



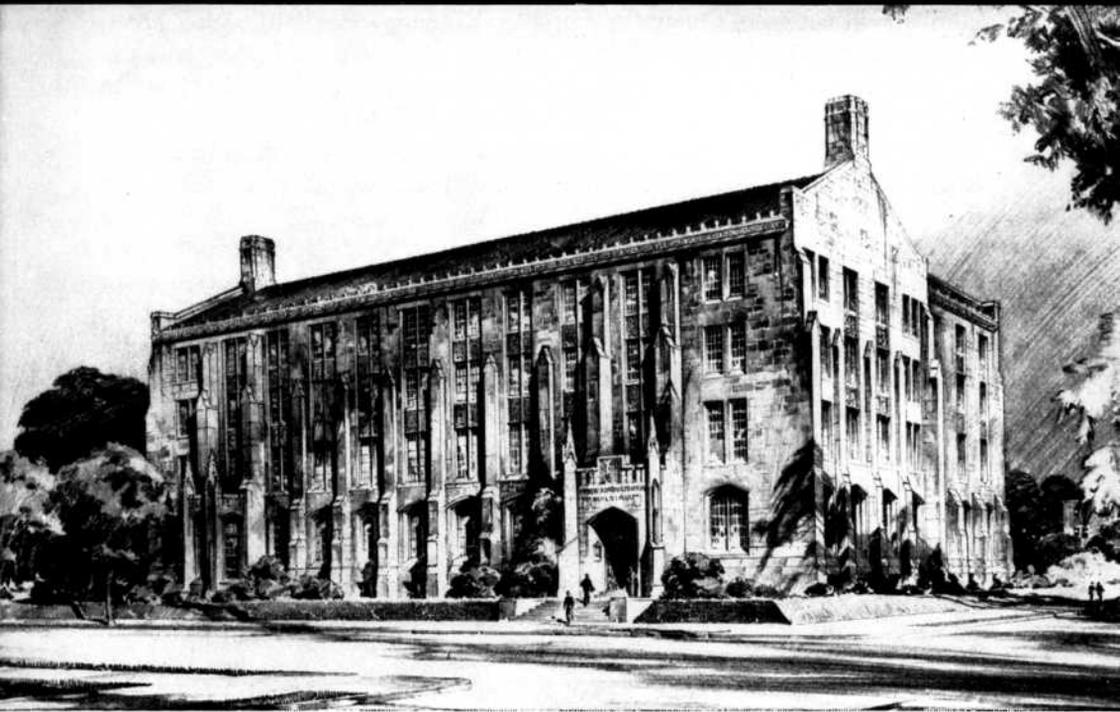
# State and Local Government

## **PART XIII**

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# **Foundations of State and Local Government**

# 49. State and Local Governments and Their Relations



**A**CCORDING to the Bureau of the Census, in 1952 there were 116,743 governmental units in the United States. This figure was 38,000, or almost twenty-five per cent, lower than the comparable figure of ten years before. These units fall into seven broad classes. There are, of course, the national government and the State governments. There are also the chief units of rural government: the counties, and the smaller, usually rural, areas known as towns or townships. There are urban regions organized as municipalities. There are governmental units for education—the school districts. Finally, there are many so-called special districts, which are political entities that have been established usually for the conduct of a single task such as water supply, sewage disposal, mosquito abatement, or park management. The Bureau of the Census has enumerated these classes as shown in Table 27.

The most noteworthy change in this enumeration has been the disappearance of more than 40,000 school districts, which have been consolidated with other districts or absorbed as administrative agencies in county or city governments. During this period, for example, in Illinois alone almost 9,000 districts vanished, the total falling from 12,138 to 3,484. On the other hand,

it is also significant that the number of special districts has mounted by nearly fifty per cent.

These units are distributed very irregularly throughout the nation; their numbers do not seem to have any predictable connection with either population or area. For instance, for each county in the United States there are about thirty-seven political units of the various lesser types. However, in Minnesota there are 104 such units per county, whereas in Virginia there are but three. The county with the greatest number of local governments is Cook (Chicago), with 422; the county with the second greatest number is Otter Tail, in Minnesota, with 334. According to the 1950 Census, Cook County was the most populous in the nation, with 4,508,792 people; Otter Tail was just about average, with 51,320. Fourteen other counties, all but three of them in either Wisconsin, Minnesota, or Nebraska, each have more than 200 governing units apiece. Yet New York City, embracing eight million people in the area once occupied by five counties, has only two governmental units.

TABLE 27. NUMBER OF GOVERNMENT UNITS IN THE UNITED STATES

Type	Number of Units		Per Cent Change
	1952	1942	1942-1952
All types	116,743	155,116	-24.7
U.S. Government	1	1	0.0
States	48	48	0.0
Counties	3,049	3,050	less than 0.5
Municipalities	16,778	16,220	3.4
Townships	17,202	18,919	-9.1
School districts	67,346	108,579	-38.0
Special districts	12,319	8,299	48.4

The boundaries of the various units of government in the United States have a bewildering complexity. One noteworthy trait is that these boundaries may be drawn by any one of several agencies, depending both upon the type of the unit and upon its location. The boundaries of the States admitted after 1789 were set out by the combined action of the residents of the States concerned and the United States Congress. County lines are set forth by the State governments, either through constitutional provision or by legislative enactment. City limits may be fixed by any one of several authorities, depending upon the State in which the city is located. Township lines are determined by State or county governments. The boundaries of school districts and of special districts are also established by the State governments.

Another aspect of the boundaries of local governments is that most of them are not "rational." That is, they do not usually correspond with

**1313 East 60th Street, Chicago.** The home, since 1938, of numerous national associations interested in government and public administration, the oldest of which, the American Public Works Association, was formed in 1894, and the youngest of which, the Interstate Clearing House on Mental Health, was established in 1953. Other groups located here are the Council of State Governments (1933), the International City Managers Association (1914), and the American Municipal Association (1924).

any social, economic, or geographic entity. For example, the southern boundaries of Ohio, Indiana, and Illinois follow the Ohio River; yet the Ohio River more nearly unites than separates the southern portion of those States with Kentucky, for the entire Ohio River valley is a "natural" economic region. Many boundaries of most types of local governing units are quite artificial; even the boundaries of the typical American city, which is often judged to be the most nearly "natural" political unit in the country, does not include all the people or territory directly associated with the city.

## CREATION OF STATE AND LOCAL GOVERNMENTS

The State governments and the different types of local governments are created by a variety of means.

### State governments

The creation of State governments has been partly dealt with in a previous chapter, with respect to the admission of new States. To recapitulate and point up this discussion, essentially the government of a State is created by, and receives all its powers from, the citizens of the State. That is, in doctrine, at least, representatives of the citizens meeting in convention draft a proposed constitution for the State in which they establish the organs of government and allocate powers among these organs. Furthermore, according to this doctrine, the role of the national government is limited to approving the new constitution and admitting the State to the Union. Finally, the

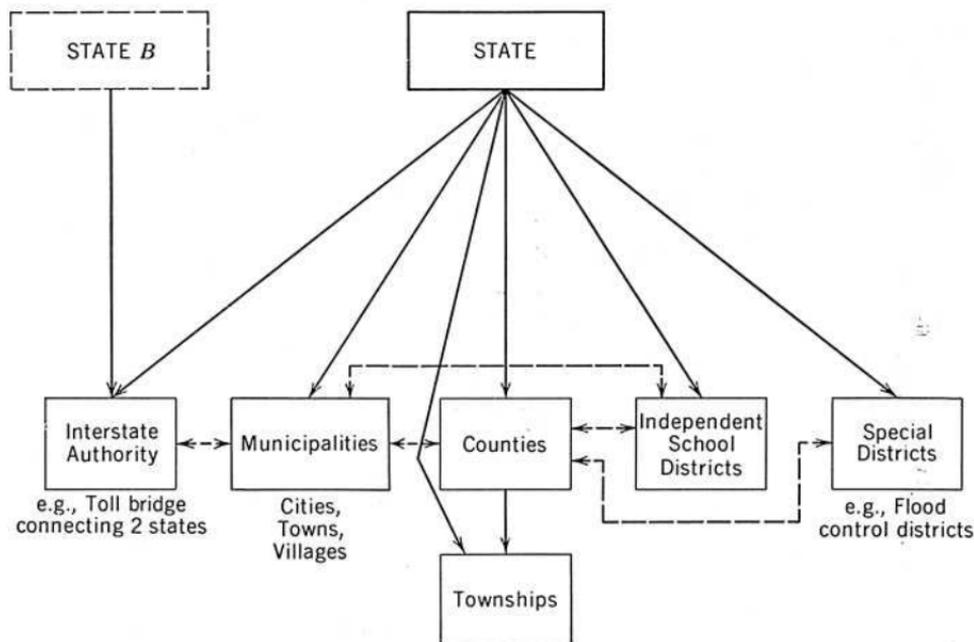


Figure 124. The State's Control over Local Governments. (A common pattern.)

citizens of the State give the State government all the powers it has, and they may give it any power not prohibited to the States by the federal Constitution.

The State is at the head of a number of different governments. Whereas the federal government stands alone, having, save for the District of Columbia and the territories, only administrative districts to manage, the State governments command a galaxy of satellite units. A simple diagram, as in Figure 124, may help remind one of the State in its capacity as a peak government. It will be noticed that none of these subordinate units of the State is superior to other units. For instance, the State rules the city and the county, but the county does not rule the city, nor does the city rule the county.

### ***Municipal governments***

All municipal governments formally are created by States. However, the establishment of a municipal government is frequently initiated by the residents of a densely populated area. A settled community actually becomes a city, town, borough, or village, with a municipal government, when it receives a charter. The charter is either drafted and enacted by the State legislature or drafted by the people of the community and approved by the State legislature. This charter enumerates the powers of the municipal government; in this respect it is a sort of constitution for the municipality. The charter also transforms the community into what is known as a "municipal corporation." That is, the municipal government becomes a legal personality, whose officers in its name can negotiate contracts, provide services, incur debts, and sue and be sued in court. A municipal charter, unlike the charter of a private corporation, is not a contract; hence a State may amend or even abolish a municipal charter as it wills.

### ***Other local governments***

The other local governments, whose chief forms are counties, townships, school districts, and special districts, have been created by the State. These governments have a fundamental difference from the governments of municipalities: they are not corporations, but "quasi-corporations" or "quasi-municipal corporations." As such, these governments are empowered to carry out many functions similar to those of municipalities, the range of their powers varying from one State to another and from one form of local government to another. However, these local governments with rare exceptions, such as the chartered counties of California, do not have charters; that is, their powers are not set forth in a single document. Rather, these governments obtain their authority from any number of general laws that the State legislature may have enacted to deal with them.

## **TYPES OF FUNCTIONS**

The thousands of units of State and local governments of America perform a host of functions. Many of the functions are of the same character as those of the national government. For instance, the federal, State, county,

and city governments all have an interest in the control of narcotics and liquor. They all are engaged in the planning and promotion of highways. All of them carry out measures to protect public health. They all own and manage parks and recreation areas. They all have some role to play in the general field of education. They all maintain libraries.

Yet even when they perform the same general type of activity, the different levels of government usually emphasize special areas of concern. Thus the federal government gives money for the building of roads, but almost all roads are actually built by the State and local governments. Also, the national and State governments manage penitentiaries, and the counties and cities operate jails. Generally speaking, the federal government does research in education, the States and some localities maintain colleges, and the local governments are in charge of elementary and secondary schools.

Moreover, a few out of the several hundreds of activities are almost the exclusive domain of one level of government: the federal government conducts foreign relations; the States regulate insurance rates; cities and special districts operate water works, public markets, and ports and harbors. For most functions, there exist parallel efforts on two or more levels of government, with considerable overlapping and numerous jurisdictional struggles. The mere fact that two overlapping governments are interested in the same kind of problem does not, in itself, demonstrate a wasteful or wrongful condition. The doctrine of federalism indeed justifies numerous parallel functions on the ground that local autonomy produces greater interest, initiative, diversity, and efficiency. The doctrine of local autonomy accords the same merits to many of the functions shared by States and localities.

## INTERGOVERNMENTAL RELATIONS

Since there are several types of government in the United States, there are several possible sets of interrelations among them. Among these various sets, perhaps the two most important, and certainly the most contrasting, are national-State and State-local. The relations between the national and the State governments, which have already been discussed at length in Chapter 8, provide the essence of federalism. State-local interrelations are utterly different. A State government, like that of Great Britain or France, is a unitary government, in which all the authority of the local governing units legally stems from the central State authority. In other words, local governments exist because of the State to carry out tasks assigned to them by the State. This principle must be borne in mind throughout the remaining chapters of this text; it accounts for the logic of allocating a distinct section to treating the functions of the national government, and another section for treating State and local functions.

### *National-local relations*

The most important among the national-local relations are those involving cities. The first sort of relation between the national government and the cities was one in which the national government simply lent or even gave

funds to the cities for the purpose of relief, to be given those suffering unemployment or to lessen the hardships of the unemployable and the aged. Shortly thereafter, the national government enacted legislation whereby municipalities whose debts far exceeded their ability to repay them might plead bankruptcy in federal court; means were provided by which creditors might be satisfied to the best of the capacities of the cities. Both the Reconstruction Finance Corporation and its successor, the Small Business Administration, have been authorized to lend money to financially embarrassed local governments. Certain New Deal agencies, notably the Works Progress Administration and the Public Works Administration, reduced the burden of local public relief by supplying work for the unemployed and also gave many communities new streets and federal buildings. Even today the government is encouraged to place contracts when possible in communities with a labor surplus.

### *State-local relations*

The most important State-local relations are those between the State and the municipal governments, if only because municipalities perform more services than any other type of local governing unit. Hence what follows is concerned principally with the relations between States and cities; some of it, however, is relevant also to counties, townships, school districts, and special districts. The problem is fundamentally that of State control over these units. States have three means for exercising this control: legislative, judicial, and administrative.

*Legislative Controls:* The legislative controls that State governments have over localities are perhaps most apparent with respect to the creation of the local governing units. However, they also have a part in the continued management of these units for State purposes.

With respect to the *counties* and their subdivisions, the State constitution and laws set up the counties, give them their organization and powers, and delegate to them many different administrative tasks. Thus, education, road building and maintenance, tax collection, police and fire protection, are in large part and in many States turned over to these subordinate divisions of the State. At the same time, it should be realized that the strong localism in American politics encourages the development of political power in the counties. Hence, the State government is often run by coalitions of politicians from various county strongholds.

So far as *cities* are concerned, these controls appear in the various means whereby the charter of the city is first granted, and is then amended. There are five of these means: special law, general law, classification, optional charter system, and home rule. Most States employ a combination of two or more of these means.

Under the *special law system*, the charter of each city is both granted and amended by single, particular acts of the State legislature. In certain regards, this is an admirable system, since it can offer each city a charter suited to its needs and peculiarities. However, it also means that State legislators must devote a great deal of time to affairs of local government, and

that they may be the targets of great pressure from the representatives of the various cities seeking either some amendment to their charter that will be advantageous to them or some amendment to the charter of a neighboring city that will be disadvantageous to that city.

Under the *general law system*, State law provides a single form of charter that is granted to all cities in the State. Such a system does away with some of the abuses of the special law method, but it compels every city regardless of local requirements to function under the same governmental form.

In the *classification system*, which is a modification of the general law system, the cities of the State are divided into classes, usually on the basis of population; each class is then assigned its own type of charter. Classification may be carried to such lengths that it results in special legislation. For instance, each county in California occupies a separate class, so that legislation enacted for one given class affects only one county. Under this method, at least, a large city need not suffocate in the toils of a charter best adapted to a small community, and a small city need not stagger under the burden of a vast administrative system fit only for a metropolis. At the same time the classification system does allow legislators to penalize individual communities at their whim by placing them alone in a class.

Under the *optional charter system*, another modification of the general law system, the State offers any community seeking a charter its choice among two or more forms. The actual choice may be determined either by vote or by petition by the inhabitants, or by a decision of the municipal council—if the community already has a government. Under the optional charter system, then, the people of the community either directly or indirectly have some part in selecting the type of government they shall have.

In the *home rule system*, legislative control is reduced to a somewhat lower level, for in the States where home rule exists the residents of cities are empowered to draft their own charters for the governing of local affairs. Home rule may be granted in either one of two ways. In twenty-one States it is extended by the State constitution; most of these States are west of the Appalachians, and they include the majority of the great population centers—New York, Pennsylvania, Ohio, Michigan, Texas, and California. In eight other States, five of them south of the Ohio and east of the Mississippi, home rule is permitted by State legislation.

The process of adopting a home rule charter has a roughly similar pattern wherever it prevails. First, the citizens must choose a commission to draft the charter. Once the charter is drafted it is submitted to the people for approval, usually by simple majority vote. In most of the States the charter may now take effect. However, in a handful of States, it must also secure approval by some officer or organ of the State government; for instance, in California it must be adopted in a concurrent resolution by both houses of the legislature. Later amendments to the charter generally are drafted and ratified by the municipal government and the citizens; again, in California these amendments must win approval by the State legislature.

The effects of home rule have been rather important in certain areas of municipal government, and negligible in others. So far as their actual form

of government is concerned, and the regulation of unquestionably local affairs, home rule cities do enjoy greater independence than those under immediate State legislative control. On the other hand, with respect to any matters in which the State may claim an interest, such as police protection, urban finances, or the management of schools, home rule cities do not appear to have much more freedom than cities without home rule.

*Judicial Controls:* The judicial controls of the States over local governments, particularly cities, fall into two important areas: (1) decisions as to whether a city government or an officer of a city government has committed some act that is *ultra vires*, or beyond its or his authority to commit; and (2) decisions as to whether a city government may be held financially responsible for alleged damages to a private individual or organization. Decisions as to the extent of municipal authority usually rest on the contents of the municipal charter; what is crucial is that courts have denied any "inherent" rights of municipal self-government. Decisions as to municipal responsibility generally rest upon the type of service that inflicted the alleged damages. If the service was one such as the fire department—where damages resulted when a private automobile was struck by a fire engine going to put out a fire—which is a service that the city carries out for the State, courts generally hold the city to be not responsible. However, if the service was one such as a municipally owned bus line—where damages resulted when a private automobile was struck by a bus—courts are apt to assess damages upon the city itself, since this service is one that might be performed by a private corporation.

*Administrative Controls:* Administrative controls of the State over local governments have become increasingly widespread in late years. This process resembles the growth of administrative mechanisms and techniques in the national government. However, the American States are still far from the arrangement in France, where the Ministry of the Interior directly supervises the majority of local government undertakings. By contrast, in the American States the typical administrative bond is between a specific State administrative office and its parallel on the local level. A few States, especially New Jersey with its Division of Local Government in the State Department of Finance and Taxation, are attempting to establish machinery for wider administrative controls, and more offices of this sort may be created in the future.

States have various means for implementing their control. They may simply require periodic reports from the local agencies and supply information and advice based upon these reports. They may give various sorts of technical aid to local authorities. States have several more or less coercive devices at their disposal. They may issue orders to local officers; depose local officers; refuse permits for certain types of activity; or withhold grants-in-aid. This last device is a principal weapon in the arsenals of the States today, because a very large proportion of the budget of the State may be devoted to subventions for school districts; by threatening to withhold a grant, the State office of education may force local school authorities to comply with State requirements even though the residents of the districts concerned may oppose the demands of the State.

## ***Local government interrelations***

Local governments of the various types have significant relations with each other. It must be stressed from the outset that local government interrelations are different from any of the other intergovernmental relations discussed above, for local governments within one State are more or less legal equals of each other—all being subordinate to the State—and local governments do not claim to possess sovereignty.

The most common sort of interrelation between or among local governments occurs where they occupy either the same or adjacent territory. For example, a county may share in the assessment of property values in cities within the county. The core city of a metropolitan district may provide some services for neighboring small municipalities and for the residents of the unincorporated rural zone. A county and its principal city may unite to erect and maintain a joint city-county public office building. Counties, cities, and school and special districts may either compete or cooperate in obtaining finances for their operations. At the same time, school and special districts look to either cities or counties, or both, to furnish them with such services as police and fire protection. Actually, since there are more than 100,000 units of local government in the United States, the total of possible interrelations is astronomical. However, the numbers of such interrelations that exist today, aiming at improving governmental services for the public, is but a minute fraction of the potential number of such combinations. Public apathy, lack of imagination or energy on the part of public officials, and groups with vested interests, contribute to forestalling the creation of innumerable other interrelations.

## **QUESTIONS AND PROBLEMS**

1. What types of government changed in number between 1942 and 1952? How do you account for these changes?
2. What authority determines the boundaries of the different types of governments in America?
3. In what respects may it be said that urban Americans do not live within "rational" boundaries of government?
4. What is the extent of national-local relations? Explain why this situation persists?
5. What controls does the state legislature exercise over local governments?
6. In what ways do the courts restrict local governments?
7. What kinds of administrative control over local government have developed?
8. Do local governments sometimes cooperate voluntarily? Cite an example.
9. Supposing one wanted to save money and simplify the units of government so that an ordinary citizen might be less confused, what units would you recommend be kept or abolished?
10. With the aid of an encyclopedia, find the number of governments which the citizens of any foreign nation are governed by. What do you think would be the political and administrative consequences of the greater or lesser number?