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## Regional Agencies for Metropolitan Areas

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## REGIONAL AGENCIES FOR METROPOLITAN AREAS\*

RALPH F. FUCHS†

Except in the 96 metropolitan areas of the United States the past five years have witnessed the application of several new plans for the improvement of local government. These have become fairly well standardized. As a result the council-manager form of county government<sup>1</sup> bids fair to become established in numerous localities during the next twenty-five years, much as the city manager form has been adopted during the past quarter-century.<sup>2</sup> Hence in the administration of existing units of local government, rural as well as urban, substantial improvement may be anticipated.

There will remain two problems in relation to the reorganization and consolidation of local units of government which will continue to give trouble. These are (1) the simple but politically difficult task of securing county consolidation where conditions call for it and (2) the tremendously more complex and troublesome problem of creating governmental units in the 96 metropolitan areas which can perform efficiently some of the most important functions that are demanded of public authority in these regions. Here there are no standardized ideas of proven worth, nor has there been significant accomplishment in recent years. There has been, of course, progress in the government of large cities as well as of small,<sup>3</sup> together with the successful accomplishment of specific tasks that have transcended municipal boundaries.<sup>4</sup> But no metropolitan area has created an agency or group of agencies that gives promise of continued success in coping with the body of regional problems or in eliminating duplication of functions among lesser units of government. And it is, of course, the handling of functions which are too large

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\* Address delivered before the Section on Municipal Law of the American Bar Association, August, 1936.

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1. See Principles of a Model County Government, 22 Nat. Mun. Rev. 465 (1933).

2. 1936 Mun. Year Book 12.

3. The "Cincinnati Experiment" appears to be coming successfully through the difficulty created by a city council whose membership is divided among three factions. 25 Nat. Mun. Rev. 39, 108, 244, 375 (1936).

4. See the achievements of the Port of New York Authority, summarized in Reed, Metropolitan Areas, 10 Encyc. Soc. Sci. 396, at 398.

for existing governmental units and the avoidance of overlapping among these units which are at the core of the problem of metropolitan areas.

The factors which are responsible for the metropolitan-area problem have been reviewed numerous times.<sup>5</sup> In each of these areas a large population, forming an economic and social unit with common problems, has spread beyond the boundaries of its central city, often beyond the confines of a single county, and occasionally into parts of two or more states. As regards government, not only is there an absence of any local authority whose sphere extends throughout the area, but over most points in the region a crazy-quilt of cities, counties, townships, and special districts imposes several layers of official power whose exercise gives rise to conflict and waste.<sup>6</sup> Thus, on the whole, many important matters, such as regional planning, receive no attention from any official agency; many others, such as highway construction and maintenance, which obviously should be unified for the area, are inadequately carried on by agencies whose jurisdiction is more restricted; and still others, such as police administration, suffer not only from lack of unity but also from conflict of authority.

There have been various types of proposals for simplifying this governmental maze and caring for the needs of metropolitan areas in fairly comprehensive fashion. These have been classified as (1) annexation of adjoining areas to the principal city; (2) elimination of county government within the central city, at the same time enlarging the latter, or consolidation of city and county governments; (3) expansion of county functions to meet metropolitan needs; (4) creation of special authorities, or districts, additional to previous governmental units, to perform specific functions; (5) establishment of "federated" metropolitan governments, comprising a "greater" city and semi-independ-

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5. See, for recent examples, Reed, *supra*, note 4; National Municipal League, *The Government of Metropolitan Areas* (1930) c. I; Merriam, Parratt & Lepawsky, *The Government of the Metropolitan Region of Chicago* (1933) c. I.

6. Gill & Jones, *Metropolitan Districts*, 1936 *Mun. Year Book* 135; Merriam, Parratt & Lepawsky, *supra*, note 5, at 9, enumerating 1642 governments in the metropolitan region of Chicago. Of these 978 are school districts. The total was slightly reduced in 1933 by the consolidation of 21 of the 70 park districts into the Chicago Park District. *Ill. Rev. Stat.* (Smith-Hurd, 1935) c. 105, sec. 333.1 et seq.

ent lesser units which are integrated with it; and (6) independent statehood for the largest metropolitan areas.<sup>7</sup> All of these proposals except the last have received application in one or more metropolitan areas in the United States, but nowhere with sufficient inclusion of territory and also of functions to answer the requirements of the situation created through the spread of industry and population made possible by the automobile.<sup>8</sup> In the meanwhile obstacles to the enlarged application of any of these ideas have appeared. Settled areas and rural sections are interspersed in the newer metropolitan regions, and incorporated communities not immediately adjoining the principal cities retain an intense local patriotism which resists the assumption by metropolitan units of the functions of their governments.<sup>9</sup> The problem of unified and simplified government for metropolitan areas at the present time, therefore, presents the four-fold aspect of (1) performing essential functions efficiently where they are needed throughout the area; (2) avoiding the complexity and cost of urban government in rural sections; (3) permitting a continuance of local municipal governments so far as possible; and (4) distributing the cost of government within the area upon an acceptable basis.

It is the purpose of this paper to suggest that the creation of a new type of special authority, or district, having limited functions over the entire metropolitan area but having also the capacity to absorb additional functions, presents a more hopeful method of solving the governmental problem in these areas than any of the proposals just mentioned, because, first, it would dis-

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7. Gill, *Intergovernmental Arrangements*, 1936 *Mun. Year Book* 140; *National Municipal League*, *supra*, note 5.

8. Annexation, of course, is the traditional method of providing city government for outlying territory which needs it. In several important cities, such as Denver, St. Louis, and Philadelphia, county government has been eliminated. In Los Angeles County, California, Wayne County, Michigan, containing the city of Detroit, and elsewhere the counties have assumed important functions of a municipal nature. In Boston, New York, and elsewhere special districts or "authorities" for the performance of functions which transcend municipal boundaries have been established. In the case of New York City the present government, with its boroughs, provides an approach to "federalism" with, however, much less independence for the boroughs than proposals elsewhere have contemplated. The metropolitan area of New York is now much larger than even the consolidated city. See *National Municipal League*, *supra*, note 5, 68, 171, 217, 256, 344, 367.

9. Reed, *supra*, note 4.

turb fewer vested interests of a political, economic, or sentimental nature and would therefore prove easier of adoption; second, it would provide for later development; and, third, it would avoid the necessity of introducing compromises into the essence of the plan such as are likely to create fatal complexity or dangerous weakness in proposals for federated metropolitan government.<sup>9a</sup>

The prototypes of the suggested form of authority are the special-purpose districts now existing in a number of metropolitan areas. All of these derive in a sense from the Metropolitan Police District of London, established in 1829.<sup>10</sup> Of those which function today in the United States the earliest and, together with the Port of New York Authority, the most famous are the Metropolitan District Commission of the Boston area and the Chicago Sanitary District. Both the latter and the predecessors of the former began their existence in 1899.<sup>11</sup> Another noteworthy example is the Metropolitan Transit District in the Boston area, established in 1929.<sup>12</sup> Earlier than any of these were the South Park Commission, the West Park Commission, and the Lincoln Park Board in Chicago, which were succeeded in 1933 by the Chicago Park Commission.<sup>13</sup> The jurisdiction of this commission, however, does not extend beyond the present boundaries of the city of Chicago.<sup>14</sup>

The Metropolitan District Commission as at present organized is composed of a Commissioner, who is the executive officer, and four Associate Commissioners, appointed by the Governor,<sup>15</sup> and charged with the functions of providing main sewers, water, and parks and boulevards within sewer, water, and park districts respectively. The boundaries of these districts, while they are not identical, embrace in each instance the major portion of the Boston metropolitan area.<sup>16</sup> The Commission has power to enact

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9a. See *infra*, note 54.

10. Reed, *supra*, note 4. The District, however, is a department of the central government, with a commissioner at its head and without local responsibility. Fosdick, *European Police Systems* (1915) 40-48.

11. National Municipal League, *supra*, note 5, at 260. The District Commission is the successor since 1919 of separate sewer, water, and park districts. *Ibid.*, 274.

12. Mass. Acts & Res., 1929, c. 383.

13. Ill. Rev. Stat. (Smith-Hurd, 1935) c. 105, sec. 333.1 et seq.

14. *Idem*, sec. 333.1a.

15. Mass. Gen. Laws (Terc. ed., 1932) c. 28, secs. 1-3.

16. *Idem*, c. 92, secs. 1, 10, 33, 35.

regulations, which receive civil and penal enforcement, relating to the water supply,<sup>17</sup> the parks, boulevards, and adjacent waters,<sup>18</sup> and the Charles River basin,<sup>19</sup> It maintains a police force which has the powers of town police.<sup>20</sup> It has independent authority to deal with public utilities in reference to the location and maintenance of tracks, lines, etc.<sup>21</sup> Administratively the Commissioner is authorized to establish divisions of the Commission in his discretion, each headed by a director appointed by him with the consent of the Governor and Council.<sup>22</sup> Other officers and employees are appointed by the Commission.<sup>23</sup> The expenses of the Commission are met from the proceeds of assessments against the cities and towns within the districts, apportioned for various purposes according to assessed valuation, population, or consumption of water.<sup>24</sup> The Treasurer of the Commonwealth administers the funds. The scope of the Commission's operations may be gauged by its annual expenditures, amounting to slightly over \$5,300,000 in 1934.<sup>25</sup> In that year it had 1345 permanent employees, including 218 police, and 864 temporary employees. Its net debt on November 30, 1934, amounted to slightly over \$21,000,000.<sup>26</sup>

The five Commissioners of the Chicago Park District are appointed by the Mayor of the City and are constituted a "body politic and corporate."<sup>27</sup> They receive no compensation.<sup>28</sup> The Chicago Sanitary District, which also is denominated a body corporate, is governed by nine elected Trustees, three being chosen each two years for six-year terms.<sup>29</sup> Each district is established for a single purpose, indicated by its name, the Park District having charge of the extensive system of parks within the City,<sup>30</sup> and the Sanitary District being entrusted with the establish-

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17. *Idem*, secs. 20, 21.

18. *Idem*, secs. 37, 39.

19. *Idem*, sec. 38.

20. *Idem*, c. 28, sec. 4; c. 92, sec. 61.

21. *Idem*, c. 92, secs. 43-46.

22. *Idem*, c. 28, sec. 3.

23. *Idem*, sec. 4.

24. *Idem*, c. 92, secs. 5, 6, 26, 54, 55.

25. Annual Report of the Commission, 1934.

26. *Ibid.*

27. Ill. Rev. Stat. (Smith-Hurd, 1935) c. 105, sec. 333.3.

28. *Idem*, sec. 333.4.

29. *Idem*, c. 42, sec. 322.

30. The City itself maintains a number of playgrounds and small parks.

ment and conduct of sewerage and drainage works which extend beyond the confines of Chicago itself but do not embrace the entire metropolitan area. The Sanitary District exercises important incidental functions in connection with navigation, power production, highways, and recreation.<sup>30\*</sup> The Trustees of the Sanitary District elect a chairman from among their own number who may exercise a veto over their acts, which is subject to being overridden by a two-thirds majority of the Trustees. Their principal administrative officers are a clerk, a treasurer, a chief engineer, and an attorney.<sup>31</sup> The Park District is provided with a statutory chief executive, known as the General Superintendent, who is supposed to be chosen upon the basis of technical qualifications. He must, however, be a resident of the District and his powers are derived from the Commissioners.<sup>32</sup> Both districts have power to enact ordinances to aid in effecting their statutory purposes.<sup>33</sup> They may also maintain police forces.<sup>34</sup> They have extensive powers to borrow money, to levy taxes and special assessments, and in general to manage their own finances.<sup>35</sup>

The Boston Metropolitan Transit District presents several suggestive features in its organization.<sup>36</sup> Its Board of Trustees is composed of five members, four of whom are appointed by the Governor and one by the Mayor of Boston. Its functions are those of planning the construction and financing by the District, with the approval of the General Court, of transit facilities for the metropolitan area. The territory and inhabitants of the District are constituted a body corporate. The Board is advised by a Metropolitan Transit Council, composed of the mayors and chairmen of the boards of selectmen of the cities and towns included in the District. The District has authority to take over transit properties owned by the City of Boston when the City shall see fit to transfer them and to establish a Metropolitan Transit Department of three Commissioners to administer these

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30a. Merriam, Parratt & Lepawsky, *supra*, note 5, at 55-56.

31. Ill. Rev. Stat. (Smith-Hurd, 1935) c. 42, sec. 323.

32. *Idem*, c. 105, secs. 333.5, 333.6.

33. *Idem*, c. 42, sec. 323; c. 105, sec. 333.7.

34. *Idem*, c. 42, sec. 360; c. 105, secs. 333.7, 334.

35. *Idem*, c. 42, secs. 328, 332, 333; c. 105, secs. 333.16, 333.19, 333.20, 333.21, 333.29-37, 333.38-41.

36. Mass. Acts & Res., 1931, c. 383.

properties as well as others newly created. At present the City's properties are leased to the privately-owned Boston Elevated Railway and operated by a public Board of Trustees created by state law. This operating arrangement will continue until 1959.<sup>37</sup> Thus, should the District develop into an agency for actually conducting the transit services of the metropolitan area, it would in effect be composed of a division of planning and construction, an operating division, and an advisory council representative of the interested municipalities.

The recently created London Passenger Transport Board, which conducts most of the transportation services in the London area, has an advisory committee which is representative of the sections of that area and also of various affected interests such as private transportation agencies and transport labor.<sup>38</sup> The committee participates through a representative in the selection of the members of the Transport Board itself<sup>39</sup> and has extensive powers of investigation into the affairs of the Board.<sup>40</sup>

Thus, taken together, even these few among the fairly numerous metropolitan "authorities"<sup>41</sup> embody most of the essential features of modern municipal government. Responsible boards or councils; single executives; departmentalized administration; functions both of a public-works nature and of day-to-day administration; delegated legislative powers; and relative financial autonomy all appear in the picture. Only the enforcement of ordinances by proceedings in municipal courts appears to be lacking. Clearly authorities of this sort are possible candidates for the performance of numerous functions in the larger metropolitan areas. It remains to be determined whether they have weaknesses which cannot be overcome and whether there are in fact reasons for preferring them to other suggested agencies.

It must be admitted that no single authority thus far created meets the requirements of a metropolitan government with numerous and varied functions. It has been pointed out that most of the existing districts are utility districts which are successful

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37. *Idem*, c. 333.

38. 23 & 24 Geo. V, c. 14, sec. 58 (1933).

39. *Idem*, sec. 1.

40. *Idem*, sec. 60, supplementing 14 & 15 Geo. V, c. 34, sec. 3.

41. The report of the National Municipal League, *supra*, note 5, lists 24 districts which extended beyond the boundaries of cities in the United States and Canada in 1930.



in the exercise of the specific projects entrusted to them partly because of the specialization and singleness of purpose which the limited scope of these activities makes possible.<sup>42</sup> Beyond that, it is said, they have not engaged in constructive activity or built up the interest and loyalty of their constituencies. "Special metropolitan authorities have distinct limitations. They are essentially a makeshift. They do not offer a conclusive answer to the problem of integration of government of metropolitan areas."<sup>43</sup>

It may be suggested in reply to the foregoing that special metropolitan authorities so far have been charged simply with the performance of specific tasks. For that reason their potentialities are untested. The Metropolitan District Commission has been kept in leading strings by the legislature, and its state-appointed Commissioner and Associates doubtless have seemed far removed from the people of the Boston area.<sup>44</sup> The Chicago Sanitary District, on the other hand, has a task at present which challenges the imagination,<sup>45</sup> and its Board of Trustees is elected by the people of the District. Its organization, however, is without benefit of those features of modern municipal government which make for successful functioning.<sup>46</sup> The political manipulation and scandals that have resulted, coming to light in recent years, have done much to kill whatever popular enthusiasm might otherwise have been engendered by its achievements in the service of health, decency, and esthetics.<sup>47</sup>

The most pressing needs for metropolitan-area government at the present time are said to be community planning, including provision for streets, parks, and recreational facilities; sewerage

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42. National Municipal League, *supra*, note 5, 282, 337.

43. *Idem*, 341.

44. *Idem*, 313-315.

45. The decision of the Supreme Court of the United States, holding illegal the diversion of sufficient water from Lake Michigan to dilute Chicago's sewage and send it down the Illinois River, makes mandatory the construction of sewage disposal works for the greater part of the affected population. *Wisconsin v. Illinois*, 278 U. S. 367 (1929), 281 U. S. 179, 696 (1930), 289 U. S. 395, 710 (1933); Ill. Rev. Stat. (Smith-Hurd, 1935) c. 42, secs. 326, 327a.

46. Especially regrettable is the absence of an individual executive, or chief administrator, with statutory powers. The addition of a civil service system to the district's legislative charter in 1935 may or may not prove salutary, according to its administration. Ill. Rev. Stat. (Smith-Hurd, 1935) c. 42, secs. 323.1-323.36.

47. National Municipal League, *supra*, note 5, 318-319.

and utilities; safety, including police and health; and eleemosynary institutions, including public schools.<sup>48</sup> No reason appears why in any area an authority might not be set up with a council-manager form of government, for the performance of some or all of these functions and of additional ones which might from time to time be added. Presumably the council, or board, of such an authority would be elected, but whether by proportional representation or by single-member districts within the metropolitan area would depend upon whether the functions of the authority were such as to raise issues that promised to divide the inhabitants along group lines. The provision of streets and highways, for example, probably is too largely a technical question to raise such issues, whereas the affording of park and recreational facilities raises questions of occasional large-scale expenditure and of relative treatment of racial and neighborhood groups that may well arouse interest and create division in the population. Ultimately, it would seem, the authority should have a council or board chosen by proportional representation, either from the area at large or from districts which are represented on the council by several members.<sup>49</sup> There should be, in addition, a manager responsible to the council but with independent statutory or charter powers.<sup>50</sup> A law department or attorney, a department of finance, a department of civil service, and other departments established by ordinance as the functions of the authority demand, with heads appointed by the manager and responsible to him, should likewise be provided for.<sup>51</sup> An advisory council, such as those referred to above, might prove a valuable addition.

As regards functions, provision for a planning commission, related to the council and to the governing agencies of all municipalities within the area, but probably without compulsion attaching to the observance of its plans, undoubtedly should be made.<sup>52</sup> Other functions, involving the exercise of compulsory

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48. Reed, *supra*, note 4.

49. See National Municipal League, *Model City Charter* (revised ed., 1927) p. 10, note 1, for a discussion of the relative merits of these two plans.

50. *Idem*, 33-35.

51. *Idem*, 35.

52. *Idem*, 71-74. The Massachusetts Metropolitan District Commission has had within it since 1923 a Division of Metropolitan Planning, consisting of seven commissioners. *Mass. Gen. Laws* (Terc. ed., 1932) c. 28, secs. 5, 6.

powers, should be selected as the needs and possibilities of the particular situation seem to demand. Those listed above as of major importance in metropolitan areas at present<sup>53</sup> are too numerous and far-reaching to be transferred at one time from established governmental agencies. The recent Pittsburgh and St. Louis plans for federated metropolitan government have been very much more cautious and nevertheless have failed to win adoption.<sup>54</sup> There is, however, only a modest minimum below which so unassuming an agency as an authority could not afford to fall. The merit of the plan, if it has any, lies in the fact that it would make slight pretensions at the outset and would seek to win its way into the confidence of the inhabitants until in time,

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53. *Supra*, text at note 48.

54. The Pittsburgh plan, which failed of adoption in 1929, would have been accepted had not the excessive requirement of a two-thirds vote in a majority of the affected municipalities been included in the constitutional amendment under which the proposal was submitted by the legislature. The proposal was approved by simple majorities in a comfortable preponderance of these municipalities. In a sense, therefore, the fate of the measure might be regarded as a favorable augury for similar proposals elsewhere, submitted under more reasonable requirements. The larger satellite cities in the Pittsburgh area, however, rejected the proposal by heavy majorities. Faust, *Voters Turn Thumbs Down on Pittsburgh's Metropolitan Charter*, 18 *Nat. Mun. Rev.* 529 (1929); Miller, *The Pittsburgh Consolidation Charter*, *idem*, 603. The plan as presented was greatly weakened in comparison with that originally drafted. Briefly, it proposed the abolition of Allegheny County and the substitution of an enlarged City of Pittsburgh. In addition to the county functions, the City, throughout the area, was to provide main streets, exercise planning and zoning powers subject to the ordinances of municipal subdivisions, establish special taxing and assessment districts where needed, enact health regulations, and maintain a police department. Faust, *op. cit.* The St. Louis plan never was fully elaborated in public. A state constitutional enabling amendment, specifying some of its features, was defeated in 1930, receiving a favorable vote in the City of St. Louis but an adverse vote in St. Louis County, which surrounds the City but does not include it, and in the State as a whole. The features set forth in the amendment included the establishment of a City of Greater St. Louis, including both the present City and the County; the continuance of existing municipalities under the name of municipal districts; the abolition of the existing county government and the substitution of incorporated "county districts" in the previously unincorporated portions of the County. The Greater City, however, was to perform many of the previous county functions of government. The amendment specifically contemplated control by the Greater City of tax assessment and collection or at least equalization within its boundaries; the maintenance of a separate police force for the Greater City; the creation within the Greater City of special improvement districts; and the vesting of additional powers previously exercised by municipalities, upon favorable action by a majority of the voters within a majority of the affected municipalities. The reduction of the enabling measure to legal form required a horrendous proposal of over four thousand words for incorporation into the State constitution, which was rejected partly because of fear of unknown evils which it might contain.

perhaps, it developed into a full-fledged municipality of metropolitan proportions. A sufficient beginning might be made, for example, with the provision of through highways and main sewers and the establishment of a police department covering the metropolitan area but replacing the local police, sheriffs, or constables only where the authorities or the inhabitants of local municipalities, counties, or townships consented. The assumption of additional functions, of which the provision of parks, health regulation, and the conduct of hospitals and correctional institutions might well be among the earliest, should, of course, be provided for in advance. Entry upon a new function in its larger aspects might be by vote of the people, with concurrent favorable majorities required in the area as a whole, in the principal city, in a majority of the lesser municipalities, and in the county or counties outside the principal city. It should be provided in addition that the authority, by contract with lesser units of government within its area, might undertake to perform local services, such as the provision of local streets, sewers, parks, and recreational facilities, and to carry on local police and health regulation within their area.<sup>55</sup>

Financial arrangements would necessarily include general taxation for the support of the authority's broader functions, special assessments for improvements which the council determined to be of particular benefit to property in specified areas, and payments by lesser governmental units for local services rendered to them. There would, presumably, be a maximum tax rate for authority purposes which would be additional to the rates allowed to the local municipalities and counties or townships. There would be little opportunity for piling rate upon rate except to an extent which is already possible under existing governmental arrangements. Even in the rural portions of populous counties it is commonly possible now for highway, sewer, school, road, and hospital districts to be established in addition

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55. The writer was not present at the presentation by Mr. Gordon Whittall of his paper, *Reorganization and Consolidation of Units of Local Government*, at the 1935 meeting of the American Bar Association's Section of Municipal Law, published in the summary of the Section's proceedings, p. 85. It may be that the proposal therein made, for metropolitan services to be rendered throughout an area according to a minimum standard, supplemented by improved services where desired by the inhabitants of localities, involves the same idea.

to the general governments or for special taxes to be levied for the same purposes.

One additional power may be necessary in a metropolitan district which extends beyond a single county. That is the equalization of assessments, to avoid the underpayment of taxes to the authority through a scaling down of assessed valuations such as the states have not succeeded in preventing. Far better, of course, would be the assumption by the authority of the entire function of tax assessment. Equalization should be for state as well as local purposes, but if such a proposal should prove to be the stumbling-block to the acceptance of a plan for a metropolitan district, it might be possible to abandon consistency and morality and to propose equalization for the purposes of the authority alone, as was provided in the alternative in the St. Louis plan of 1930.<sup>56</sup>

It may be asked at this point wherein the proposal just outlined for metropolitan authorities differs from the plans for federated metropolitan governments to which reference has been made, or from the modernization of county government accompanied by an enlargement of county functions to include some which are of a municipal nature. The differences perhaps do not go to the essence of the governmental scheme but have to do rather with the incidentals and with the strategy of securing adoption. The metropolitan authority would be added to existing governments in its area and would offer a minimum of immediate disturbance to any of them. The opposition engendered by its proposal consequently would not be so likely to include county officials or other persons with vested interests of a political or sentimental nature. Since county government would remain, there would be no need for incorporated districts in the rural sections of the metropolitan area.<sup>57</sup> Judicial administration; the prosecution of offenders; the provision of local streets, roads, sewers, and parks; the conduct of schools, libraries, and fire departments; the collection of taxes; and local zoning, licensing, and police protection, would continue as before. There would simply be introduced a new unit of government whose cost at the beginning would not be high and whose efficiency in the long run

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56. Proposed amendment to article IX of the Constitution of Missouri (1930) sub-sec. 3(3).

57. *Supra*, note 54.

might lower the expense of government in the metropolitan area as additional functions were absorbed and the expenditures of local units correspondingly reduced. At least it is likely that larger functions would be performed at a cost no more than commensurate with the benefits conferred.

The boundaries of such a suggested metropolitan authority could be drawn independently of the limits of existing counties, leaving the excluded fringes still parts of unimpaired units. If in the course of time the counties should seek to surrender functions to the metropolitan authority which needed to be performed in those portions of their area excluded from the authority, steps might be taken for the annexation of such areas to adjoining counties or arrangements be made for the authority's exercising these functions outside its own boundaries.<sup>58</sup> In defining the boundaries of the metropolitan authority the best possible approximation to workability would have to be sought. Obviously the needs for transportation, sewerage, police protection, and other services would not all extend equally far. Boundaries which varied for different purposes, as in the case of the Metropolitan District Commission, would scarcely be practicable for a larger number of activities supported by general taxation. If the area were made large, however, the support of the broader services performed by the authority would scarcely prove burdensome, in view of the charges against lesser units for local services and the use of special assessments to finance improvements which did not promise to confer a benefit throughout the area.

In some instances, of course, where county boundaries and metropolitan area boundaries coincide, a federated city or a modernized county may equally as well be made the regional unit of government. At least in the former case, however, it may be doubted whether equal simplicity of function at the outset is possible. The creation of a "greater" city implies pretensions and leads to elaborateness which, while they arouse enthusiasm among the boosters, frighten the sober citizenry. Concern over census standing, which has figured in attempts to set up larger cities under the federated schemes, hardly extends below the

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58. Intergovernmental arrangements for the performance of specific local functions are becoming increasingly common. Gill, *Intergovernmental Arrangements*, 1935 *Mun. Year Book*, 140.

first ten or twelve cities in any event and is likely to become a diminishing factor as the period of expanding population yields to an era of stability.<sup>59</sup> Possibly it is something more than academic detachment which leads to the belief that a realistic urging of metropolitan-area government in terms of the actual benefit to be derived would win acceptance more readily than exhortation in terms of meaningless statistical rivalry.<sup>60</sup>

It requires considerable hardihood to suggest an addition to the units of local government in this day and age, even as a means to the end of ultimate simplification. More especially is this true when the proposed addition is denominated a district or an authority.<sup>61</sup> In all fairness, however, there should be differentiation between districts whose purpose is simply the evasion of constitutional tax limits or of limitations upon the indebtedness of cities and counties while loading new obligations upon the same land,<sup>62</sup> and districts which either derive their income from the sale of services<sup>63</sup> or which can be justified by considerations of economy and efficiency. The proposed metropolitan authorities clearly belong in the latter category. If they should be successful they would increasingly absorb small, inefficient governmental units whose expenditures and indebtedness impose much financial burden without compensating benefits.

Legal methods of introducing metropolitan authorities and legal obstacles standing in the way vary, of course, from state to state. It is not the purpose here to discuss these in detail. In states like Massachusetts and Illinois, where the home-rule tradition is lacking, it might be well to proceed by legislative action after the removal of whatever constitutional restrictions prevent the delegation of city or county functions to a new type of agency.<sup>64</sup> Elsewhere there might be legislative prescription of

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59. *Recent Social Trends in the United States* (1933) 48-56.

60. See Faust, Miller, *supra*, note 54.

61. Porter, *A Plague of Special Districts*, 22 *Nat. Mun. Rev.* 544 (1933); Davis, *Borrowing Machines*, 24 *idem* 328 (1935). Compare, however, Foley, *Legal Problems Affecting the Non-Federal Phases of the Public Works Program*, *Proc. A. B. A. Sec. of Mun. Law*, 1935, p. 29; P. W. A. and Revenue *Financing of Public Enterprises*, *idem*, 51; *Some Recent Developments in the Law Relating to Municipal Financing of Public Works*, 4 *Ford. L. Rev.* 13 (1935).

62. As in the case of districts for the construction of public improvements which are to be paid for by special assessments.

63. As in the case of the Port of New York Authority and numerous bridge and utility districts throughout the country.

64. *People ex rel. v. Becker*, 203 N. Y. 201, 96 N. E. 381 (1911).

area boundaries, followed by authorized home-rule procedure in the formulation of a scheme of government, subject to the same necessity for eliminating constitutional restrictions. In Missouri, with which the writer is familiar, constitutional home-rule provisions<sup>65</sup> might prevent the transfer of certain functions to a metropolitan authority,<sup>66</sup> while the provision in the same document for certain county officers<sup>67</sup> might ultimately give trouble. The constitutionality of proportional representation, moreover, is at best doubtful.<sup>68</sup> The simplest way around these pitfalls, if its adoption could be secured, would be a constitutional enabling amendment for defined metropolitan areas, which necessarily would supersede prior obstructive provisions.

In some metropolitan areas, which extend beyond a single state, a complete solution could be found only by means of an interstate compact. To give effect to such a compact, state constitutional amendments would be necessary to the same extent as for legislation conferring similar powers.

The setting up of governments for metropolitan areas is constitution-making in fact if not in name. Its product should not depart too far from the familiar or become involved in a maze of detail. At the same time the concepts which underlie it must be sufficiently bold to meet the situation and provision must be made for their realization through growth, without compromises that sacrifice fundamentals. To steer a course which is guided by these principles is difficult. It seems not too much to hope, however, that with governmental experts to do the navigating, lawyers to steer the ship away from rocks of technical invalidity and shoals of popular opposition, and all hands to man the machinery, the port of efficient, economical government may be reached—even if no speed records are broken.

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65. Mo. Const. (1875) art. X, sec. 10; art. IX, secs. 16, 20-25. Compare art. IX, sec. 15.

66. See, however, *State ex rel. v. St. Louis*, 318 Mo. 870, 2 S. W. (2d) 713 (1928); *State ex rel. v. St. Louis*, 318 Mo. 910, 1 S. W. (2d) 1021 (1928).

67. Mo. Const. (1875) art. IX, secs. 8, 10.

68. Fischer & Grossman, *The Constitutionality of Proportional Representation as Applied to Elections in the State of Missouri*, 18 ST. LOUIS LAW REV. 16 (1932).