

ONONDAGA CITIZENS LEAGUE

Report #7

THE CITY AND COUNTY CHARTERS -
TIME FOR REVISION?

Approved and Issued

by

Board of Directors
Onondaga Citizens League
July 10, 1985

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TABLE OF CONTENTS

History of the Onondaga Citizens League..... i
Acknowledgments..... ii
The 1985 Study Committee..... iii
Our Local Charters: An Historical Perspective..... 1
Charter Revision..... 3
Summaries of Recommendations..... 5
Introduction to Charter Study..... 10
Charter Structure: General Recommendations..... 10
Balance of Power in Local Government..... 11
Recommendations for the Charter of the City of Syracuse..... 12
Recommendations for the Onondaga County Charter..... 22
Recommendations of Charter Commissions..... 27

Appendices

I. State Provisions for Local Charters..... 28
II. List of Speakers to the OCL Study Committee..... 32
III. OCL Study Committee on the City and County Charters..... 33
IV. Footnotes..... 34

ONONDAGA CITIZENS LEAGUE

In 1978 several members of Thursday Morning Roundtable at University College, Syracuse University, explored the need for and the feasibility of establishing a broad-based citizen organization to study and make recommendations on long-range problems facing this county. The idea of such a citizens group was inspired by the successful 25-year history of the Minneapolis-St. Paul Citizens League which has been responsible for initiating many of the progressive developments in that metropolitan area.

After many discussions, 21 persons active in the community and interested in the concept were convened to develop plans for an Onondaga Citizens League. These individuals constituted an advisory board to establish guidelines for members, to prepare and adopt by-laws for operations of the organization, and in general to oversee functions of the Citizens League during its early months.

The Onondaga Citizens League was incorporated in 1980 and received non-profit, tax-exempt status in 1981. The purpose of the Citizens League is to encourage citizen education and involvement in public issues and problems. Members study all aspects of selected public problems, determine the facts, make considered judgments on approaches and solutions, and develop recommendations to present to responsible persons or offices. The organization's objective is to forestall the development of problems into real crises, not to promote specific legislation or function as a lobby.

The Onondaga Citizens League is open to any resident of the county. While some choose to join to study a specific topic, others join and renew their membership in support of the principle of citizen study of issues of major concern to the community.

REPORTS OF THE ONONDAGA CITIZENS LEAGUE

"Equality and Fairness in Property Assessment"	June, 1979
"Young People in Trouble: Can Our Services Be Organized and Delivered More Effectively?"	May, 1980
"The County Legislature: Its Functions, Size and Structure"	August, 1981
"Declining School Enrollments: Opportunities for Cooperative Adaptations"	July, 1982
"Onondaga County Public Works Infrastructure: Status, Funding, and Responsibilities"	July, 1983
"Police Services in Onondaga County: A Review and Recommendations"	August, 1984

Acknowledgments

The Board of Directors of the Onondaga Citizens League, listed on back of the front cover, wishes to acknowledge the important contributions to this study by the following.

Members of the Study Committee, identified in an appendix, dedicated many hours of study and discussion to the development of this report. Those who drafted the initial recommendations deserve special commendation for their time and effort.

The League is most appreciative of the outstanding work contributed by the study chairman, Thomas J. Maroney. Professor Maroney developed agenda, engaged speakers and resource persons, presided at meetings and wrote much of the original draft of this report. His knowledge as a professor of law and his skill as a group leader were key factors in the success of this study.

The League also extends appreciation to Elma Boyko who served as vice chair of the study committee and Lida Dawson Price, coordinator and secretary for this study.

Those who served as consultants to the study committee gave freely of their time and expertise to assist in clarifying the issues. Their names are listed in an Appendix.

University College provided staff support, office space, telephone and other forms of assistance as a public service to implement the work of the League. Bridget Solan served as secretary/typist for the project.

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This report is dedicated to the memory of Jean Reeve who served as President of the Onondaga Citizens League for the past three years. Her commitment to a better informed and more responsible citizenry reflected the ideals of the Onondaga Citizens League.

THE 1985 STUDY COMMITTEE

The 1985 Study Committee on "The City and County Charters - Time for Revision?" was composed of citizens with diverse business and professional interests. Thomas J. Maroney served as chair of the committee and Elma Boyko as vice-chair. Lida Dawson Price acted as secretary/coordinator.

The committee began its meetings with a study session on January 23 and met each Wednesday through May 22. During May and June a subcommittee drafted recommendations which were carefully considered and revised by the entire Study Committee at meetings held June 10 and June 17. On July 10 the Onondaga Citizens League Board of Directors reviewed and approved the recommendations.

Appendices to this report list members of the Onondaga Citizens League Study Committee, the members of the subcommittee and the speakers who addressed the Study Committee during the course of the study.

Our Local Charters: An Historical Perspective

Historically a charter has been the instrument by which a higher level of government granted authority to a lower level of government. A charter sets out the structure and organization of government and allocates the powers among its elements.

From the time the government of the Netherlands granted a charter for New Amsterdam to the Dutch West India Company, charters have been an instrument of government in New York State. Patterns of local government developed gradually under Dutch rule, but it was not until after the colony passed into British hands that the first individual city charters were granted. In 1686 the British government issued charters to the cities of New York and Albany. In 1785 the New York State Legislature chartered a third city, Hudson, making it the first city chartered in the new United States.¹ By 1834 the cities of Brooklyn, Buffalo, Rochester, Schenectady and Troy were chartered.²

Syracuse was chartered as a village in 1825, and in 1847 Syracuse received its charter as a city. That charter was revised in 1854, in 1857, and in 1885. At the constitutional convention of 1894 municipal home rule became a major issue. The 1894 constitution divided cities into three classes to permit the legislature to pass legislation applying to classes of cities in place of legislation applying to individual cities.³ The city of Syracuse operated under legislation made possible by this constitution from 1898 to 1935. The general scheme of government gave the mayor broad powers. Those powers included the right to veto legislation and power to appoint department heads.

In 1923 a home rule amendment to the constitution was passed by voters and the legislature passed the City Home Rule Law. In 1935 a charter was passed for Syracuse under the provisions of home rule, and in 1960 the present Syracuse Charter was passed by the voters. Its provisions do not depart significantly from the pattern of government set in 1898.

The present Onondaga County Charter provides a structure of government similar to that in the city of Syracuse, but the history of the two charters is quite different, reflecting the historical difference between county and city government in New York State.

Counties, like cities, have existed as distinct governmental entities since colonial times; but, unlike cities, they functioned as instruments of the state. Counties were the basis of representation in the Colonial Assemblies and the unit of administration for colonial courts.⁴ The first state constitution recognized the existence of 14 counties.⁵ Counties continued to be primarily a local service unit of state government until recently.

During the twentieth century county government has evolved into a local regional government. In 1935 the Fearon amendment to the constitution made it possible for a county government to assume the functions of local political subdivisions when the legislature enacted the necessary charter. In 1937 the Optional County Government Law provided a "menu" of areas in which county government could choose to act. In 1954 the Alternative County Government Law defined further the independent powers of local government. In 1958 the home rule amendment to the New York State Constitution gave any county the power to prepare, adopt, and amend its own charter. The legislature soon followed the constitutional directive by enacting the County Charter Law.

When the Onondaga County Charter was approved by voters in November, 1961, the county was among the first in the state to draft and adopt a home rule charter. The charter passed by voters in Syracuse in November, 1960, on the other hand, was the latest in a series of charters dating back to 1825 when Syracuse was chartered as a village. In 1964 a new home rule amendment to the constitution replaced the earlier amendment, and the current Municipal Home Rule Law was enacted by the legislature. Its provisions and those of the constitutional amendment form the basis for local government in New York today.

Charter Revision

If the Syracuse City and Onondaga County charters have provided workable plans for local government, why should charter revision be undertaken? The simplest, most fundamental answer is that a better charter is a tool for better government. The charter affects everything that a local government does. It is the basis of regulatory functions and of service delivery. It determines the operational methods of that government and therefore its efficiency and its responsiveness to the needs of the citizens.

When the language of a charter is archaic (as it is in sections of both charters) or its provisions outmoded (as in sections of the Onondaga County charter which have been superceded by the administrative code), when a charter is written in minute detail (as, for example, sections of the Syracuse City Charter relating to council districts), citizen interest and participation in government is discouraged.

Finally, the charter for a local government must reflect accurately the current local conditions. Since the charters were drafted, the city of Syracuse has lost population while the population of the county has greatly increased. The budgets of both governments are many times larger. The number of county services has multiplied. The office of deputy mayor has been established in city government but there is no charter provision for it. The Onondaga Citizens League concludes that it is clearly time to revise both the Onondaga County Charter and the Syracuse City Charter.

Three methods for revision of city charters are provided in the Municipal Home Rule Law.⁶ The first method is by charter commission which, in turn, may be established by one of three procedures. First, the legislative body may establish a charter commission by local law or submit to the voters the question of whether there should be a charter commission. The second procedure is for the mayor simply to appoint a charter commission. Finally, the voters of a city may submit to the legislative body a petition

for a local law establishing a charter commission. That petition must be signed by the number of voters equivalent to 15% of those voting in the last election; the legislative body must then submit the question to referendum.

An alternative approach to revision of a city charter is by direct initiative of the voters. If at least 10% of the number of voters casting ballots in the last gubernatorial election sign a petition to the legislative body, a local law providing a new charter or charter revisions may be filed with the city clerk. The city clerk must determine if the petition complies with the legal requirements; then that law must be submitted to the legislative body for action.

The third alternative for city charter revision is by action of the legislative body. If the charter changes under consideration do not require mandatory referendum, the legislative body may act to effect the changes through local law. If the changes require referendum, the legislative body may submit the proposal to voters.

The options by which a county charter may be revised are fewer. A county charter may be revised by a charter commission or by action of the legislative body.⁷ The legislature may simply choose to appoint a charter commission or the voters may petition the legislature to do so. If a number of voters equivalent to 10% of the number voting in the last election petition the legislature, it must create a charter commission or submit the question to referendum. It would appear that a county executive, unlike a mayor, is not granted power to appoint a charter commission in the Municipal Home Rule Law. The legislative body of a county also is able to revise the county charter by its own action if the contemplated revisions do not require referendum.

SUMMARIES OF RECOMMENDATIONS
OF THE
ONONDAGA CITIZENS LEAGUE STUDY COMMITTEE

General Recommendations

1. The language of the two charters should be revised to eliminate out-moded references and internal inconsistencies.
2. The fiscal year for both the City of Syracuse and the County of Onondaga should be studied to determine whether a change would allow for better coordination of budget planning with state and federal revenue sources.
3. Both charters should be revised to facilitate transfer of services as local conditions dictate and to eliminate overlapping in services; and
4. In order to maintain the efficiency and effectiveness of city and county government, both charters should incorporate provisions for periodic review and revision.

Recommendations for the Syracuse City Charter

1. The committee recommends retention of the strong mayor system of government.⁸
2. The committee recommends no change in the length of the mayor's term of office, but recommends the adoption of a two-term limit on service in the office of mayor.
3. The committee recommends that persons nominated by the mayor to serve as department heads be subject to confirmation by the Common Council, by majority vote of the full body.
4. The committee recommends that the powers and responsibilities of the chief executive be clearly vested in the office of the mayor.
5. The committee recommends the abolition of the Board of Estimate in order to more clearly define the powers and responsibilities of the legislative and executive branches and to affirm the legislative powers of the Common Council.
6. The committee recommends that members of the Common Council continue to serve as part-time legislators.
7. The committee recommends that the Common Council be provided with the expert assistance necessary for the effective discharge of the council's duties and that such persons be accountable solely to the Common Council.
8. The committee recommends no change in the length of term for councilors-at-large nor any limitation on the number of terms a person can serve in that office.
9. The committee recommends no limitation on the number of terms a person can serve as district councilor.
10. The committee recommends that a study be made of whether the term of office for district councilors should be increased to four years and whether the number of council districts should be increased.
11. The committee recommends that the office of president of the Common Council be abolished.

12. The committee recommends that the office of city auditor as a position elected directly by the voters be abolished. It also recommends that the pre-audit function continue to be performed by the Department of Finance.

13. The committee recommends that the Common Council provide for an independent audit, within one month after the close of each fiscal year, of all accounts of the city government, by a qualified, independent Certified Public Accounting firm experienced in auditing municipal accounts.

Recommendations for the Onondaga County Charter

1. The committee recommends retention of the county executive-county legislature charter system of government.
2. The committee recommends no change in length of the county executive's term of office but recommends the adoption of a two-term limit on service in the office.
3. The committee recommends that persons nominated by the county executive to serve as heads of departments continue to be subject to confirmation by the county legislature, by majority vote of the full body.
4. The committee recommends that the county executive be empowered to veto (a) legalizing acts, local laws, ordinances and resolutions adopted by the legislature, and (b) increases or decreases by the legislature in the proposed county budget, subject in each instance to legislative override by a 2/3 vote of the full legislature.
5. The committee recommends that the members of the Onondaga County Legislature continue to serve as part-time legislators.
6. The committee recommends that there be no limit on the number of terms of service as a member of the County Legislature.
7. The committee recommends that the Onondaga County Legislature be provided with the expert assistance necessary for the effective discharge of its duties and that such person be accountable solely to the legislature.
8. The committee recommends that (a) the size of the Onondaga County Legislature be reduced to fifteen legislators who would represent approximately 30,000 people each and (b) members of the County Legislature be elected to four-year terms. To provide for continuity in the Onondaga County Legislature, eight legislators should be elected in the next off year following the election of the county executive and seven legislators elected two years later.

9. The committee recommends retention of the system of having the chair, or presiding officer, of the County Legislature chosen among the legislature's own members.
10. The committee recommends that the office of comptroller, as a position elected directly by the voters, be abolished. It also recommends that the pre-audit function now performed by the comptroller be transferred to the Department of Finance.
11. The committee further recommends that the legislature be required to provide for an independent audit within one month after the close of each fiscal year of all accounts of the county government by a qualified, independent Certified Public Accounting firm experienced in auditing municipal accounts.
12. The committee recommends that the Onondaga County Charter and Administrative Code be revised to provide agreement between them.

Recommendation of Charter Commissions

In order to ensure a thoughtful, thorough, and internally consistent revision of each charter, charter commissions should be appointed now.

Introduction

A charter, as the "constitution" or fundamental law of a local government, defines its organization, procedures, powers and functions. Often written in considerable detail, a local charter guides citizens and public servants alike in determining their rights and responsibilities. The Syracuse and Onondaga County charters no longer serve this purpose as they should.

The two local charters have been in effect since January 1, 1962. Although they have provided sound plans for local government, both are now out-of-date. They contain outmoded references, anomalies and inaccuracies which diminish their usefulness and lead to uncertainty about their interpretation. The demographic composition of the city and county has undergone much change since the charters were first adopted. It is time to revise both charters as the community prepares for the transition to the twenty-first century. The Onondaga Citizens League therefore recommends that the city of Syracuse and Onondaga County each appoint charter commissions to examine its charter. To aid the commissions in their work the Onondaga Citizens League study committee offers the recommendations which follow.

Charter Structure

The committee concluded that there is no "ideal" local charter, and that a city or county charter must enable government to respond to local needs. The committee also concluded that any modern charter should accurately reflect existing conditions and actual working relationships in the government to which it relates. It should also contain a mechanism for periodic review and revision. The committee therefore recommends a number of technical and structural revisions in the two charters:

1. The language of the two charters should be revised to eliminate out-moded references and internal inconsistencies ;
2. The fiscal year for both the City of Syracuse and the County of Onondaga should be studied to determine whether a change would allow for better coordination of budget planning with state and federal revenue sources;
3. Both charters should be revised to facilitate transfer of services as local conditions dictate and to eliminate overlapping in services; and
4. In order to maintain the efficiency and effectiveness of city and county government, both charters should incorporate provisions for periodic review and revision.

Balance of Power in Local Government

The committee concluded that any modern charter must embody the principle of an appropriate "balance of power" between the legislative and executive branches of city or county government. That is to say, the structure of these governments as outlined in their charters should establish a division of powers and responsibilities between the executive and legislative branches of government which enables each branch of government to provide a balance for and check on the other branch of that government. Overall responsibility for the functioning of local governments should be shared by the executive and the legislative body in much the same way that it has been shared by those branches of government at the national level.

Since the recommendations concerning the balance of power differ for the city and for the county, recommendations for each government are set forth separately below. In those instances where the committee recommends that further study be made of an issue, it is presumed that the study should be done by a charter commission.

CITY GOVERNMENT

To achieve the appropriate balance of power in city government the committee recommends that the city charter be amended to clarify the division of authority between the legislative and executive branches and to strengthen the legislative branch.

A. The Executive Branch

1. The Mayor

a. The committee recommends retention of the strong mayor system of government,⁹ that is, a system in which the mayor and members of the common council are elected directly by the voters. The mayor-council system has been in place since before the turn of the century and has, on the whole, served the city well. The committee found no evidence of a need or desire to change this aspect of city government. Indeed the neighboring city of Rochester has recently abandoned the council-manager system of city government in favor of the mayor-council system. The first direct election for mayor of Rochester will be held on November 5, 1985.

b. The committee recommends no change in the length of the mayor's term of office but recommends the adoption of a two-term limit on service in the office of mayor. Those who oppose any limitation on terms of service as mayor argue that such a limitation would deprive the community of the accumulated experience of an incumbent and that the electorate can always turn out a mayor with whose performance it is dissatisfied. Those who favor a limitation have proposed either one six-year term or two four-year terms. They argue that a limitation would provide the opportunity for "new blood" in the mayor's office, eliminate the undesirable effects of long-term personal service contracts which may reflect preference for certain firms and individuals, minimize the advantage that comes from incumbency without any limitation on the number of terms one can serve, and make the executive branch more sensitive and responsive to the needs of the community.

The committee recommends that service in the office of mayor be limited to two four-year terms. Such a limitation is more realistic than the single six-year term proposed by some. It also strikes an appropriate balance between longevity and opportunity with respect to service in this most important position. It is customary in charter reform to make a restriction on terms of service effective at some future date and the committee recommends that this procedure be followed in imposing the recommended two-term limitation.

c. The committee recommends that persons nominated by the mayor to serve as department heads be subject to confirmation by the Common Council.

Under the current charter, with the exception of the Department of Audit, the mayor has sole authority to appoint those who will serve as heads of executive departments and as members of boards and commissions. The executive departments range from Assessment to Urban Improvement, and the charter provides for such entities as the Board of Zoning Appeals and the Planning Advisory Commission. The current charter does not provide expressly for the position of deputy mayor.

Although it is entirely appropriate for a mayor to have broad appointive authority, it is also common at all levels of government for the legislative branch to have the right to confirm high-level executive nominees. The legislature thereby may inquire into the nominee's qualifications and fitness to serve. The committee recommends that persons nominated by the mayor to serve as department heads be subject to confirmation by majority vote of the full Common Council. Such legislative involvement in the confirmation process encourages the selection of well-qualified candidates and enhances cooperative relations between legislators and department heads. The study committee does not feel that there is the same need for legislative confirmation with respect to members of boards and commissions, and it feels that legislative confirmation of the deputy mayor would be inappropriate. Because the deputy mayor serves as the alter ego of the mayor, the mayor should have sole authority to select the person who will serve him in this close advisory capacity.

d. The committee recommends that the powers and responsibilities of the chief executive be clearly vested in the office of the mayor. Abolition of the Board of Estimate as recommended in the next section will make it clearly evident that, under the charter, the mayor is the chief executive officer and administrative head of city government. The charter should enumerate that such powers and responsibilities as preparing and implementing the budget, proposing and approving (or disapproving) legislation, carrying on the daily operations of the city and reorganizing executive departments are vested in the office of mayor.

2. The Board of Estimate.

The committee recommends the abolition of the Board of Estimate in order to clearly define the powers and responsibilities of the legislative and executive branches and to affirm the legislative powers of the Common Council. The power to legislate should reside in the Common Council subject to veto by the mayor and override by the Council. The Board of Estimate has been a feature of city government in Syracuse since it was first authorized by the Second Class Cities Law in 1898. It was carried forward in the city charters of 1935 and 1960. Under the latter charter the board is comprised of one member from the legislative branch, the president of the Common Council, and two members from the executive branch, the mayor and the commissioner of finance. The commissioner of finance is a department head appointed by the mayor who can be removed or suspended by the mayor at his pleasure.

The current city charter provides that "All legislative powers . . . shall be exercised by the [Common] Council," that the Board of Estimate is an administrative board within the executive branch and that the board "shall not be deemed a branch of the legislative body of the city". Despite the express language of the charter, the power exercised by the Board of Estimate is clearly legislative in nature.

In a number of critical instances it is the Board of Estimate, and not the Common Council, that has the effective power to legislate. The most notable example is in the adoption and implementation of the city's annual budget, though other examples abound.

The current charter provides that the Board of Estimate shall adopt the annual budget, as presented by the director of budget administration or as revised by the board, and transmit it to the Common Council, which shall then consider and adopt it under certain specified procedures. Whether the Common Council may modify the budget presented to it by the Board of Estimate has been a matter of great controversy, especially in recent years. The charter provides that the Common Council "shall not have the power to diminish or reject any item which relates to salaries, the indebtedness or estimated revenues of the city or the sums directed by the board of supervisors [sic]¹⁰ of . . . [Onondaga County] . . . to be levied within the city for state and county purposes, or the sums lawfully payable within said fiscal year upon judgments . . ." It also provides that the Council shall not "increase any item for any purpose contained in said budget". With the approval of the Board of Estimate, the Common Council does have the power to reduce the salaries of elected and appointed city officers and regularly employed city employees, by a fixed percentage or scale of percentages.

If the Common Council takes no final action on the budget on or before October 31st, the budget as adopted by the Board of Estimate is deemed to have been adopted by the Council. In either event the Common Council must levy and cause to be raised the amount of the tax budget, that is, the amount of estimated expenditures less the amount of estimated revenues and the amount of all judgments payable prior to the tax levy.

The Board of Estimate's fiscal influence does not end with the adoption of the annual budget. The charter also confers upon the board either sole responsibility or joint responsibility with the Common Council, for handling of surplus revenues and unexpended balances and in the adoption, modification or transfer of appropriations.

Syracuse is one of the three cities in the state that has a Board of Estimate. The Board of Estimate provided for in the Syracuse city charter of 1960 is an anachronism whose functioning obscures the division of authority and responsibility between the legislative and executive branches of city government, and the committee recommends that it be abolished altogether. Its abolition would more clearly define the powers and responsibilities of the Common Council and the mayor and affirm the legislative powers of the council. Legislative policy for the city should not be made solely or even jointly by an entity the majority of whose members come from the executive branch, especially when one is an executive department head subject to removal or suspension at the pleasure of the mayor. That is particularly true with respect to the annual budget. Except for the capital portion of the budget, the Common Council is effectively precluded from shaping in any meaningful way a spending plan for which it must the levy the necessary taxes. It has no say whatever with respect to the budget of the Syracuse City School District, which is approved only by the Board of Education and the Board of Estimate. The undesirable nature of the present charter structure should be self-evident.

In a number of other situations the Board of Estimate has sole, primary or concurrent authority to make legislative policy. This authority should also reside in the Common Council. With the elimination of the Board of Estimate the mayor will still have important fiscal powers, since it will be his role to prepare the annual budget and submit it to the council. He will also have the check of the veto over legislation generally, and, in particular, over increases or decreases in the budget, subject to override.

B. The Legislative Branch (the Common Council).

1. Legislative Support Staffing.

a. The committee recommends that members of the Common Council continue to serve as part-time legislators. Common councilors now serve, basically,

as part-time legislators while pursuing their own careers in the community. With the adoption of the following recommendation councilors will have the expert assistance necessary for them to be informed and effective as part-time legislators.

b. The committee recommends that the Common Council be provided with the expert assistance necessary for the effective discharge of the council's duties and that such persons be accountable solely to the Common Council. The Common Council now does not have at its disposal any expert assistance, whether as staff or on a retained basis. It has, for example, no budget analyst to help it comprehend and dissect the annual budget as presented to the council by the Board of Estimate. It also has no legal advisor of its own. Under the current city charter the corporation counsel is to provide legal advice to the Common Council and is to prepare for introduction or render an opinion upon any local law, ordinance or resolution at the request of the council. The charter also provides that the corporation counsel is to render the same form of assistance to the mayor, by whom he is appointed as head of an executive department, the Department of Law.

Assistance in the performance of duties is now commonly provided to legislators at the national, state and local levels. To assist the council, such staff might include independent legal counsel or persons with expertise in research, policy analysis, budget analysis, planning and other matters related to the legislative duties of the Council.

The committee also recommends that such support staff be accountable solely to the Common Council. Regardless of whether the Common Council and the mayor's office are held by the same or different political parties, the two branches of government represent different interests, in keeping with the balance of power upon which a charter should rest. The Council should therefore be able to call with confidence—and in confidence—upon its own experts. Whether they are retained by direct employment, contract or some other arrangement, in discharging its duties under the city charter.

2. Councilors-at-Large.

The committee recommends no change in the length of term for councilors-at-large nor any limitation on the number of terms a person can serve in that office. Under the current charter, councilors-at-large are elected for four-year terms and there is no limitation on the number of terms a person can serve in that office. The committee recommends that the present arrangement be retained. Because there is a tradition of serving in the office on a part-time basis and because political power is dispersed among four councilors-at-large and shared with five district councilors, the committee concluded that there is no need to change the length of the term for the councilor-at-large or to limit the terms of service.

3. District Councilors.

a. The committee recommends no limitation on the number of terms a person can serve as district councilor. Under the current charter, district councilors are elected for two-year terms and there is no limitation on the number of terms a person can serve in that office. For the reasons stated immediately above, the committee concluded that there is no need for a limitation on the number of terms a person can serve as district councilor.

b. The committee recommends that a study be made of whether the term of office for district councilors should be increased to four years and whether the number of council districts should be increased. Under the current charter there are five district councilors, each of whom is elected for a two-year term. Some favor increasing the term of office to four years, arguing that it is inefficient and results in poor representation when an office-holder is running for election or reelection every two years. He/she is "always running" under the present charter structure. Some oppose increasing the term, arguing that the election of district councilors

at such frequent intervals makes the Common Council more responsive to community concerns and operates as part of the balance of power within the council, since councilors are elected for a four-year term.

Under the current charter councilors-at-large are elected on a city-wide basis; district councilors are elected from five districts whose size is governed by the United States Supreme Court decisions on equality of representation and by a charter provision requiring review and, if necessary, adjustment after each federal decennial census. Each district councilor now represents about 32,000 constituents whereas each county legislator represents about 19,000 constituents. There is considerable difference of opinion about the number of constituents a legislator can effectively represent; some argue that district councilors already represent too many while others argue that they could effectively represent at least the present number if not even more. The study committee recommends that a study be made of whether the number of council districts should be increased.

4. The President of the Common Council.

The committee recommends that the office of president of the Common Council be abolished. Under the current charter the president of the Common Council is elected for a four-year term, and there is no limitation on the number of terms a person may serve. The president may vote only to break a tie involving ordinances and resolutions. The charter's definition of "full membership of the council" excludes the council president: the president is not counted as a member of the Council for the purpose of determining a quorum, or of a majority vote, or of a two-thirds vote. As noted above, the president serves as a member of the Board of Estimate.

Some contend that the office of president of the Common Council should be retained as part of the balance of power in the legislative branch and enhanced

by giving the president a vote on legislation generally and not just to break a tie. Others contend that, with the abolition of the Board of Estimate, there is no real reason to have a council president and that it is more appropriate for a legislative body such as the Common Council to select a presiding officer from among its own membership.

The committee concluded that the council should select a president from among its own members. With the elimination of the office of president of the Common Council as an elected position it will be necessary to specify who is to serve as acting mayor in the event of the absence or inability of the mayor as well as who would succeed to the office in the event of the death of the mayor while in office.

C. The City Auditor

The committee recommends that the office of city auditor as a position elected directly by the voters be abolished. It also recommends that the pre-audit function continue to be performed by the Department of Finance. Under the current charter the city auditor is elected directly by the voters for a four-year term, and there is no limitation on the number of terms a person can serve in that office. The Department of Audit which he/she heads shall, among other duties, conduct an annual post-audit of the affairs of every officer, department and board of the city, conduct special audits whenever the mayor or Common Council shall order them to be made and make recommendations for the improved administration of the affairs of city government. The charter does not impose any professional qualifications to serve as city auditor although it does provide that the deputy city auditor shall either be a Certified Public Accountant or have accumulated three years of auditing experience in the Department of Audit or in a full-time responsible position in the field of auditing and accounting, or in the auditing of municipal accounts.

The 1935 Syracuse City Charter provided for a comptroller, that is, an officer who had the power and obligation to authorize and approve expenditures before they were made, as well as to post-audit them once made. The current Onondaga County Charter provides for the office of county comptroller who performs both the pre-audit and post-audit functions. Under the current city charter the pre-audit function is performed by the Commissioner of Finance.

Some would prefer the previous model of having a comptroller. Others contend that the position of city auditor functions as a "watchdog," who helps to maintain the balance of power in city government and, as such, should be retained unchanged. Even though the city auditor is now classified as a member of the executive branch, he/she is elected directly by the voters and can function as a counter-balance to both the mayor and the Common Council. Still others contend that auditing is a technical, professional task that can best be performed by an outside Certified Public Accountant or firm.

The committee found little need or desire to return to the system of a city comptroller. The pre-approval function can continue to be performed by the Department of Finance, subject to independent professional post-audit. Whatever marginal benefits to the balance of power are achieved through having an elected city auditor are outweighed by the lack of emphasis on having an impartial, professional post-audit of the expenditure of city funds.

The committee recommends that the Common Council provide for an independent audit, within one month after the close of each fiscal year, of all accounts of the city government, by a qualified independent Certified Public Accounting firm experienced in auditing municipal accounts. A post-audit of governmental accounts is customarily conducted by an agency independent of the administration and its results are reported to the council. The committee believes that this is the method most likely to ensure the independent, professional judgment upon which a post-audit should rest.

COUNTY GOVERNMENT

To achieve the appropriate balance of power in county government, the committee recommends that the Onondaga County Charter be amended to clarify the powers of the Onondaga County Legislature and of the Onondaga County executive and to strengthen somewhat the power of the executive.

A. The Executive Branch (The County Executive).

1. The committee recommends retention of the county executive-county legislature charter system of government. Onondaga was one of the earliest counties to adopt the executive-legislature form of government. The older form of county government in New York, that of the board of supervisors, is being replaced with this form by more and more counties. Recently Monroe County replaced the system of an appointed county executive with the county executive-county legislature form of government.

2. The committee recommends no change in the length of the county executive's term of office but recommends the adoption of a two-term limit on service in the office. Although such a limitation could deprive the community of the experience of an incumbent, the study committee believes that it is important to provide opportunity for new leadership. This limitation also would eliminate the possible undesirable effects of long-term personal service contracts which may reflect preference for firms or individuals. It minimizes the advantage enjoyed by an incumbent without any limitation on number of terms in office, thereby rendering the executive more sensitive and responsive to the needs of the community.

The committee recommends that service in office of county executive be limited to two four-year terms. The committee believes that this limitation strikes the appropriate balance between longevity and opportunity with respect to service in this most important position. The committee recommends that this restriction be made effective at an appropriate future date.

3. The study committee recommends that persons nominated by the county executive to serve as heads of departments continue to be subject to confirmation by the county legislature, by majority vote of the full body. It is appropriate to exempt the deputy county executive since that person assists in carrying out the functions and responsibilities of the county executive. It is also appropriate to exempt the administrator for human services and the administrator for physical services since their role is to assist the executive by providing for co-ordination among the various departments and between the office of the executive and the departments. It is appropriate to require legislative confirmation of heads of departments in order that the legislature may inquire into the nominee's fitness to serve.

4. The committee recommends that the county executive be empowered to veto (a) legalizing acts, local laws, ordinances and resolutions adopted by the legislature, and (b) increases or decreases by the legislature in the proposed county budget, subject in each instance to legislative override by a 2/3 vote of the full legislature. At the time that the present charter was drafted, Onondaga County was governed only a board of supervisors. The executive branch of county government was established by the current charter and represented a major change in the form of county government. Although the county executive enjoys some veto powers under the present charter, the drafters of the charter were cautious in assigning powers to what was to be an entirely new office. The executive is unable to veto resolutions, which constitute the legislative action by which the legislature conducts most of its business. The executive also is unable to veto any decreases that the legislature makes in the budget presented for approval although he or she may veto increases in that budget. It is preferable that the executive be clearly given full veto power (subject to override) or no veto power at all. Now that the office of county executive has been tested and is well-established in county government, the study committee believes that it is appropriate to provide more veto power to the county executive.

B. The Legislative Branch (The County Legislature).

1. The study committee recommends that the members of the Onondaga County Legislature continue to serve as part-time legislators. These legislators serve their electorate while pursuing their own careers in the community. Adoption of the resolution following will provide the expert assistance necessary for county legislators to be informed and effective while serving as part-time legislators.

2. The study committee recommends that there be no limit on the number of terms of service as a member of the County Legislature. Because there is a tradition of serving as legislator on a part-time basis and because the political power is dispersed among members of the legislative body, the committee concluded that there is no need to limit the number of terms of service.

3. The committee recommends that the Onondaga County Legislature be provided with the expert assistance necessary for the effective discharge of its duties and that such persons be accountable solely to the legislature. The committee commends Onondaga County on provision of expert staff to the County Legislature. The county provides for full-time positions as clerk, deputy clerk, assistant clerk, secretary, and for two budget analysts as well as for an attorney serving the legislature 3/4 time. The committee recommends that this assistance be continued and supplemented as needed.

The legislature should be given the advantage of assistance in all critical areas whether this expert assistance is retained by direct employment, contract, or other arrangement. Regardless of whether the majority of the legislators are of the same party as the county executive, the two branches of government represent different interests under the balance of power outlined in the charter. As such, each branch deserves its own independent source of expert advice. Such expert assistance becomes increasingly important with the increasing complexity of questions facing county government.

4. The study committee recommends that (a) the size of the Onondaga County Legislature be reduced to fifteen legislators who would represent approximately 30,000 people each and (b) members of the County Legislature be elected to four-year terms. In the report of its study of the County Legislature in 1981,¹¹ the Citizens League recommended that the number of county legislators should be reduced. The committee continues the belief that a smaller legislature with appropriate expert assistance would be better able to address the complex problems facing the county today and to take the long-range view necessary if such problems are to be solved. To provide for continuity in the Onondaga County Legislature, eight legislators should be elected in the next off year following the election of the county executive and seven legislators elected two years later.

C. The Comptroller.

The committee recommends that the office of comptroller, as a position elected directly by the voters, be abolished. It also recommends that the pre-audit function now performed by the comptroller be transferred to the Department of Finance. Under the current county charter the comptroller is elected directly by the voters for a term of four years, and there is no limitation on the number of terms a person can serve in that office. The charter provides that the comptroller shall be the chief accounting and auditing officer of the county, keep the county's records of appropriations, encumbrances and expenditures, prescribe approved methods of accounting for the county, examine requisitions to encumber funds and certify that the funds required are available. The comptroller also must audit all claims against the county, annually audit all financial records, procure statements of funds, submit reports to the executive and to the "board of supervisors".¹² The charter imposes no professional qualifications on the comptroller.

The study committee further recommends that the legislature be required to provide for an independent audit within one month after the close of each fiscal year of all accounts of the county government by a qualified independent Certified Public Accounting firm experienced in auditing municipal accounts. The committee concludes that the benefits to the balance of power achieved by having an elected comptroller are outweighed by the need to ensure an impartial, professional post-audit of the expenditure of county funds. Although such an audit has been conducted in the past by an independent Certified Public Accounting firm, there is no charter requirement to ensure that such audits will take place in future years. Responsibilities (other than that of the post-audit) assigned to the comptroller should be reassigned to the Department of Finance. Such a change in the charter will eliminate confusion which currently exists between the duties of the comptroller and those of the commissioner of finance.

D. The Administrative Code.

The study committee recommends that the Onondaga County Charter and Administrative Code be revised to provide agreement between them. Many of the speakers heard by the committee during the course of the study pointed out the confusion generated by conflict between provisions of the Onondaga County Charter and the Administrative Code. In some instances state law provides that the code take precedence over the charter, but the charter has not been amended. In other instances state law requires a referendum in order for those provisions of the code to take effect, and no referendum has been held. Nonetheless, the ineffective provisions remain in the code. The study committee believes that the charter and the administrative code should be amended to ensure agreement between them. The present situation is confusing to county officers and employees and discourages citizen interest in the affairs of county government.

Charter Commissions

In conclusion the Onondaga Citizens League recommends that charter commissions be appointed for the city of Syracuse and for Onondaga County. This report has amplified the committee's belief that it is time for both charters to be revised. Although the study committee has outlined its recommendations for revision of the local charters, the Citizens League does not constitute a charter commission. There remain issues relating to each of the charters deserving of further study. In order to ensure a thoughtful, thorough, and internally consistent revision of each charter, charter commissions should be appointed now.

Appendix
State Provisions for Local Charters

In New York charters have most often existed in the context of cities. Since the earliest days of the United States individual city charters have been granted by the legislature. The 1964 amendment to the state constitution established the concept of a home rule charter; that is, the state granted permission to citizens of lower units of government to draft and adopt their own charters within the general limitations of state law.

Counties had their origins as local service units of state government; and all counties in New York have, in a sense, a charter provided by the County Law. The County Law applies to all counties in the state outside of New York City with the exception of those counties which have chosen to draft and adopt local charters.

No such general law provides for the incorporation of cities. A city's charter is initially granted by the State Legislature. The constitution and the Municipal Home Rule Law which went into effect January 1, 1964, together provide authority for a city to revise its charter or to enact a totally new charter containing any provision of the existing charter and anything else the state has granted authority to provide by enactment of local law.

City charters must be drafted within provisions of the New York State Constitution and state law. The Municipal Home Rule Law restricts adoption of local laws in particular subject areas. Among these are restrictions on bonds, education, and the court system. Certain other areas are ruled to be matters of state concern by the court; state law also restricts adoption of local law in these areas. Among them are taxation, parks, education, and social services. Finally, local laws may not be enacted with respect to subjects for which state law indicates clearly that the state proposes to pre-empt a particular field.

The nature and scope of subject matter which may be included in city charters also is set out in state law. Cities are granted power to adopt or to amend local laws relating to their "property, affairs, and government" which are not inconsistent with state provisions. Cities may also adopt or amend local laws relating to several specific subjects. The Municipal Home Rule Law enumerates the following areas in which cities may adopt local laws:

- "- The powers, qualifications, number, mode of selection, removal, terms of office, compensation and hours of work of its officers and employees;
- the creation and discontinuance of government departments;
- the protection of its environment;
- the health, safety, and welfare of persons and property within its boundaries;
- the licensing of businesses and occupations;
- the levy, collections and administration of local taxes and assessments;
- acquisition and management of real and personal property;
- authorization of benefit assessments for local improvements;
- the membership and composition of its legislative body."

The grant of powers to counties to adopt and amend charters is defined specifically. A county charter is a locally drafted and approved law providing for the basic structure and organization of the county government. It specifies the powers and authority of the county government, allocates those powers among its elements so as to establish responsibility and accountability for exercise of those powers, and prescribes certain procedures for the exercise of county powers.

The Municipal Home Rule Law requires county charters to contain certain provisions, excludes some areas from charter inclusion, and grants counties the option of including certain provisions.

A county charter must:

- "- Prescribe the structure of the county government.
- Provide for an elective legislative body to determine county policy, exercise powers of local legislation and appropriate money.
- Specify the agencies and officers responsible for the performance of the functions, powers and duties of the county.
- Provide the manner of election or appointment, terms of office and method of removal of county officers.
- Provide for equalization of real property taxes consistent with standards, prescribed by the State Legislature."

Certain subjects may not be included in a home rule charter. Such subjects listed in the Municipal Home Rule Law generally fall into one of the following categories:¹⁵

- matters which affect the sovereignty of the State;
- matters which are primarily of State rather than local interest;
- matters which relate to the courts;
- matters which have been pre-empted by the State, even though they are primarily of local interest.

A county charter may include:¹⁶

- Provision for the appointment of county officers (except members of the legislative body and specified elected officers) or provision for their selection by any method of nomination and election.
- Assignment of executive or administrative functions, powers and duties to elective or appointive officers.
- Provision for a county executive officer who may be either elective or appointive. However, only an executive elected on a county-wide basis may be given power to veto actions of the legislative body. In this event, the charter may provide for overriding of vetoes by the legislative body by a specified percentage of the total voting strength.

- Provision for transfer of local government functions and duties among the county and the cities, towns and villages in the county. Such transfers may result in abolishing offices and agencies if all of their functions are transferred.
- Provision for an administrative code which sets forth details of administration of county government, implementing the provisions of the charter.
- Provision for the termination of terms of office of incumbent officers upon implementation of the charter.

List of Speakers

Richard Grossman, member of the charter commission for the 1961 charter of Onondaga County.

James Heffernan, member of the charter commission for the 1960 charter for the city of Syracuse.

Robert J. Rossi, Onondaga County attorney.

Kevin McAuliffe, attorney.

David Garber, corporation counsel for the city of Syracuse.

Batya Goldstein, principal municipal management consultant of the Office of Local Government Services, New York State Department of State.

Robert Batson, director of the office of Legal Services of the New York State Department of State.

Mary Burdick, member of the charter commission for the revision of the Syracuse City Charter proposed in 1974.

John Mulroy, Onondaga County executive.

Nicholas Pirro, chairman of the Onondaga County Legislature.

David Holihan, minority leader of the Onondaga County Legislature.

Armand Magnarelli, president of the Syracuse Common Council.

Edwin Crawford, New York State Association of Counties.

Kenneth Mokrzycki, deputy mayor of the city of Syracuse.

Roy Bernardi, auditor of the city of Syracuse.

David Elleman, Onondaga County comptroller.

* * * *

Two members of the study committee traveled to Monroe County to gather information on recent revisions of the charters for the city of Rochester and Monroe County. These committee members, Eleanor Steinholtz and Janet Besse, reported to the committee on interviews held with:

Thomas P. Ryan, Jr., mayor of Rochester.

Alexander DiPasquale, deputy county executive for the County of Monroe.

Beatrice Bibby, League of Women Voters, Rochester.

Guthrie Birkhead, dean of the Maxwell School at Syracuse University, introduced the topic of charter revision in remarks made at the December, 1984, meeting of the Onondaga Citizens League.

Onondaga Citizens League Study Committee
City and County Charters
1985

*Thomas J. Maroney, chair	Jennie Mingoelli
*Elma Boyko, vice-chair	Tore Mita
*Frank Anderson	*Lida Dawson Price, secretary
Helen B. Q. Anderson	Robert Rossi
Mary Ann Arabadjis	Roger Scott
Janet Besse	David Seib
David Brownell	Eleanor Shopiro
Alexander Charters	*Douglas Shupe
Doris Chertow	Nancy Skahen
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Elaine Lytel	*Deborah Williams
Sarah Stuart McIlvain	Frank T. Wood, Jr.

*Denotes members of the OCL Study Committee who also served on the subcommittee to draft recommendations.

Footnotes

1. Local Government Handbook, New York State Department of State (current), pp. 3-4.
2. "Revising City Charters," New York State Department of State (current) p. 2.
3. Local Government Handbook, New York State Department of State (1982) p. 87.
4. *Ibid.*, p. 3.
5. *Ibid.*, p. 64-66.
6. "Revising City Charters," New York State Department of State (current) pp. 6-8.
7. "Developing a County Charter," New York State Department of State (1978), p. 7.
8. Four broad categories of forms of city government are outlined on pp. 18-19 of "Revising City Charters" (New York State Department of State [current]. These include the council-manager form, the strong mayor-council form, the weak mayor-council form, and the commission form. It is noted that under the strong mayor-council form, "The popularly elected mayor is the administrative and executive head of the city government and the council is the policy-making body. Under the weak mayor-council form, "The mayor, even though popularly elected, is mainly a ceremonial figure."
It was noted earlier that the strong mayor form of government evolved in Syracuse during the nineteenth century.
9. See footnote 8.
10. This quotation is an example of out-moded language in the Syracuse City Charter.
11. "The County Legislature: Its Functions, Size, and Structure," Report No. 3 of the Onondaga Citizens League (1981).
12. The use of the term "board of supervisors" provides an example of out-dated language in the Onondaga County Charter. A similar example from the Syracuse City Charter was cited previously.
13. Municipal Home Rule Law, section 10 (1) (ii) as summarized in "Revising City Charters," New York State Department of State (current), p. 3.
14. Municipal Home Rule Law as summarized in "Developing a County Charter," New York State Department of State, 1978, p. 4.
15. Municipal Home Rule Law, section 34.
16. Municipal Home Rule Law as summarized in "Developing a County Charter," New York State Department of State, 1978, p. 4.