relationship between counties and cities.

In the drafting of the county-home-rule amendment to the state constitution there was some intention that "county affairs" be differentiated from city affairs. It was not intended that the amendment confer upon counties as complete a jurisdiction inside as outside city limits. To what extent the amendment gives legal effect to this intention, and with what consequences, are questions that must at least in part await answer by the Oregon Supreme Court.

Whatever the answers to the questions, in counties that have been increasing in population and that consequently have been undergoing urbanization, there has been a trend for counties to assume more and more functions similar to the functions of cities--for example, garbage and refuse disposal, the licensing of certain businesses, regulation of the construction of buildings, planning, zoning, and operation of airports. The statutes of Oregon reflect this trend. Particularly in "standard metropolitan statistical areas" and in embryonic metropolitan areas, an increasing number of matters are becoming matters of legitimate concern to both counties and cities. There is in Oregon no tradition of city-county separation; territory inside cities is generally subject to county jurisdiction. If both a county and a city in that county attempt simultaneously but separately to deal with a matter regarding which they have a common concern and regarding which each unit has power to act, political and legal confusion and conflict will quite certainly result. "Dual authority," as the Supreme Court of Missouri has said of concurrent power of cities and counties in that state, "would tend to create confusion."<sup>2</sup> If, for example, a county undertook to regulate the construction of buildings in the urbanized areas of the county, and to plan and zone for orderly land use there, if the county undertook to carry on these functions inside the cities in the county as the laws of the state apparently allow,<sup>3</sup> and if the cities simultaneously undertook the same functions inside their

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1. This intention is in keeping with numerous Oregon statutes that limit particular powers of counties conditionally or unconditionally to territory outside incorporated cities. See the discussion of these and related statutes in Appendix C.
  2. State ex rel. Audrain County v. City of Mexico, 355 Mo. 612, 197 S.W. 2d 301, 303 (1946).
  3. See ORS 215.108 - 215.130 (1959).

boundaries, confusion would tend to result--to say nothing of duplication and friction. In developing a plan of home rule for any county with a large or growing urban area, therefore, it appears imperative that careful attention be given to the legal, political, and administrative relationships between the county and the cities in the county.

The need for this attention, together with the uncertainty regarding the constitutional limitations on a home-rule county's powers inside city limits, calls for clarification of the relationship of the county to the cities in the county. This clarification can be accomplished in part by the charter of the county. The following illustrative charter section is intended to help make the clarification:

- Section \_\_\_\_ . COUNTY POWERS AS LIMITED BY CITY POWERS. Except as--
- (1) the constitution or laws of the state,
  - (2) the charter or ordinances of a city regularly operating as such through elected officials,<sup>1</sup>
  - (3) an ordinance of the county that is approved by a majority of the legal voters of the county who vote upon it, or
  - (4) one or more contracts between the county and one or more cities in the county
- provide to the contrary,--
- (1) no police ordinance or regulation of the county may apply--
    - (a) inside the corporate limits of the city or
    - (b) on premises subject to the police power of the city;
  - (2) in the event of any conflict between--
    - (a) such an ordinance or regulation and
    - (b) an ordinance or regulation of the city,the municipal ordinance or regulation shall prevail; and
  - (3) no service that the city may provide inside its boundaries may be provided there by the county.

Similar clarifications may be needed with reference to other powers. To illustrate, one of the most controversial issues regarding the relationships of counties to cities that prevails in the United States today is the extent to which residents of cities who are legally subject to county taxes shall be taxed by counties to finance services that the counties provide exclusively or mainly outside cities. The law of taxation, at least in Oregon, appears generally to allow counties to finance extra-municipal services by taxes levied exclusively on persons and property or at least at higher rates on these persons and property than on

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1. This manner of differentiating active from inactive cities is patterned upon the differentiation between the two that appears in the state statutes regarding the allocation of liquor and road-user revenues to cities. See ORS 366.780, 473.190(3) (1959). In some counties the differentiation may be unnecessary, in which event this second phrase may simply read, "the charter or ordinances of a city."

persons and property inside cities.<sup>1</sup> Another widespread issue of city-county relationships is whether counties should provide streets, sidewalks, street lights, sewerage, and other so-called "municipal type" services in suburban areas just outside city limits, no matter what the financial basis for the services. These two issues can be resolved at least in part for home-rule counties in Oregon by appropriate provisions in the charters of the counties.

Regarding taxes, a county charter may provide, for example:

Section \_\_\_\_\_. COUNTY CHARGES AND TAXES IN CITIES.

- (1) No special charge for a service of the county may be imposed during a fiscal year in a city where the service is not rendered that year.
- (2) In the event that a service which a county provides to some extent in the county is not provided during a fiscal year in a city in the county,--
  - (a) whatever tax the county levies specially to finance the service may not be levied that year on any property in the city and
  - (b) whatever tax the county levies generally to finance the cost of county services including the service provided exclusively outside the city shall, as levied that year on property in the city, be reduced in the proportion that the cost of the service as provided exclusively outside the city bears to the total cost of the services for which the tax is levied.
- (3) The county council--
  - (a) may establish whatever taxing districts and
  - (b) may classify property in whatever waysare necessary to give full effect to the provisions of the foregoing two paragraphs.
- (4) Whenever the services provided by a city are such that in the judgment of the county council--
  - (a) the county need not provide in the city a particular service that the county provides elsewhere in the county or
  - (b) the burden on the county of providing a particular county service in the city is substantially lessened, the county council may pay the city part or all of the revenue that the county derives from persons and property in the city through taxes and charges levied generally in the county to defray the cost of the service.

Regarding provision by the county in suburban areas of so-called

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1. See Etter, "Municipal Tax Differentials," 37 Or. L. Rev. 1 (1957).

"municipal-type" services--in other words, services such as cities normally provide inside their boundaries--a county charter may provide:

Section \_\_\_\_ . COUNTY SERVICES IN SUBURBS.

- (1) Within two miles of a city a service listed in the following paragraph may not be provided by the county during such time as--
  - (a) the city agrees to provide the service there and
  - (b) the county council finds that the agreement makes it unnecessary for the county to provide the service there.
  
- (2) The services to which the foregoing paragraph applies are:
  - (a) construction of sidewalks, curbs, gutters, and streets other than county roads;
  - (b) drainage;
  - (c) sewerage and sewage disposal;
  - (d) garbage and refuse collection and disposal;
  - (e) street-cleaning;
  - (f) street-lighting;
  - (g) traffic patrol;
  - (h) fire protection;
  - (i) water supply for domestic and industrial purposes; and
  - (j) parks, swimming pools, and other recreational facilities.
  
- (3) For purposes of having one or more of the foregoing services provided outside city limits by a city, the county council may from time to time enter into one or more contracts with the city.

In city-county relationships three developments of recent years are noteworthy:

1. Counties and cities have carried on many functions co-operatively with one another.
2. Cities have transferred many functions to counties.
3. To a lesser extent counties have transferred functions to cities. Oregon statutes confer on counties and cities broad authority to perform co-operatively the functions of mutual interest to them.<sup>1</sup> For transfer of functions between a county and the cities--and, indeed, other agencies of local government--in the county, charter authority may be desirable. This authority may be granted in the following terms, although the grant may need to be supplemented by similar statutory authority so far as it concerns assumption by

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1. See particularly ORS 190.010--190.110 (1959) and statutes cited in related cross-references, 2 ORS 85 (1959).

the county of the functions of other agencies of local government:

Section \_\_\_\_\_. INTERGOVERNMENTAL CO-OPERATION AND TRANSFER OF FUNCTIONS. The county council may from time to time, on such terms as it deems to be in the best interests of the county, arrange by contract--

- (1) for one or more functions of the county to be performed in co-operation with one or more units of local government in the county or with one or more other counties or both,
- (2) for one or more functions of the county to be transferred to and performed by one or more units of local government in the county, and
- (3) for the county to assume one or more functions of one or more units of local government in the county, provided any function thus assumed is a matter of county concern.

A similar provision appears in the article of the proposed--but subsequently rejected--charter for Marin County, California, that is appended to this study. The charter is further pertinent to city-county relationships because of the Intergovernmental Co-ordinating Commission for which it provides.<sup>1</sup>

As the foregoing discussion and illustrative provisions help demonstrate, the clarification and adjustment of county-city relationships under county home rule can hardly be accomplished in full by charter provisions. These relationships quite inevitably have to be worked out in part by the county and its cities as they function after the county adopts home-rule. To illustrate, the policies and practices of a county in providing streets, sewers, and other so-called municipal-type services in suburban areas just outside city limits may with reason depend in part on the annexation program of the city. Lack of interest on the part of the city in annexing the areas would ordinarily call for more initiative by the county in those areas than would be needed if the city had an energetic policy of bringing the areas into the city. A county charter needs to be so drawn as to allow flexibility in county-city relationships, because it is quite impossible to foresee exactly how those relationships are going to need to be adjusted from time to time. A number of the illustrative provisions set forth above are intended to allow this flexibility.

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1. The article of the charter that authorizes transfer of functions and provides for setting up the commission is attached to this study as Appendix B.

EXCERPT FROM PROPOSED CHARTER FOR MARIN COUNTY, CALIFORNIA

Article 7

Intergovernmental Affairs

Section 7.01. Statement of Policy. It shall be the policy of the County to encourage and promote coordination and cooperation between and among the County and the governmental entities operating wholly or partly within the County, including but not limited to cities and special and other public districts; and specifically to encourage and promote increased efficiency and economy in governmental operations within the County through performance by the County of the functions of such governmental entities whenever practicable and consistent with State law.

Section 7.02. Statement of Powers.

A. Powers of Board of Supervisors. The Board of Supervisors is hereby empowered to make provision from time to time in its discretion for the assumption and discharge by the officers, offices, agencies, and departments of the County of specific functions of governmental entities operating wholly or partly within the County, where such assumption and discharge and the terms thereof are mutually acceptable to the County and the governmental entity concerned and are not prohibited by State law.

The Board of Supervisors shall determine the times at which, the periods for which, and the terms and conditions upon which each such arrangement shall be made; and these and all other pertinent matters shall be embodied in a written agreement between the County and the governmental entity concerned.

Any such agreement may provide that designated officers or employees of the governmental entity concerned, providing they have been engaged for not less than 6 months in performance of the functions which are the subject of the agreement, shall or may become employees of the County in its classified civil service, with or without examination; and in such event the agreement shall provide for the terms and conditions of their entry into the service of the County, including their participation in seniority, sick leave, vacation, and other rights and benefits applicable to county employees.

B. Recommendations of Intergovernmental Coordinating Commission and Personnel Commission. Before making any such agreement as is contemplated by this section, the Board of Supervisors shall receive and consider a report and recommendations thereon made by the Intergovernmental Coordinating Commission; and the Board may request said Commission to make such a report and recommendations at any time and specify within what period of time such report and recommendations shall be submitted to the Board. Before including in any such agreement provisions for the blanketing into county civil service of officers or employees of the governmental entity concerned, the Board of Supervisors shall receive and consider a report and recommendations thereon made by the Personnel Commission; and the Board may request said Commission to make such

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\*Charter proposed September 3, 1958; rejected November 4, 1958.

a report and recommendations at any time and specify within what period of time such report and recommendations shall be submitted to the Board.

C. Notice to Intergovernmental Coordinating Commission. In all cases of proposals for the formation of new governmental entities wholly or partly within the County, or for the accomplishing of any change in the boundaries, functions, or operations of any such entities already in existence, or for their consolidation or joint exercise of powers, or for their dissolution, where such proposals under the provisions of State law are initiated by or before or otherwise officially come before the Board of Supervisors; the Board shall receive and consider a report and recommendations thereon made by the Intergovernmental Coordinating Commission, and the Board may request said Commission to make such a report and recommendations at any time and specify within what period of time such report and recommendations shall be submitted to the Board. Nothing contained in this paragraph shall in any way limit or restrict the power of the Board of Supervisors to act on any such proposal within the time or in the manner prescribed by State law.

Section 7:03. Intergovernmental Coordinating Commission. There shall be an Intergovernmental Coordinating Commission consisting of 7 members.

A. Appointment, Qualifications, and Term. The members of the Commission shall be appointed by the affirmative vote of a majority of the entire Board of Supervisors. Members shall have the qualifications required of county officers by State law, and may not hold other county office while serving on the Commission; in addition, each member must have been a resident of the County for at least 3 years immediately preceding the time he takes office. Their terms of office shall be 4 years; except that the terms of those first appointed after the effective date of this Charter shall expire, one on June 30, 1960, and 2 each on June 30 of 1961, 1962, and 1963.

B. Compensation. Members of the Commission shall receive such compensation, if any, as may be fixed by the Board of Supervisors from time to time. Members shall be reimbursed for their reasonable and necessary expenses incurred in the performance of their duties.

C. Vacancy. A vacancy on the Commission shall be filled by the Board of Supervisors for the unexpired term, in the same manner as for an original appointment.

D. Removal. A member of the Commission shall be subject to removal at any time by the affirmative vote of 5/7th of the entire Board of Supervisors.

Section 7.04. General Powers and Duties of the Commission. The Intergovernmental Coordinating Commission shall have the following powers and duties.

A. Generally. The Commission shall have (1) all powers granted and duties imposed by State law, except as the same may be expressly limited or modified by this Charter or by ordinance of the Board of Supervisors; (2) all powers granted and duties imposed by this Charter; and (3) all powers granted and duties imposed by the Board of Supervisors.

B. Studies. The Commission shall study and familiarize itself with the functions and operations of all governmental entities now or hereafter operating wholly or partly within the County, including but not limited to cities

and special and other public districts, and the relations among them and between them and the County; shall study and explore the possibilities and the advantages and disadvantages of increased coordination and cooperation among them and between them and the County; shall ascertain the extent to which and the means by which greater efficiency and economy of operation of such entities may be accomplished; and shall render reports thereon to the Board of Supervisors.

C. Investigations. On its own motion, and whenever requested to do so by the Board of Supervisors, the Commission shall investigate the desirability and practicality of the assumption and discharge by the County of specific functions of such governmental entities, under contractual arrangements that may be mutually acceptable to the County and the entity concerned; and shall report thereon to the Board of Supervisors.

In all cases of proposals for the formation of new governmental entities wholly or partly within the County, or for the accomplishing of any change in the boundaries, functions, or operations of any such entities already in existence, or for their consolidation or joint exercise of powers, or for their dissolution; the Commission shall ascertain the pertinent facts and the probable consequences thereof and shall report thereon to the Board of Supervisors.

In addition, as to any such proposal that falls within the jurisdiction of the Boundary Commission of the County or of the County Committee on School District Organization, the Intergovernmental Coordinating Commission shall assist and cooperate with said Boundary Commission and said County Committee, and shall undertake such investigations and studies as may be requested by either body and render its report and recommendations thereon to such body.

In the case of proposals within the jurisdiction or concern of the Board of Supervisors involving unification or other change relating to school districts wholly or partly within the County, the Commission shall upon request of the Board ascertain the pertinent facts and probable consequences thereof and shall report thereon to the Board.

D. Counseling. The Commission shall, upon request, make its facilities and advices available without charge to governmental entities wholly or partly within the County, and to residents of the County interested in the formation, modification, consolidation, or dissolution of such entities, in their operational practices, in the joint exercise of their powers, in their relations to each other and to the County, or in the improvement of their structure or operations. The extent to which Commission facilities and advice shall be made available in any given instance shall be determined by the Commission in its discretion, in the light of its other duties and commitments, the staff and funds placed at its disposal by the Board of Supervisors, the relative importance of the subject matter involved in the request, and other relevant factors.

E. Redistricting. Whenever requested to do so by the Board of Supervisors, and in any event not less than once every five years, the Commission shall make a report to the Board of Supervisors on the boundaries of the supervisorial districts of the County, which report shall embody the recommendations of the Commission as to what changes, if any, should be made in the boundaries of such districts. The districts shall be as nearly equal in population as may be, except that in recommending any change in boundaries, the Commission may

give consideration to the following factors: (a) topography, (b) geography, (c) cohesiveness, contiguity, integrity, and compactness of territory, and (d) community of interests of the districts.

F. Joint Powers Agreements. The Commission, upon express authorization of the Board of Supervisors in each case, may act as the agency to administer or execute a joint powers agreement entered into between public agencies pursuant to State law, provided that either the County or a governmental entity operating wholly or partly within the County is a party to the agreement.

G. Hearings. The Commission may hold public hearings upon any subject within its jurisdiction. All County administrative offices, agencies, and departments, through their respective executive officer or department head, shall cooperate with the Commission by furnishing data, information, reports, and recommendations whenever reasonably requested to do so by the Commission; and such executive officers or department heads shall appear at meetings of the Commission when reasonably requested to do so, for the purpose of assisting the Commission in its investigations and deliberations.

Section 7.05. Intergovernmental Affairs Coordinator.

A. County Manager. The County Manager shall be ex officio Intergovernmental Affairs Coordinator and shall serve as the executive officer of the Intergovernmental Coordinating Commission, except as provided in subsection B of this section.

B. Authorization for Coordinator. The Board of Supervisors may authorize the County Manager to appoint an Intergovernmental Affairs Coordinator, who shall serve as the executive officer of the Commission.

Section 7.06. Limited Application to School Districts. Except as specifically provided in subsection C of section 7.04 the provisions of this article shall not be applicable to school districts.

Mimeographed by:

Bureau of Municipal Research and Service  
University of Oregon  
June, 1961

## Appendix C

### TERRITORIAL LIMITS ON COUNTY AND CITY POWERS

As Oregon counties have grown in population and undergone urbanization, they have increasingly been empowered to carry on functions that have traditionally been city functions--for example, the licensing of certain businesses, the naming of roads and streets, the regulation of buildings, garbage and refuse disposal, zoning, the operation of airports, and sewerage. It is consequently desirable to work out allocations of functions between city and counties. Each city is a part of the county in which it lies, and territory inside cities is consequently subject generally to both city and county jurisdiction. Duplication, confusion and conflict are likely to result from dual governmental jurisdiction over any particular subject unless special care is taken to clarify and adjust the relationships between the two governmental agencies concerned.

It is desirable, moreover, for certain county functions to be handled on a countywide basis, while others may best be restricted to territory outside cities. In Oregon the provision of garbage dumps as a governmental service was for many years quite exclusively a municipal service. But as suburban areas developed and as small cities increasingly faced problems of providing sites for garbage dumps, it was seen that the county was a logical agency to provide such sites. Today, therefore, the provision of these sites is a common county function. The problems that arise when city residents as city taxpayers pay for municipal garbage dumps and at the same time as county taxpayers pay for county garbage dumps afford reasons to make the provision of garbage dumps a function exclusively of the county.

To minimize whatever difficulties may arise out of the dual jurisdiction of counties and cities, and out of duplication of city and county functions, under county home rule, there was some intention among the draftsmen of the county-home-rule amendment to the state constitution that "authority over matters of county concern," which the people of a county may by charter confer upon the county, should not include authority over matters of city concern. This differentiation suggests that "authority over matters of county concern" generally does not extend into county territory outside the city.

To what extent the terms of the county-home-rule amendment have given legal effect to the intent to differentiate "matters of county concern" from matters of city concern is not entirely clear. As county charter committees and other endeavor to further the differentiation by county charter and otherwise, they may wish to note the extent to which the differentiation has already been made in the constitution and the laws of the state. These laws make the differentiation in part by imposing territorial limitations on the powers, duties, and functions of counties and cities. The limitations indicate the extent to which the differentiation has already been made, and they illustrate how it may be further made under county home rule.

### Territorial Limits on City Power: The General Rule

In Oregon the powers of a city generally do not extend beyond the limits of the city. The powers that the municipal-home-rule amendments of the state constitution<sup>1</sup> confer upon the voters of a city are "intramural" powers<sup>2</sup>--are, in other words, powers limited to the boundaries of the city. "The jurisdiction and application of government of cities," the state legislature has provided, are "coextensive with the exterior boundaries of such cities."<sup>3</sup> This general territorial limitation is commonly understood. It is commonly understood, for example, that city taxes do not bear on property outside cities, that city building codes do not regulate structures outside cities, and that city business licenses do not apply to merchants outside cities. Whatever extraterritorial power a city has is derived from a grant of power from the state legislature.

### Territorial Limits on County Power: The General Rule

In Oregon the powers of a county generally do not extend beyond the boundaries of the county and generally do extend throughout the cities in the county. A county governing body has, for example, power to "levy a tax upon all taxable property in the county,"<sup>4</sup> and power to "purchase and hold" for county use "lands lying within its own limits."<sup>5</sup> The sheriff is the "conservator of the peace of the county," and duty-bound to arrest "all persons guilty of public offences,"<sup>6</sup> however much he may as a matter of practice leave law-enforcement inside city limits to the police officers of the city. In exceptional instances only do the powers of counties not extend inside cities.

### Extraterritorial Powers of Cities

In certain exceptional particulars a city has power outside its limits. The extraterritorial powers of cities are commonly unconditional so far as county action is concerned. Whatever the policies and practices of the county in which a city is located, the city may, for example, acquire property outside the city for airports,<sup>7</sup> for water works,<sup>8</sup> and for wharves<sup>9</sup> and may regulate the use of its parks<sup>10</sup> and water-

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1. Oregon Constitution, article IV, section 1-a (1906), article XI, section 2(1906).
  2. State ex rel. Mullins v. Port of Astoria, 79 Or. 1, 18-19, 154 Pac. 399 (1916).
  3. ORS 221.720 (2) (1959).
  4. ORS 310.020 (1959).
  5. ORS 203.010(2) (1959).
  6. ORS 206.010 (1959).
  7. ORS 492.310 (1959).
  8. ORS 225.020(1) (1959).
  9. ORS 223.884 (1959).
  10. ORS 226.010 (1959).

sheds<sup>1</sup> that lie outside its boundaries. Similarly, the jurisdiction that municipal boxing and wrestling commissions have "over all boxing and wrestling competition within the county in which they are located" is not conditioned upon any county power, policy, or practice.<sup>2</sup>

The extraterritorial powers of cities are, on the other hand, sometimes conditioned upon county action. A city has, for example, general power to control the subdivision of land "within six miles outside the limits" of the city<sup>3</sup> and general power to rename certain streets, roads, and highways within the same distance.<sup>4</sup> The power to rename streets extends to county roads,<sup>5</sup> and both that power and the power to control subdivision are "abrogated" when "the governing body of the county having jurisdiction over such adjacent area establishes a planning commission, and adopts initial regulations for subdivision control" within the area.<sup>6</sup> The power of a city to construct and operate sewerage works "within or without its statutory or corporate limits"<sup>7</sup> appears to be qualified by the power of a county governing body to "prepare and adopt a coordinated master plan for the collection, transportation and treatment of sewage from present and future unincorporated urban areas in the county"<sup>8</sup> and thereafter to "require that plans for the installation of any sewerage system or sewage treatment works in areas under county jurisdiction outside the boundaries of cities shall conform to such master plan."<sup>9</sup> A city may, by entering into a "mutual aid arrangement" with the county in which the city lies, exercise certain extraterritorial powers of "civil defense and disaster relief."<sup>10</sup>

#### Unconditional Exclusions of County Power from Territory Inside Cities

County powers are in numerous instances unconditionally restricted to territory outside cities. A restriction of this character is frequently imposed explicitly or by clear implication, and is usually imposed on a particular power. The power of a county planning commission to recommend, and the power of a county governing body to effect, the renaming of streets, roads, and highways other than state highways is restricted to thoroughfares "outside of incorporated cities."<sup>11</sup> The power of a county governing body to establish and maintain public parks is restricted to "areas within the county and outside the boundary of any incorporated city."<sup>12</sup>

1. ORS 449.305-449.340 (1959).
2. ORS 463.010-463.990 (1959).
3. ORS 227.110 (1959).
4. ORS 227.120 (1959).
5. ORS 227.120 (1959).
6. ORS 215.170 (1959).
7. ORS 224.210 (1959).
8. ORS 451.120 (1959).
9. ORS 451.130 (1959).
10. ORS 401.030(7), 401.080, and 401.110 (1959).
11. ORS 215.140 (1959).
12. ORS 203.120(11) (1959).

The power and duty of county governing bodies to license pool rooms is restricted to such rooms outside the corporate limits of any city."<sup>1</sup>  
The power and duty of county treasurers to license peddlers and solicitors does not apply to these salesmen as they peddle and solicit in "any incorporated city or town which, by its charter, is vested with power to license peddlers or hawkers or itinerant vendors."<sup>2</sup>  
The power and duty of a county governing body to license public bathing resorts is limited to such resorts outside incorporated cities."<sup>3</sup>  
The power of county governing bodies to supervise fireworks displays does not extend to any such display "held within the boundaries of any municipality."<sup>4</sup> The power of county governing bodies to regulate garbage and refuse dumps is limited to such dumps "outside the limits of any incorporated city."<sup>5</sup>

The power of the sheriff to take custody of abandoned motor vehicles found in public thoroughfares is restricted to "the vehicle \* \* \* upon the right of way of a county road."<sup>6</sup> This restriction means that the sheriff may not exercise this power inside cities except on the parts of county roads that lie inside city limits.

Closely related to these exclusions of county power from territory inside cities is the division between cities and counties of certain functions related to state licensing.

"The state liquor commission may require of every applicant for a liquor license the recommendation in writing of the county court in the event the place of business of the applicant is outside an incorporated city, and of the city council if the place of business \* \* \* is within an incorporated city."<sup>7</sup>

Similar provisions appear in the statutes governing licenses for animal racing<sup>8</sup> and for the business of permanently disassembling motor vehicles.<sup>9</sup>

An apparently unique unconditional exclusion of county power from certain city territory concerns public dance halls. The statute that generally requires these dance halls to be licensed, and that delegates to county governing bodies the power and duty to

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1. ORS 464.010(2) (1959).
  2. ORS 698.030(2) (1959).
  3. QRS 448.110 (1959).
  4. ORS 480.140 (1959).
  5. ORS 433.730 (1959).
  6. ORS 483.382 (1959).
  7. ORS 471.210(2) (1959).
  8. ORS 462.055(1) (1959).
  9. ORS 481.350(1) (1959).

license them, does not apply to cities 500 or more in population.<sup>1</sup>

Conditional Exclusions of County Power from Territory Inside Cities

The statute on dance-hall licenses serves to introduce conditional exclusions of county power from territory inside cities. The power of a county governing body to license public dance halls inside cities less than 500 in population is conditional on city action. No county may license a dance hall "within the corporate limits of any town or village which has by ordinance prohibited the operation of a public dance hall,"<sup>2</sup> and a "village or town" may cancel any license granted by a county to a dance hall inside the municipality.<sup>3</sup>

In numerous other particulars the exclusion of county power from territory inside cities is conditional. Counties have power to license ferries inside cities, but nothing in the statute that confers the power "impairs the control with which any incorporated city is invested by its charter over its streets and public landings."<sup>4</sup> The power of a county to license and operate ferries inside a city is subject, moreover, to a certain limitation regarding distances between ferries if the city is invested by its charter with the power to build and regulate landings at the foot of streets terminating at a river.<sup>5</sup> The power of a county court to license grocery stores appears not to extend inside the limits of a city which by its charter or by state statute has power to license these stores.<sup>6</sup> The power of a county board of health established by a county governing body pursuant to authority granted by the voters of the county extends to "all health activities in the county" except those of cities 5,000 or more in population that elect to maintain separate boards of health under existing laws."<sup>7</sup> County power over matters of public health can be extended inside cities, even cities more than 5,000 in population, by the establishment by two or more counties of "a district health unit." "When two or more counties" form such a unit, "all city boards of health within such counties shall be abolished, and such district board of health shall have charge of all health activities in those counties."<sup>8</sup> The "area of operation" for a county housing authority is generally "all of the county except that portion which lies within the territorial boundaries of any city," but the authority "may operate in the area of any city within

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1. ORS 464.110 (1959). Cf. ORS 203.120 (1959) (confers upon county governing bodies power to license "dance halls in the county and outside the boundary limits of any incorporated city or town").
  2. ORS 464.150(1) (1959).
  3. ORS 464.150(2) (1959).
  4. ORS 384.224(3) (1959).
  5. ORS 384.230 (1959).
  6. ORS 203.120(6) (1959).
  7. ORS 431.480 (1959).
  8. ORS 431.670(2) (1959).

the county with the consent of the city governing body."<sup>1</sup> The power of a county to lay sewers "in any public street" is similarly conditioned: "\* \* \* the consent of the appropriate city \* \* \* authorities \* \* \* shall first be obtained and the conditions of such consent complied with."<sup>2</sup> The power and duty of a county clerk to license "traveling public shows" does not extend to the shows as they operate inside cities and are licensed to do so by "the proper municipal authorities."<sup>3</sup> The power and duties of county governing bodies to license secondhand dealers, junk dealers, and auction market operators do not extend "within the limits of cities in which there is in effect an ordinance containing provisions substantially similar" to the provisions of the state law requiring these dealers to be licensed.<sup>4</sup>

#### Relationship of Size of City to Exclusion of County Power from City

The size of a city has a slight bearing on the extent to which persons and property in the city are subject to county power. The statutes concerning dance halls<sup>5</sup> and boards of health<sup>6</sup> reveal a slight tendency for county power to be excluded more from large cities than from small cities. The statute on county roads does likewise. It empowers a county governing body to "construct and pave streets and roads through cities of less than 2,500 population, \* \* \* where such streets and roads are for the purpose of connecting county roads and highways."<sup>7</sup>

#### Conclusion

The foregoing summary of Oregon legislation does not treat exhaustively the manner in which Oregon law attempts to minimize problems of the concurrent jurisdiction of cities and counties in this state. The statutes summarized do illustrate, however, the extent to which, and the manner in which, territorial limitations on local governmental power can be used to solve or at least alleviate the problems. The statutes demonstrate the need for persons who prepare a charter for an Oregon county, particularly one with a large urban area and population, to make as clear as possible the extent to which the powers that the charter confers upon the county apply in territory subject to the jurisdiction of any city in the county.

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1. ORS 456.060(3) (1959).
  2. ORS 451.550(6) (1959).
  3. ORS 464.210(3) (1959).
  4. ORS 698.420(2) (1959).
  5. ORS 464.110 (1959).
  6. ORS 431.480 (1959).
  7. ORS 373.120 (1959).