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INTERLOCAL COOPERATION: THE MISSOURI APPROACH

I. INTRODUCTION

The rapid growth in metropolitan areas has created a problem of adapting the machinery of local government to fast changing needs.¹ Among the results of this growth have been the fragmentation of urban governments and overlapping and duplication of functions in attempting to meet the demand for more and better municipal services.² This fragmentation and overlap have caused unacceptable inefficiency and failure to provide the level of services needed. The sociological changes brought about by population growth demand adequate legal machinery to solve the problems created. Numerous and varied solutions have been offered.³

A. *Attempted Solutions*

Among the approaches taken to the solution of urban problems have been (1) consolidation of all governmental units into one metropolitan-area government; (2) annexation of surrounding territory to existing communities; (3) the creation of special districts to perform specific functions; (4) incorporation of new communities.⁴ No one of these approaches has provided the answer to the problems of governing the modern metropolitan community of a central city with its perimeter of burgeoning communities of various sizes and financial capacities. Furthermore, no single approach is likely to provide the solution.

The metropolitan-wide government has been met by the fear of existing local governments that they will lose their identity.⁵ In addition, creation of such new and large governmental bodies is a slow, long-range process and many immediate problems of providing needed services to an expanding metropolitan area will not

1. Advisory Committee on Intergovernmental Relations, *A Handbook for Interlocal Agreements and Contracts* 1 (1967) [hereinafter cited as ACIR Handbook]; Grant, *Trends in Urban Government and Administration*, 30 LAW AND CONTEMP. PROB 38, 47-52 (1965); Advisory Commission on Intergovernmental Relations, *1966 State Legislative Program* 99 (1965) [hereinafter cited as ACIR Program]; Graves, *American Intergovernmental Relations* 737 (1964); Owsley, *The Kentucky Interlocal Cooperation Act*, 51 Ky. L. J. 22, 24 (1962).

2. ACIR Handbook, *op. cit. supra* note 1, at 1; ACIR Program, *op. cit. supra* note 1, at 391; Graves, *op. cit. supra* note 1, at 748; Veselich, *Interlocal Cooperation* (Memorandum prepared for the Intergovernmental and Metropolitan Problems Subcommittee of the Governor's Advisory Council on Local Government Law) (1967), on file in the office of the Missouri Department of Community Affairs; Advisory Commission on Intergovernmental Relations, *Intergovernmental Responsibilities for Water Supply and Sewage Disposal in Metropolitan Areas* 102 (1962). See also, Salsich, *Local Government in Missouri: The Crossroads Reached*, 32 Mo. L. Rev. 73 (1967), for a good discussion of many of the current problems of local government.

3. ACIR Handbook, *op. cit. supra* note 1, at 1.

4. *Ibid.*

5. National Institute of Municipal Law Officers, *Report of Committee on Inter-Municipal Cooperation*, 23 MUNIC. L. REV. 156 (1960) [hereinafter cited as NIMLO Report, — MUNIC. L. REV. — ()].

wait.⁶ The general public also exhibits a natural hostility to subordination of the interests of the smaller community to those of the larger community and any loss of control over the local tax dollar. The growth of suburban political strength seems to serve to strengthen opposition to consolidation of local government units.⁷ The effects of these obstacles may be seen in the failure of numerous attempts to initiate programs merging various forms of local government entities into various forms of metropolitan governments.⁸

Annexation was at an early date the most common and probably the most successful method of controlling the unincorporated fringe of a city.⁹ It is usually, however, a slow, cumbersome and expensive process. It also creates further problems of withdrawal or exclusion of the annexed territory from special districts that have been providing services.¹⁰ And, of course, annexation is no aid to a city that is completely locked in by other incorporated communities, as is St. Louis, in the absence of special authority to annex.

The use of either special districts or incorporation to meet the demands of a metropolitan area for increased services often compounds the problem. Another governmental body is created with a resulting increase in fragmentation and decrease in the uniformity of services provided areawide. This is not true of all special districts, because many have functioned quite effectively in metropolitan areas. Metropolitan-wide special districts have been used to great advantage to provide a single service to an entire region, especially for water supply and sewage disposal.¹¹

B. Interlocal Cooperation

Numerous authorities on local government law, as well as many organizations of governmental officials, advocate interlocal cooperation as one of the best tools to meet the demands of urbanization. Indeed, the Advisory Commission on Intergovernmental Relations, the National Municipal League, the National Insti-

6. *Ibid.* See also, NIMLO Report, 28 MUNC. L. REV. 164 (1965).

7. Grant, *supra* note 1, at 49, 51; Advisory Commission on Intergovernmental Relations, *Performance of Urban Functions: Local and Areawide* 23, 24 (1963); Presentation by Arthur G. Will to American Association of Law Schools on Metropolitan Area Problems (date unknown), on file in University of Missouri at Kansas City School of Law Library.

8. Between 1953 and 1958 there were more than sixty-five attempts in various states. Only a handful of these programs still exist today and the only successful attempts to form metropolitan-wide governments have been Miami-Dade County, Florida and Nashville-Davidson County, Tennessee. NIMLO Report, 29 MUNC. L. REV. 199 (1966); Grant, *supra* note 1, at 48-49.

9. Will, *op. cit. supra* note 7, at 2; Nickolaus, *Annexation in Missouri* vi (1960).

10. Will, *op. cit. supra* note 7, at 3. For another problem in Annexation, see Comment, Municipal Annexation and Due Process, 10 STAN. L. R. 763 (1958).

11. Municipality of Metropolitan Seattle v. City of Seattle, 57 Wash.2d 446, 357 P.2d 863 (1960); Advisory Commission on Intergovernmental Relations, *Intergovernmental Responsibilities for Water Supply and Sewage Disposal in Metropolitan Areas* 108, 120 (1962).

tute of Municipal Law Officers, the Council of State governments and the California Coordinating Council on Urban Policy all highly recommend the use of cooperative efforts to attack the problems of local government and urge that states encourage such undertakings by providing adequate legal authority for interlocal cooperation, along with technical assistance and guidance.¹²

In the last five years alone, a discernible trend has been observed by many authorities in resolving inter-municipal problems through cooperation among local governmental bodies.¹³ State legislative and constitutional reform in recent years have indicated a growing awareness on the part of state governments of the need to permit and encourage local solutions to problems through cooperative action. By 1965 at least forty-five states had adopted general interlocal cooperation authority to some extent.¹⁴ The new Michigan Constitution is a notable example. It empowers the legislature to authorize local governments to enter into contractual agreements to administer jointly their functions and powers.¹⁵

Interlocal cooperation could be broadly defined as any device by which a unit of local government undertakes to carry out one or more of its functions through a contract or agreement, formal or informal. This contract or agreement might be with another unit of government, a government official, or a government agency, local, state or federal, or with an individual person, corporation or association.¹⁶

12. See generally, ACIR Handbook, *op. cit. supra*, note 1, at iii; ACIR Program, *op. cit. supra*, note 1, at 357; NIMLO Report, 23 *MUNIC. L. REV.* 156 (1960); NIMLO Report, 27 *MUNIC. L. REV.* 148 (1964); NIMLO Report, 28 *MUNIC. L. REV.* 164 (1965); 29 *MUNIC. L. REV.* 199 (1966); Council of State Governments, *State Responsibilities in Urban Regional Development* 104 (1962); Graves, *op. cit. supra* note 1, at 770. Mr. Graves, at 778, suggests that interlocal cooperation is needed in rural government as well as in urban government. He states that interlocal cooperation would help achieve competence in local administration without consolidation of currently widespread, inefficient units of local governments in rural areas. This possible need for interlocal agreements has been overshadowed by the complexities of urban growth, and may, therefore, be less compelling. Nevertheless, interlocal cooperation might solve many problems of rural governments that do not have the financial capacity to alone provide many needed services.

While no person or organization has contended that interlocal cooperation is the ultimate solution, many of the above authorities agree that it is the most flexible, workable and effective method to provide the needed municipal services. They advocate it as a method that avoids the effort required to overcome public resistance to change. Yet it does not waste the time that would be required to completely restructure local government while preserving the maximum of home rule and local control.

13. ACIR Handbook, *op. cit. supra* note 1, at 8; NIMLO Report, 27 *MUNIC. L. REV.* 148 (1964); 28 *MUNIC. L. REV.* 164, 173 (1965); NIMLO Report, 29 *MUNIC. L. REV.* 199 (1966); Grant, *supra* note 1; Graves, *op. cit. supra* note 1, at 737 *et seq.*

14. ACIR Program, *op. cit. supra* note 6, at 357.

15. *MICH. CONST.* art. VII, § 28 (1963).

16. The definition is that of this writer. Many narrower definitions may be found. See ACIR Handbook, *op. cit. supra* note 1, at 2; Grant, *supra* note 1; Graves, *op. cit. supra* note 1; Owsley, *supra* note 1; Veselich, *op. cit. supra* note 2.

C. Areas of Cooperation

The Advisory Commission on Intergovernmental Relations¹⁷ suggests that interlocal agreements and contracts could be used for an almost unlimited variety of functions.¹⁸ Numerous studies show that cooperative agreements have been used successfully to carry out a wide range of functions, such as tax collection, planning, civil defense, administration of elections, electrical inspection, library administration, city-county courts, alcoholic rehabilitation, property revaluation, hospital administration, fire protection, garbage disposal and sewage services, water supply, police radio, criminal identification, court record maintenance, and construction and maintenance of courthouses and jails.¹⁹ The Advisory Commission on Intergovernmental Relations considers that cooperative contracting is appropriate for any commodity type service or proprietary function. It suggests that cooperative contracting is also appropriate for governmental or legislative functions, which have the characteristics of (1) lack of a requirement of major substantive discretion; (2) standardized and accepted performance methods; (3) a specialized need for professional or technical qualifications; (4) a comparatively stable demand for services.²⁰ Any governmental service or function that meets these standards would likely be appropriate for a municipality to provide through use of a cooperative service contract.

A "contract for services" is generally distinguished from a "joint agreement," both of which are used for cooperative action.²¹ The distinction is not based on any difference in the binding legal effect, but on the practical difference in the operation of the two. An agreement providing for the joint exercise of powers is generally used when all cooperating units actively participate in carrying out the activity by membership on a commission or board created to deal with a common problem. Such an agreement is usually used for activities requiring program development and policy decisions, such as recreation, planning and urban renewal.²² On the other hand, a service contract authorizes the furnishing of a service by one governmental unit to another on a contractual basis. Such contracts are best used to provide a commodity type service, such as water or sewage, or a standardized

17. The ACIR is a permanent body established by federal legislation in 1959. 5 U.S.C. §§ 2371-2378 (1964); ACIR Program, *op. cit. supra* note 1, at iii.

18. ACIR Handbook, *op. cit. supra* note 1, at 8.

19. *Id.* at 36-51; Graves, *op. cit. supra* note 1 at 775; and see the bibliography at NIMLO Report, 27 MUNC. L. REV. 148, 157 (1964).

20. The proprietary-governmental distinction is not considered by this writer to be of much significance in determining whether or not a particular function is appropriate for interlocal cooperation. It is important in that the labels have been applied by the courts in holding that a local body is empowered to perform a particular function. This would in turn affect interpretation of the local unit's power to contract for the performance of that function. See Westbrook, *Municipal Home Rule, An Evaluation of the Missouri Experience*, 33 Mo. L. Rev. 45, 47 (1968).

21. ACIR Handbook, *op. cit. supra* note 1, at 2; Council of State Governments, *op. cit. supra* note 12, at 83.

22. ACIR Handbook, *op. cit. supra* note 1, at 14.

technical service, such as police radio or data processing.²³ Service contracts overcome many problems of overlap and fragmentation without attendant problems of consolidation, because they stress consolidation of services rather than consolidation of governments.

The most widespread use of service contracts has taken place in Los Angeles County, California. The City of Lakewood is a planned community, which was built in an unincorporated area of Los Angeles County. When the City was incorporated in 1954, it contracted with the County for virtually all of its municipal services. This inaugurated a city-county cooperative program that has been adopted in twenty-eight subsequent incorporations in Los Angeles County. Under the program the county will provide municipal-type services to a city at the same level and cost as provided unincorporated portions of the county. The level of service can be increased, but the city is required to pay the increased cost.²⁴

II. THE MISSOURI APPROACH

The Missouri Constitution art. VI, § 16 provides:

Any municipality or political subdivision of this state may contract and cooperate with other municipalities or political subdivisions thereof, or with other states or their municipalities or political subdivisions, or with the United States, for the planning, development, construction, acquisition, or operation of any public improvement or facility, or for a common service, in the manner provided by law.

Section 70.220, RSMo 1959 states:

Any municipality or political subdivision of this state, as herein defined, may contract and cooperate with any other municipality or political subdivision, or with an elective or appointive official thereof, or with a duly authorized agency of the United States, or of this state, or with other states or their municipalities or political subdivisions, or with any private person, firm, association or corporation, for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service; provided, that the subject and purposes of any such contract or cooperative action made and entered into by such municipality or political subdivision shall be within the scope of the powers of such municipality or political subdivision.

Section 70.230, RSMo 1959 states:

Any municipality may exercise the power by ordinance duly enacted, or, if a county, then by order of the county court duly made and entered, or if other political subdivision, then by resolution of its governing body or officers made and entered in its journal or minutes of proceedings, which shall provide the terms agreed upon by the contracting parties to such contract or cooperative action.

23. *Id.* A study in St. Louis County in 1964 revealed that the County and municipal governments located within it have made considerable use of these contracts. The study showed 341 service contracts between cities, towns or villages and the county during 1964. ACIR Handbook, *op. cit. supra* note 1 at 12. See also, Bollens, *Exploring the Metropolitan Community* 75 (1961) for a discussion of the use of service contracts in St. Louis.

24. NIMLO Report, 28 *MUNIC. L. REV.* 164, 168 (1965).

A. Legal Problems In Interlocal Cooperation

Many legal issues and problems are raised by interlocal cooperation. A few of them have been decided in Missouri indicating some of the types of agreements that will be upheld. This section will: (1) discuss and evaluate some of those issues and problems; (2) discuss how a number of them have been approached in Missouri; (3) discuss how those that have not been raised in Missouri might be resolved.

1. Constitutionality of Cooperation Statutes

In a few cases interlocal cooperation statutes have been attacked as violative of a state constitution. The basis of a claim of unconstitutionality will often depend on the particular constitutional and statutory provisions existing in the jurisdiction. Even in jurisdictions with no express constitutional authority for cooperation, statutes have been upheld against attacks that they interfere with the inherent right of local self-government;²⁵ that lack of express constitutional authority is fatal;²⁶ that a statute authorized that which a constitutional provision prohibited;²⁷ or that a statute was an unlawful delegation of its power by the legislature.²⁸ In Missouri the interlocal cooperation statute has been upheld, because the Constitution specifically authorized the legislature to enact it.²⁹

2. Delegation of Powers

Delegation of its powers by one municipality or political subdivision to another has sometimes been a problem with regard to specific cooperation agreements. Generally, the attempted delegation by a municipality of its "legislative" powers is not upheld.³⁰ On the other hand "administrative" or "ministerial" powers may be delegated.³¹ However, some legislative delegations of power are permitted, if there are adequate standards.³² Delegation of municipal power should not be a serious barrier in Missouri to the use of cooperative agreements. In *School District of Kansas City v. Kansas City*³³ the supreme court upheld an agreement for the erection of a library building by the School District on a public parkway owned by the City and under the control of its Park Commissioners. The City contended that the agreement was an unlawful delegation of the legislative powers of the

25. *City of Ecorse v. Peoples Community Hospital Authority*, 335 Mich. 490, 58 N.W.2d 159 (1953).

26. *Ragsdale v. Hargraves*, 129 S.W.2d 967 (Ark. 1939).

27. In *Reinhart v. MacGuffie*, 19 Pa. D. & C. 594 (1933) a statute authorizing a county to appropriate funds to a city for building an airstrip was held not to be contrary to a constitutional provision prohibiting a county from appropriating money to any corporation, association, institution or individual.

28. *Greggio v. City of Orange*, 69 N.J. Super. 453, 174 A.2d 390 (1961).

29. *St. Louis Housing Authority v. City of St. Louis*, 239 S.W.2d 289 (Mo. En Banc 1951). Section 70.220, RSMo 1959, was held to be constitutional, but no specific basis for the alleged unconstitutionality was given.

30. *State v. Eckhardt*, 322 S.W.2d 903 (Mo. 1959).

31. 1 Antieau, *Municipal Corporation Law* § 5.18 (1958).

32. *Id.* at § 5.19.

33. 382 S.W.2d 688 (Mo. En Banc 1964).

Park Board. This contention was rejected without regard to the legislative-administrative dichotomy, because the agreement was found to have been expressly authorized by the state constitution. The court stated that Article VI, section 16 of the Constitution "in its very nature denoted a division or sharing of that which is necessary to achieve the common end."³⁴ This might indicate that a power, which the court found to be within the powers of the municipality or political subdivision, could be exercised jointly, regardless of its legislative or administrative nature.

3. Traditional Rules of Construction

The traditional approach of construing municipal powers narrowly has had a serious deterrent effect on the widespread use of interlocal agreements. Generally, a municipality or other political subdivision is considered to have only those powers expressly or impliedly granted to it by law.³⁵ The traditional rule is that any reasonable doubt as to whether or not a city has a particular power should be resolved against the existence of the power.³⁶ The Attorney General has been steadfast in applying these rules to disapprove proposed agreements. He has on four occasions rejected a proposed agreement, because he could find no express authority granting the power that in his opinion was sought to be exercised jointly. He has held that a county may not contribute funds to a city to build a shelter house in a city park,³⁷ construct a room in a city hospital,³⁸ or build a sewer system that would be used by and be of benefit to county residents.³⁹ In each of these opinions the Attorney General viewed the power to be exercised as appropriation of funds to a city, for which there was no express authority. This in itself would seem to be inaccurate. The powers to be exercised were those of providing park facilities, hospital facilities and sewer facilities to the public. These powers should properly have been considered the subject matter of the proposed agreements, all of which are within the scope of the powers of the entities involved. Nevertheless, the traditionally narrow approach to the construction of municipal powers seems to have affected the Attorney General's interpretation of the subject matter of the agreements.

In another opinion the Attorney General also invalidated a proposed agreement by a narrow construction of county powers. He disapproved a proposal for a county to operate a dumping ground in cooperation with municipalities.⁴⁰

34. *Id.* at 696.

35. *King v. Maries County*, 297 Mo. 488 (1923); *City of St. Ann v. Buschard*, 356 S.W.2d 567 (St. L. Mo. App. 1963).

36. *City of Springfield v. Mecum*, 320 S.W.2d 742 (Spr. Mo. App. 1959); *State v. Steinbach*, 274 S.W.2d 588 (St. L. Mo. App. 1955).

37. Opinion of the Attorney General of Missouri, July 8, 1954, Dale, No. 21.

38. Opinion of the Attorney General of Missouri, March 27, 1957, Moore, No. 63.

39. Opinion of the Attorney General of Missouri, May 12, 1952, Hibbard, No. 40.

40. Opinion of the Attorney General of Missouri, May 19, 1964, Volkmer, No. 140.

There being no statute expressly authorizing a county to maintain a dumping ground, the Attorney General considered such an activity outside the scope of the powers of the county. There is, however, authority for the county to acquire land for the "use and benefit" of the public, and this phrase has been broadly construed.⁴¹ A dumping ground to be used as a central depository for trash in order to control the spread of rubbish should certainly be considered to be for the use and benefit of the public.

The supreme court, while giving no indication of an intent to abandon the traditional rules of construction of municipal powers, has offered some encouragement to cooperative agreements. In upholding the agreement discussed above in *School District of Kansas City v. Kansas City*⁴² the court labeled the construction and operation of a library as the subject matter of the agreement. Following the reasoning of the Attorney General's opinions just discussed, one might easily have concluded that the subject of the agreement in the *School District* case was merely the providing of a parcel of land by the City to the School District. Fortunately, the court considered the ultimate purpose to be accomplished by the actions of the two bodies, rather than what action each had to take in accomplishing that purpose, in order to determine the character of the subject matter. Had the Attorney General done so, he could have reasoned that the purposes of the agreements involved in his opinions were to build park, hospital or sewer facilities and that the payment of funds by the county was merely its obligation under the agreement. For one body to pay for part of a park or hospital and for the other to build and operate it would seem to have little substantive effect on their independent powers to operate hospitals and parks. The activities of the two bodies would certainly be combined to achieve a purpose thereby, which was within the scope of the powers of both. The Attorney General even acknowledged that both the city and county have power to operate parks and hospitals.⁴³

Also in *School District of Kansas City v. Kansas City*,⁴⁴ the court engaged in considerable analysis to determine that the subject matter of the agreement was within the powers of the City. The School District wisely relied on specific charter provisions to argue that the City had the necessary power. The court responded with a broad interpretation of those charter provisions. It is hoped that this case might be interpreted as an indication that the court will attempt to uphold useful and important cooperative agreements,⁴⁵ construing powers somewhat broadly, if necessary, in order to do so.

41. *Everett v. County of Clinton*, 282 S.W.2d 30 (Mo. 1955).

42. 382 S.W.2d 688 (Mo. En Banc 1964).

43. Opinion of the Attorney General of Missouri, March 27, 1957, Moore, No. 63; Opinion of the Attorney General of Missouri, May 12, 1952, Hibbard, No. 40.

44. 382 S.W.2d 688 (Mo. En Banc 1964).

45. In *St. Louis Housing Authority v. City of St. Louis*, 239 S.W.2d 289, 293 (Mo. En Banc 1951) the Court also recognized the importance of the issues to the public in upholding the agreement.

4. Requirement of Equal Powers

One of the most serious deterrents to flexibility in interlocal cooperation is a limitation that the participants in cooperative activity must have equal or common powers. The question raised is whether two or more municipalities or political subdivisions may exercise a power jointly or cooperatively when only one of them possesses it. It might arise in one of two ways.

The first possibility is when two or more governmental units have power to act in a given functional area, but their powers are not exactly the same. For example, in Missouri, first class cities are empowered to acquire land outside the city limits for the establishment of a city park and to operate and maintain such a park.⁴⁶ Second class cities do not have such a power, but may operate parks within the city limits.⁴⁷ If first and second class cities could jointly exercise only a power that was exactly equally possessed by both, they could not jointly acquire the land, build and operate a park outside the city limits of the second class city. Nor could a second class city establish and operate jointly with the county in which located a park that was outside the limits of the city, even though the county also had authority to establish and operate a park.

The second situation in which the question of unequal powers might arise is when one unit has the power to act in a particular area, but the other unit has no power whatsoever to act in that area. Suppose, for example, that the second class city had been given no authority by law to operate a park. Could it then jointly establish and maintain a park within its city limits with a city that was so empowered? The phrase, "unequal powers," as used here is intended to include both of the above situations.

Most interlocal cooperation statutes state expressly or have been interpreted to mean that equal powers are required.⁴⁸ While the Missouri statute does not expressly limit cooperation to equal powers, that is apparently the situation. In the two leading cases of *St. Louis Housing Authority v. City of St. Louis*⁴⁹ and *School District of Kansas City v. Kansas City*⁵⁰ the subject matter of the agreements involved were held to be within the scope of the powers of the parties to the agreements. The agreements were held valid, because *each provision was*

46. § 90.070, RSMo 1959.

47. § 90.550, RSMo 1959.

48. Mandelker, *Managing Our Urban Environment* 364-365. Section 471.59 (1) MINN. STAT. ANN. (Supp. 1965) authorizes cooperation between two governmental units of any "power common to them." Indiana and Kentucky have both adopted statutes based on legislation proposed by the Council of State Governments, which has stated that "the act permits two or more localities to exercise a power jointly or cooperatively if only one of them possess it." Council of State Governments, *Suggested State Legislation, Program for 1957* (1956). But see Owsley, *supra* note 1, at 31, 32, where the author concludes that the Kentucky act would not permit the joint exercise of a power held by only one of the parties. His conclusion is based on a lack of any indication that the legislature so intended and the history of Kentucky courts in applying strict rules of construction of municipal powers.

49. 239 S.W.2d 289 (Mo. En Banc 1951).

50. 328 S.W.2d 688 (Mo. En Banc 1964).

within the scope of powers of the parties. Therefore, the cases carry a strong implication that the court would have invalidated any provision in the agreements that it found to be within the power or authority of one party, but not the other. Furthermore, in *School District of Kansas City* the court quoted from a California case, which construed a statute similar to section 70.220, RSMo 1959, in which the California Supreme Court referred to powers "which each independently could have exercised or performed."⁵¹ And in *St. Louis Housing Authority* the court added italicized emphasis to the proviso of the Missouri statute that requires that the subject and purpose of cooperatives entered into by a municipality "shall be within the scope of the powers of such municipality or political subdivision."⁵²

The language of the above-quoted part of section 70.220, RSMo 1959, does seem clear enough to preclude a municipality or political subdivision from engaging in activity outside its "scope of powers," even though another body with which it was cooperating possessed the power. It is suggested, however, that a reasonable construction could be given the statute that would permit the joint exercise of unequal powers as long as all parties to the agreement had the power to engage in some activity in the area that was the subject and purpose of the cooperative action. That would be such a case as that first described at the beginning of this sub-section, when both governmental units have power to act in a given area, but not to the same extent. An act not expressly authorized for it might be considered to be within the "scope of the powers" of the unit with the lesser degree of authority in that given area. The issue has not been raised in either a case or an Attorney General's opinion.

5. Unconstrued Statutory Language

As is the case with most statutes, the problem of the meaning of statutory language manifests itself in cooperation statutes. Missouri is no exception.

The words "municipality" and "political subdivision" should cause little difficulty. Municipality has been held to be interchangeable with "municipal corporation" and has been broadly construed.⁵³ Political subdivision is defined by the statute.⁵⁴

51. 382 S.W.2d at 696. The court quoted from *City of Oakland v. Williams*, 15 Cal.2d 542, 103 P.2d 168 (1940), saying that the California statute on inter-local cooperation is similar to Missouri's constitutional provision. Actually, the restrictive nature of that statute was clearer than Missouri's. It states that municipalities may jointly exercise by agreement "any power or powers common to them." The California Supreme Court, however, took the common sense approach that all possible conflicting charter provisions of the cities involved in the agreement could not be made relevant or the effect would be to vitiate the statute and make nearly all attempted agreements impossible.

52. 239 S.W.2d at 293.

53. *St. Louis Housing v. City of St. Louis*, 239 S.W.2d 289, 295-6 (Mo. En Banc 1951). A housing authority was held to be a municipal corporation within the meaning of the cooperation statute in this case, also. Cf. *Schmoll v. Housing Authority of St. L. County*, 321 S.W.2d 494 (Mo. 1959).

54. § 70.210, RSMo 1959.

Other words that might raise questions in particular situations are "public improvement or facility" and "common service," the things for which cooperation is authorized. Whether or not a state or federal agency is "duly authorized" might also raise a question.

The Attorney General has added a word to the statute. He has defined "common service" as common "public" service.⁵⁵ In so doing he held that a county could not use its road equipment on private roads, even though it was to be compensated for the work. He did not consider the fact that the revenues derived therefrom would be for a public purpose. He merely saw the private benefit to be received by the owners of the road as antagonistic to the public nature of section 70.220, RSMo 1959.

Although "public improvement" and "public facility" have not been construed within the meaning of the statute, property has been determined to be for "public use" when it is used for the benefit of any "considerable" number of members of the community.⁵⁶ The same definition could apply to "public improvement or facility" within the meaning of the cooperation statute.

The Attorney General has also held that the Highway Patrol is not a "duly authorized" agency to enter into a contract with a city for common police services.⁵⁷ He did not, however, make clear what would be required for the Highway Patrol to become "duly authorized." He did state that the authority would have to come from the legislature, but he did not define the phrase. If "duly authorized" means authorized to perform a particular function, it would seem that such a contract should be good. This would require an interpretation that authority to contract comes from the cooperation statute. If so, then the Highway Patrol should be able to contract with a city to provide police services, because highway patrolmen are authorized by statute to act within a city and assist the city policemen.⁵⁸ If, on the other hand, "duly authorized" means authorized to contract, other specific statutory authorization would be required for the state agency to be able to execute the contract.⁵⁹

55. Opinion of the Attorney General of Missouri, December 9, 1966, Evans, No. 14.

56. *Arata v. Monsanto Chemical Company*, 351 S.W.2d 717 (Mo. 1961). The court also said, at 721, "Nor does the mere fact that the advantage of a public improvement also inures to a particular individual or group of individuals deprive it of its public character."

57. Opinion of the Attorney General of Missouri, November 4, 1963, Avery, No. 258.

58. § 43.180, RSMo 1959.

59. Nor is it clear whether the Attorney General was talking about authorization to contract in general, or for the specific purpose in question. The problem is that the opinion did not answer the question asked. The inquiry had been whether a city policeman could act outside the limits of his city by virtue of a contract with the Highway Patrol. The real issue, therefore, was not whether the Highway Patrol was empowered to contract in regard to a function (law enforcement) that it had the power to perform. The question actually, if the Highway Patrol could so contract, was whether the purpose of the contract was within the scope of the powers of the city. Furthermore, if the cooperation statute requires that all cooperating parties have equal spheres of power, then other problems are presented.

6. Limitations on the Joint Entity

What kind of separate entity may participants create to carry out their cooperative activity. Section 70.260, RSMo 1959, provides for the establishment of a "board, commission, officer or officers" to manage any contract or cooperative action contemplated by the cooperation statute. In some cases the constitutional status of persons serving on such a board or commission while administratively attached to some other governmental unit has been a question.⁶⁰ In Missouri the state auditor, secretary of state and state treasurer may have no duties imposed on them by law that do not relate to the duties prescribed by the state constitution.⁶¹ Therefore, one of these officers could not constitutionally be named to a cooperative board not relating to their constitutional duties, created by agreement between the state and a city, for example, by an act of the legislature. Beyond that, there appear to be no constitutional barriers to other public officers serving on a cooperative board or commission.⁶²

Another question in regard to a board or commission created for cooperative activity is its financial power. The state constitution limits the amount of debt that a municipal corporation or political subdivision may incur.⁶³ Can a joint commission incur debt that would in effect extend the debt limit of the participants? An "authority" created pursuant to enabling legislation to construct and maintain a joint city-county office building has been allowed to independently incur debt. However, the enabling act provided the "authority" with broad, general corporate powers including the issuance of revenue bonds. The bonds could be paid only from the revenues derived from the building. Therefore, the "authority" was held not to be an illusory scheme, designed merely to extend the debt limitations of the city and county, but a separate entity that could itself incur debt up to the constitutional limit.

It does not seem likely that a board or commission as authorized by sections 70.220 and 70.260, RSMo 1959, would have any independent power to incur debt. Section 70.250, RSMo 1959, provides that a cooperative activity be financed "in the manner and by the same procedure for the financing by such municipality or political subdivision . . . if acting alone" Therefore, unless a board or commission itself reached the status of a municipal corporation or political subdivision within the meaning of the constitution, it undoubtedly could not be used to extend the debt limitation of a municipality.

The law enforcement powers of policemen differ for each class of city. For example, police officers of first class cities are officers of the state. § 85.190, RSMo 1959. Those of second, third and fourth class cities are not. §§ 85.340, 85.561, 85.610, RSMo 1959. Therefore, the inquiry should have been into the particular purpose sought to be achieved by the contract.

60. ACIR Program, *op. cit. supra* note 1, at 387.

61. Mo. CONST. art 4, §§ 13, 14, 15.

62. See Mo. CONST. art VII. The framers of the Michigan Constitution of 1963 took care of this problem by a specific provision that any public official, except legislators, may serve on any body established for the purpose of interlocal cooperation. MICH. CONST. art. VII, § 27.

63. Mo. CONST. art. 6, §§ 26(a), 26(b).

7: Binding Successor Bodies

The question has arisen as to how long a period the governing body of a municipality may contract. Contracts which a municipality is authorized to make are governed by normal principles of contract.⁶⁴ The same standards of reasonableness apply and the same considerations determine their validity and effect.⁶⁵ Although there appear to be no Missouri cases on the point, governing bodies of municipalities are considered continuing bodies without regard to change in personnel.⁶⁶ They can bind their successors by contract and an interlocal cooperation contract should be treated no differently. A cooperative contract to be in force as long as fifty years has been upheld elsewhere as reasonable and not unconstitutionally binding a successor body.

8. Procedural Requirements for Cooperative Action

A failure to comply with procedural requirements will be fatal to the validity of a cooperative agreement.⁶⁷ In *Schmoll v. Housing Authority of St. Louis County*⁶⁸ the supreme court held that the procedural requirement of a charter provision superseded the procedural requirements of the statutes. The county charter required approval of a cooperative agreement by ordinance, but the agreement in question had been adopted only by resolution.⁶⁹ The opinion raised the question of whether a constitutional charter body must find power to cooperate in its charter, regardless of other constitutional or statutory authority, because the court said that the county "is obliged to look to the charter for its powers" Somewhat ambiguously, the court seemed to say that the county had no power to make the agreement merely because the statute provided for cooperation. The question was later answered when the court held that a charter apparently having no cooperation provision did not preclude a city from entering into a cooperation agreement, because authority to do so was derived from the constitution and statutes, which prevail in conflicts with the charter "in regard to matters of statewide concern and governmental functions."⁷⁰

As the supreme court did in *Schmoll*, the Attorney General seems to confuse questions of power with questions of procedure. In his opinions denying the

64. "Contracts made by the city, if authorized, are just like other contracts. They are measured by the same tests and are subject to the same rights and liabilities." *State v. Kansas City*, 4 S.W.2d 427, 431 (Mo. En Banc 1928).

65. *Beverly Sewage Authority v. Delanco Sewage Authority*, 167 A.2d 46 (N. J. 1961).

66. *Town of Graham v. Karpak Corp.*, 194 F.2d 616 (4th Cir. 1952); *Denio v. City of Huntington Beach*, 140 P.2d 392 (Cal. 1943).

67. *Schmoll v. Housing of St. Louis County*, 321 S.W.2d 494 (Mo. 1959).

68. *Ibid.*

69. *Ibid.*

70. *School District of Kansas City v. Kansas City*, 382 S.W.2d 688 (Mo. En Banc 1964). At page 693 the court distinguished *Schmoll* and, it is submitted, properly so. The court said that the question in *Schmoll* was not really one of whether or not the county was endowed with the power, but a question of a failure to follow the correct procedure in exercise of the power.

contribution of county funds to a city for park and hospital construction;⁷¹ he found no power for a county to do so, but stated that the cooperation statutes provided a "method" by which the county could take part in such activity. As stated previously, the county should be able to cooperate with the city in these projects by any method, even by contributing funds, so long as the procedural steps required by statute are followed. Such an interpretation would mean that a county does have the power to contribute funds to a city for park and hospital construction.⁷²

The procedural steps are few. Section 70.230, RSMo 1959, set out above, merely requires that the action taken to enter into an agreement be the same as that which would be required for the municipality or political subdivision to take in order to undertake an activity alone. If the body involved is a political subdivision,⁷³ then a majority vote of its governing board is required for approval of any contract.⁷⁴ If the power of cooperation is exercised by contract, executed by a political subdivision, the contract must be in writing and filed with the secretary of state and county recorder.⁷⁵ Nothing else appears to be required to validly create a cooperative contract or engage in cooperative activity in the way of procedural prerequisites.⁷⁶ Therefore, the particular form or content of an agreement should have little effect on the validity of the agreement, if the above steps have been taken, so long as the subject matter is proper.⁷⁷

9. Other Problems

There are numerous other problems which could be mentioned. For example, can two political subdivisions acquire and hold real property as tenants in common for cooperative use? Section 70.240, RSMo 1959, expressly provides that they may do so. The Attorney General has approved the joint ownership of a library by a city and county on the basis of this statute.⁷⁸

71. Opinion of the Attorney General of Missouri, July 8, 1954, Dale, No. 21; Opinion of the Attorney General of Missouri, March 27, 1957, Moore, No. 63.

72. Ordinance, order of the county court, resolution, etc.

73. Defined by § 70.210, RSMo 1959.

74. § 70.300, RSMo 1959.

75. *Ibid.* This could raise the question of whether the filing requirement is a condition precedent to the validity of the contract. The statute does not state expressly that it is.

76. As previously mentioned, funds must be appropriated for joint action in the same manner that the participants would appropriate funds for singular activity. § 70.250, RSMo 1959.

77. In *Everett v. County of Clinton*, 287 S.W.2d 30 (Mo. 1959) the court implied that the parties should specify that joint action is pursuant to §§ 70.210-70.325, RSMo 1959. It stated, at 38, that the record disclosed no effort on the part of the parties to comply with these statutes. It is submitted that joint action adopted in a legal manner by each participant should be valid under § 70.220, even though the parties never heard of the statute.

78. Opinion of the Attorney General of Missouri, June 16, 1967, O'Halloran, No. 141. Section 70.270, RSMo 1959, states that sovereignty shall be retained over any real property used jointly and that such sovereignty will be a limitation upon any contract.

Under some cooperation statutes, the question has arisen as to whether cooperative agreements may cross state lines.⁷⁹ Section 70.220, RSMo 1959, permits this by authorizing cooperation with "other states or their municipalities or political subdivisions . . ." The Missouri statutes do not give agreements crossing state lines the status of interstate compacts.⁸⁰

What is the effect of extraterritorial limitations on interlocal cooperation? Generally, a municipality is deemed to have no extraterritorial powers in absence of statutory authority to act outside its boundaries.⁸¹ Logically, it would seem that interlocal cooperation should be a sweeping exception to that traditional rule. Otherwise, strict application of the rule could conceivably prevent two or more political subdivisions from engaging in any cooperative activity, unless their boundaries were coterminous. Obviously, such a rule cannot be strictly applied to service contracts where one municipality provides a service to another, such as water, police, or garbage disposal.⁸² The expenditure of funds through a cooperative agreement outside the territorial limits of a municipality is not considered to be a violation of a constitutional prohibition against the gift of public funds.⁸³

There has been no attempt here to cover all possible problems in interlocal cooperation. Some of those which this writer considers to be important have been discussed. No doubt, others will arise that have not yet been conceived. However, the problems discussed above indicate some of the many difficulties that have been met in attempts to use the power granted by cooperation statutes.⁸⁴

79. ACIR Handbook 7 (1967).

80. The Hawaii and Alaska constitutions limit intergovernmental agreements to interstate compacts. The consent of Congress could be necessary for interstate compacts to be effective. The Federal Housing Act specifically approves interstate compacts for urban planning and urban projects. 40 U.S.C. § 461(f) (1964).

81. *City of Sedalia v. Shell Petroleum Corp.*, 81 F.2d 193 (8th Cir. 1936). See also, Rhyne, *Municipal Law* 310 (1957) and Annot. 169 ALR 569 (1946).

82. Health problems know no territorial boundaries. *Johnson v. City of Louisville*, 261 S.W.2d 429 (Ky. 1953). Where a municipality has no power to engage in certain activity that would involve something other than providing a functional service to another body, the question could be different. For example, a city with no power to maintain a park outside the city limits in the example given in the text in sub-section 4 of this section might be required to receive express authority to operate such a park. Whereas, a city with power to operate waterworks to supply its inhabitants with water should have authority beyond the cooperation statute to be able to contract to supply water to another municipality.

83. *City of Oakland v. Williams*, 15 Cal.2d 542, 103 P.2d 168 (1940).

84. The Attorney General has not disapproved all cooperative proposals submitted to him for opinion. In approving proposed agreements, he has held: (1) that a drainage district may enter into an agreement with the federal government for assistance in a program of flood control and water use for agriculture, Opinion of the Attorney General of Missouri, March 24, 1955, Decoster, No. 22; (2) that the City of St. Louis could bind itself to provide land, easements and rights of way without cost to the federal government and hold harmless the federal government in a flood control project through a contract, Opinion of the Attorney General of Missouri, July 3, 1957, Geary, No. 32; (3) that three counties, one second class and two third class, could contract with a private planning agency, Opinion of the Attorney General of Missouri, May 29, 1958, Gibson, No. 33; (4) that two

III. IMPROVING STATUTORY AUTHORITY FOR COOPERATION IN MISSOURI

Although the Missouri statute authorizing interlocal cooperation has been hailed as a "far-reaching statute,"⁸⁵ there are areas for improvement which would encourage the use and increase the flexibility of interlocal cooperation. Statutory revision should be proposed to overcome the deterrent effects of the traditional rules of strict construction of municipal powers and some of the other problems discussed in the previous section.⁸⁶ The Advisory Commission on Intergovernmental Relations [hereinafter cited as ACIR] and the National Municipal League have both taken a firm stand against traditional rules of construction. These groups recommend a state constitutional provision that would grant to local governments "all residual functional powers" not denied by the constitution or by general law.⁸⁷ However, under present statutory and constitutional powers changes could be made in the Missouri enabling legislation that would provide local governments with greater flexibility to approach problems through interlocal cooperation.

Model legislation proposed by the ACIR in the area of interlocal cooperation provides the basis for several suggested improvements. The ACIR model coopera-

or more townships may jointly build one nursing home to serve their townships jointly, Opinion of the Attorney General of Missouri, August 28, 1959, Colley, No. 18; (5) that two or more municipalities could cooperate in an industrial development project through the use of municipal bonds, Opinion of the Attorney General of Missouri, December 24, 1963, Schneider, No. 318; (6) that a metropolitan planning commission created by a city and county may contract with a state agency, Opinion of the Attorney General of Missouri, August 6, 1965, Mitchell, No. 186; (7) that school districts may contract and cooperate with the federal government in educational assistance programs, Opinion of the Attorney General of Missouri, January 18, 1966, Hearnes, No. 100. Cf., as to junior college districts, Opinion of Attorney General of Missouri, April 26, 1966, Hearnes, No. 239; (8) that a county may enter into contracts with third and fourth class cities to collect the county's real property taxes, Opinion of the Attorney General of Missouri, March 29, 1966, Holman, No. 230; (9) that two municipalities may contract with one another to furnish police services (but not municipal judicial services), Opinion of the Attorney General of Missouri, May 15, 1963, Cantrell, No. 213. These proposals all involved activity, which in this writer's opinion, were rather clearly within the scope of the powers of the municipalities proposing the agreements.

85. NIMLO Report, 27 *MUNIC. L. REV.* 148, 151 (1964).

86. Rhyne, *Municipal Law* 310 (1957). "The general rule is that municipal corporations are creatures of the law and have no powers other than those expressly or impliedly granted to them by law." *City of St. Ann v. Buschard*, 356 S.W.2d 567, 574 (St. L. Mo. App. 1962). "Any reasonable doubt as to whether or not a city has been delegated a certain power should be resolved against the city." *City of Springfield v. Mecum*, 320 S.W.2d 742, 747 (Spr. Mo. App. 1959). "As to the powers of a municipal corporation, we stated . . . that such a corporation was but a creature or political subdivision of the State, possessing such powers as are conferred upon it by express or implied provisions of law and with any reasonable doubt as to whether it has the power resolved against it." *State v. Steinback*, 274 S.W.2d 588, 590 (St. L. Mo. App. 1955). A restrictive view of municipal powers is also applied by the rule discussed earlier that "so far as governmental functions are concerned, it is elementary that a municipal corporation has no extraterritorial powers." *City of Sedalia v. Shell Petroleum Corp.*, 81 F.2d 193 (8th Cir. 1936). See also Rhyne, *op. cit. supra*, at 324.

87. ACIR Program 385, 386 (1965).

tion act includes the characteristics that it has found to be the most desirable to enable local governments to take full advantage of cooperative agreements.⁸⁸

The ACIR recommends broad, general enabling legislation that would permit cooperative action to carry out any local governmental function. The Missouri statute is relatively broad as compared to statutory authority in other states.⁸⁹ It permits cooperation for the "planning, development, construction, acquisition, or operation of any public improvement or facility, or for a common service."⁹⁰ However, the broader language of the ACIR proposal, "Any power or powers, privileges or authority exercised or capable of exercise"⁹¹ would eliminate many of the potential problems of construction of statutory language discussed earlier.⁹²

The model cooperation act suggests language to make possible the joint exercise of a power held by only one of the participants.⁹³ It is this writer's opinion that such a provision is desirable and would facilitate interlocal cooperation. There are numerous examples in the Missouri statutes of grants of unequal powers among the various classes of cities.⁹⁴ They create unnecessary barriers to effective cooperation in many of the functional areas in which local governments operate. Statutory authorization for the joint exercise of a power possessed by one of the participating units of government would make a substantial contribution to the weakening of those barriers.

To avoid any potential problems, the cooperation statute should be changed to specify the extent to which a governing body can bind its successors. This is especially true, since there has been no Missouri holding on this issue. The ACIR

88. *Id.* at 401-406.

89. A list of the types of statutory authority existing in thirty-five states may be found in NIMLO Report, 23 *MUNIC. L. REV.* 156-189 (1960).

90. § 70.220, RSMo 1959.

91. ACIR Program, *op. cit. supra* note 87, at 401.

92. The ACIR recommends that the enabling statute also be broad enough to preclude any problems of conflict with other statutes that confer specific, as opposed to general, authority to cooperate. For example, there is other constitutional and statutory authority for cooperation in Missouri. Mo. CONST. art. VI, § 14 specifically authorizes counties to jointly perform any common function or service. Mo. CONST. art. VI, § 18(c) is a special authorization for charter counties to specify terms upon which they will perform services or functions of a municipality in the county, when accepted by the voters of the municipality. Sections 70.010 through 70.090, RSMo 1959, are enabling statutes enacted pursuant to Art. VI, § 14 of the Constitution and they authorize cooperation among counties under certain circumstances. These sections could conceivably raise questions as to whether they were exclusive grants of authority to counties for cooperation. Since § 70.210 includes county in the definition of political subdivision, these sections are probably unnecessary and redundant and should be repealed to avoid any possibility of conflict. The only exceptions to this recommendation are §§ 70.020 and 70.070, which grant petitioning voters the right to a special election on the question of participation in or withdrawal from a joint activity. This procedure retains for the people the opportunity to maintain some control over and identity with their local government without sacrificing the advantages of interlocal cooperation.

93. ACIR Program, *op. cit. supra* note 87, at 401-402.

94. For a brief discussion of the unjustifiable and ridiculous differences in statutory grants of powers to cities of different classes, see Salsich, *Local Government in Missouri: The Crossroads Reached*, 32 *Mo. L. REV.* 73 (1967).

model act would require as a mandatory provision in any agreement the specification of the agreement's duration.⁹⁵ This is probably a good approach, because it retains some flexibility for the parties. Other interlocal cooperation authorizations have limited the duration of an agreement to a specified number of years.⁹⁶

The ACIR also recommends that the statute give to agreements that cross state lines the effect of interstate compacts. The suggested legislation would make the state a nominal party to all agreements crossing state lines.⁹⁷ Such a provision should be given consideration. It would be desirable to bind the states involved and could become particularly important in matters such as air and water pollution agreements. It might be helpful to include in the provision a requirement that the means of terminating any such agreement be specified therein, because of the possible difficulties in withdrawing from interstate compacts.

The model cooperation act contains more technical prerequisites to the creation of a valid agreement than do the Missouri statutes.⁹⁸ Filing a proposed agreement with the attorney general for approval is a precondition to its validity.⁹⁹ The attorney general is to review the proposed agreement and determine that it complies with the conditions set by the act and with the laws of the state. In view of the narrow approach to cooperative action taken by the Attorney General of Missouri,¹⁰⁰ such a provision would not presently be desirable. If, however, the broader enabling act suggested by the ACIR were adopted and some of the problems of construction eliminated thereby, prior state approval of agreements could be helpful. Such approval would help to insure the parties and others who might be interested of the legality of the agreement and might discourage opponents from litigating its validity.

IV. CONCLUSION

Although Missouri was one of the earliest states to adopt constitutional and statutory authorization for interlocal cooperation,¹⁰¹ the use of the authority granted does not appear to be nearly as widespread as it should be to aid the problems of local government.¹⁰² Furthermore, the continued growth of special districts, voluntary associations and regional planning seems to contemplate the continued existence of governmental fragmentation.¹⁰³ Meanwhile, the need and desire for

95. ACIR Program, *op. cit. supra* note 87, at 402.

96. Georgia limits agreements to fifty years duration. GA. CONST. art. VII, § VI.

97. ACIR Program, *op. cit. supra*, note 87, at 404.

98. *Id.* at 403.

99. *Ibid.*

100. See text, Pt. IIIA3, *supra*.

101. Both the Constitution and antecedent of § 70.220, RSMo 1959, were adopted in 1945. California adopted constitutional provisions in 1922 and Georgia in 1941.

102. Mohler, *Comment on Title VII, Cities, Towns and Villages*, 5 V.A.M.S. xxxiii (1952).

103. Grant, *Trends in Urban Government and Administration*, 30 LAW AND CONTEMP. PROB. 38, 47-52 (1965).

expanded municipal service continues to increase with fewer and fewer individual local governmental units able to provide them alone, both in the rural and metropolitan areas.¹⁰⁴

Interlocal cooperation has many advantages and is one of the best ways for local governments to approach the problems created by a fragmented local government structure. Interlocal agreements can be used to increase efficiency and economy in many areas, such as centralized purchasing. Joint purchasing alone has been shown to result in as much as a fourteen per cent savings to a large metropolitan government.¹⁰⁵

Cooperative agreements may also be useful to smaller cities. A good example of this is the Mid-Missouri Mutual Police Agreement. It provides for a pool of police equipment and personnel that is available in case of major disorder or disaster to any of the five participating cities. Each city bears its own cost of responding to a call. Therefore, an emergency police force is available to any of the participants at practically no additional maintenance cost.¹⁰⁶

Interlocal cooperation can provide efficient solutions to many urban problems that are beyond the individual ability of local entities. The consolidation of services will result not only in economy, but in the ability of local governments to meet the demands for such service while still maintaining a maximum of home rule prerogative and local control.¹⁰⁷

The present Missouri approach to interlocal cooperation does not sufficiently encourage the use of cooperative action to solve problems of local government. Statutory authority for interlocal cooperation should be broadened to include any power or function that a local entity possesses. One broad, comprehensive statute should be adopted and all redundant or conflicting authorizations directed to specific entities or functions should be eliminated. Authority should be adopted permitting the exercise of a power possessed by any one of the participating governmental bodies, unless expressly prohibited by statute to be so jointly exercised. These are the most important revisions needed now. Other features of the ACIR suggested legislation, which are not provided by the Missouri statutes, should also be adopted, if Missouri is going to provide its local governments and officials with the legal machinery to cope with the complex problems of managing its municipalities.

Of course, statutory reform can only provide the necessary flexibility and legal machinery to do the job. It cannot overcome public concern over increased cost and natural public inertia in opposition to change, both of which attend any efforts to institute new governmental programs. There must be a greater awareness of local governmental officials that interlocal cooperation is an immediate and effective means available to them to meet the demands of the growing public. The general citizenry must also be indoctrinated with the fact that uniformity of muni-

104. Graves, *American Intergovernmental Relations* 737, 770 (1964).

105. *Nations Cities*, July 1965.

106. NIMLO Report, 29 *MUNIC. L. REV.* 199, 203-4 (1966).

107. NIMLO Report, 28 *MUNIC. L. REV.* 164, 174 (1965).

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pal services can no longer be maintained by several agencies within one area and that the price of autonomous local representation is going to be greater consolidation of service agencies or greatly increased cost to maintain the level of the services they desire.

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