Annexation of Territory - Tennessee

technical bulletin

ANNEXATION HANDBOOK FOR TENNESSEE MUNICIPAL OFFICIALS

Wallace Mendelson

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University of Tennessee Knoxville, Tennessee

IN COOPERATION WITH THE TENNESSEE MUNICIPAL LEAGUE

ANNEXATION HANDBOOK

FOR

TENNESSEE MUNICIPAL OFFICIALS

by

Wallace Mendelson
Special Consultant

MUNICIPAL TECHNICAL ADVISORY SERVICE
DIVISION OF UNIVERSITY EXTENSION
THE UNIVERSITY OF TENNESSEE
In cooperation with the
TENNESSEE MUNICIPAL LEAGUE

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FOREWORD

This is a handbook for municipal officials in Tennessee who are considering annexation as a solution for fringe area problems. The unincorporated urban fringe that surrounds most cities creates a host of problems, both from the viewpoint of the city and the suburban dwellers. The purpose of this handbook is to present and to discuss briefly the factors that enter into a decision as to whether annexation should be undertaken. Of course, the decision in each city must rest on its peculiar local circumstances, but using this handbook as a guide and check list should be helpful.

The urban fringe area problem may well rank at the top of municipal problems. The solution is often difficult to determine. We hope that this handbook will offer some help to municipal officials. Any Tennessee city or town may obtain technical assistance in tackling its particular situation by contacting MTAS, Box 8260, University Station, Knoxville, or 228 Capitol Boulevard, Nashville 3, Tennessee.

Victor C. Hobday
Executive Director

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Part I - The Fringe Problem

A. Introduction

World War II aggravated one of our most troublesome municipal problems — the growth of suburban fringe areas around the outskirts of towns and cities. Many municipalities are now finding their natural development either frustrated or completely strangled by a choker necklace of satellite settlements. Parent cities are surrounded by blighted areas — which they cannot control and wealthy suburban sections which they cannot tax. For it is a common phenomenon that the poorest and the most prosperous tend to live in the outskirts — the former to avoid the sanitation and anti-nuisance standards of urban life, the latter to escape their just share of the cost of government in the mother city where they earn their livelihood.

In short, for all practical purposes of everyday life, the fringe is a part of the mother city's social and economic existance, yet it is beyond her regulatory and taxing jurisdiction. Thus the suburbanites are able to enjoy the benefits and pleasures of urban life and to avoid most of its burdens. Conversely, city dwellers bear the cost of the municipal facilities which the outsiders enjoy and are also compelled to pay county taxes — often a major share of them — that inure primarily for the benefit of fringe dwellers. Only if the whole metropolitan region can be treated as the socio-economic unit, which in fact it is, can fringe slums be controlled and tax

burdens equalized. "The need is for an integration of the financial resources of the entire region so that essential services may be developed adequately /and equitably/ throughout the area."[1]

The latter indeed is the heart of the matter. Water supply, sewage disposal, fire and police protection, construction and maintenance of roads and highways, and public welfare work for what is in reality a single metropolitan community cannot adequately and efficiently be provided by a host of jealous, competing and territorially limited jurisdictions.

> Few municipalities can really plan and execute proper systems for any of these purposes, and as the attempt is made, particularly in the metropolitan areas, municipal neighbors are encountered on all sides who are engaged, at great expense, in trying to do the same things. Naturally there is a duplication of facilities, waste of funds and efforts, when a given territory and a given population. . .are to be supplied with various services by a number of small, competing, inadequate jurisdictions. Naturally, also the aggregate of these small plans will seldom be as satisfactory in design or execution as would be a more comprehensive plan for the larger group.[2]

The fringe areas of most cities and towns "develop in what may be termed a fringe cycle. The first phase of the cycle sees a scattered population existing in an essentially rural area, with a few county services such as police protection by the sheriff, maintenance of roads and schools. Services such as fire protection, police patrols, water, refuse and garbage collection, sanitary sewers, storm sewers,

building inspections, zoning protection, paved streets, curbs and gutters, sidewalks, street lighting, street name signs, libraries and recreational facilities are often lacking completely. With few other houses around, the new home builder can drill his own well, construct a septic tank, and decide that his utility problem is solved — or if he happens to live near a generous city he may tap onto a water main and connect to a city sewer!

"A substantial increase in population marks the second phase, and gradually there is less and less elbow room. Absence of building inspections, sanitary facilities, and zoning begin to bring unexpected results of defective construction, a crowded neighborhood, water pollution, cluttered lots, and unsightly structures. The advantages of living in a city may be forcefully demonstrated by a house burning down without any water being thrown on it — but again the suburban dweller may fortunately live near a generous city that will send its fire fighting equipment to put out the fire, perhaps for a charge but frequently free. . . .

"The third phase begins when the residents of the fringe area realize that they are in fact an urban community and that they need municipal services. During this phase demands are often made on a county government structurally and psychologically suited for serving rural areas only, and the county government may make an effort to meet such demands. Or special

districts such as fire protection districts, water districts, sanitation districts, school districts, drainage districts, and a variety of others may be formed — until the suburbanite who hoped to escape the city's taxes may find himself paying higher taxes either to several districts or to the county. Studies of fringe areas around /some/ cities showed suburbanites were actually paying higher taxes than city residents. Often higher fire insurance premiums in unincorporated areas without adequate fire protection are a substantial factor in causing a suburbanite's expenses to be more than those of his city neighbor.

"If frustration and irritation over such unsatisfactory conditions becomes sufficiently acute, there follows a fourth and final phase: incorporation either as a separate city or cities or by annexation to the central city. If satellite cities are formed, a ring of encirclement may be forged around the central city to block its enlargement, creating a host of difficulties arising from the lack of opportunity for united action on problems of common interest, including crime, traffic, health, planning, and taxation."[3]

A basic solution for problems of this type is an annexation program commensurate with the needs of the growing community. Ideally, of course, cities would keep ahead of the problem by annexing shelter belts to anticipate all possible suburban growth. This unfortunately is seldom done.

The result is that most lively municipalities are faced with established fringe communities, the annexation and integration of which inevitably begets heated opposition.

B. General Arguments Against Annexation

Typical arguments against annexation by persons who live in the mother city are "(1) that the territory to be taken over will become a charge on the city treasury and that the city cannot afford the additional burden; (2) that the old territory of the city will be neglected because the attention of the city will be concentrated for the next few years, at least, on the development of the new; (3) that a large territory cannot be managed as well as a compact one; (4) that a large electorate cannot select its representatives as intelligently as a small one and consequently that the government of the city will become unwieldly, less responsible and less efficient than it is; and (5) appealing especially to the dominant political faction, that the political complexion of the electorate will be changed.

"Opposition within a suburb about to be annexed is usually based on anticipated consequences such as the following: (1) the substitution of the incompetent or corrupt government and the low standards of service obtaining in the city, for the compact, clean government and high standards of service which have been maintained in the suburb; (2) an increase in taxes (in territories in which the taxes are [or appear to be]

lower than in the city); (3) the applying, in the case of a wealthy district, of a portion of the taxes paid by it to poorer portions of the annexing city; (4) the assuming of a portion of the large debt previously incurred by the annexing city; (5) the lack of any intimate knowledge of the conditions of the suburb on the part of the city authorities; (6) the necessity of waiting its turn, as a district or ward of the city, for improvements which as an independent unit it could provide at its own discretion; (7) relative inaccessibility of city authorities or their inattentiveness to the needs of annexed territories; (8) the inapplicability of the city's general police regulations, some of which may be too restrictive and others not restrictive enough; (9) the control of the enlarged city by another political party than that which is in control in the suburb; (10) the merging of the people of the annexed area with a great cosmopolitan population largely of a different race, nationality and religion, of a lower culture, and subject to control of undesirable politicians; (11) the loss of the name and identity of the suburb; (12) the disappearance in the annexed territory of that live community spirit and interest in local affairs essential to development and good government; (13) the introducing of an innovation which may not work as well as the existing system which has been tried and has given reasonable satisfaction; (14) where the territory happens to be in another county, its disruption

from the old county and loss of some county resources."[4]

C. General Arguments for Annexation

"From the point of view of the city, it is urged in favor of annexation or consolidation (1) that the territory is inhabited largely by people who work in the city or is needed to accommodate the future increase in the city's population; (2) that its annexation or consolidation with the city will enable the city to bring about a development consistent with its own development and the needs of the entire metropolitan community; (3) that it will improve the city's standing in the census; (4) that it will secure participation in its government of the suburban dwellers who work in the city; and (5) that it will provide a broader basis of municipal financing.

"From the point of view of the suburbs, it is urged that the annexation proposal will (1) secure necessary urban improvements and services which they cannot secure alone; (2) reduce taxes if they are higher in the suburb than in the city; (3) compel the extending of utility services, or enlargement or improvement of existing services and reduction in rates to the city level; (4) end incompetent or corrupt governments and local factional political fights; (5) lead to a more rapid settlement of the territory and a rise in land values; (6) bring about lower fire insurance rates; and (7) in case of unincorporated territories, secure

privileges which may be lacking, such as mail delivery or express service.

"To both the residents of the city and residents of the suburbs appeal is made to support the proposition because (1) it will remove 'the wholly artificial and imaginary lines' dividing them and permit them to function as one community; (2) enable them as one community to solve their common problems which they cannot solve effectively as separate units; (3) improve the civic spirit throughout the entire area of the enlarged city by substituting for the jealousies and antagonisms of various sections a community consciousness; (4) develop a greater pride in the metropolis; (5) give a spur to the activities of the people in every direction through the launching of new public improvements and commercial and industrial projects; and (6) result in a more economical and efficient government by removing duplication among offices and overhead expenses, and by making possible the various benefits of centralized control."[5]

Not all of these arguments, of course, will apply in all communities. Many of them are more emotional than factual and some are mutually inconsistent. Experience in a good many cities has shown, however, that this is the type of general debate that inevitably arises when annexations are proposed. It is presented here on the ground that to be forewarned is half the battle.

Part II - The Law of Annexation

A. General Principles — The Power to Annex

State legislative bodies have power to create and to abolish municipal corporations at pleasure and in the absence of state constitutional restrictions (there are none in Tennessee) this power involves the right to authorize annexation of any territory within the state to any local municipal corporation. Judge Dillon's Commentaries still provide an accurate and concise statement of the general law on this subject:

> Not only may the legislature originally fix the limits of the /municipal/ corporation, but it may, unless specifically restrained in the Constitution, subsequently annex, or authorize the annexation of, contiguous or other territory, and this without the consent, and even against the remonstrance, of the majority of the persons residing in the corporation or in the annexed territory. And it is no constitutional objection to the exercise of this power of compulsory annexation that the property thus brought within the corporate limits will be subject to taxation to discharge a preexisting municipal indebtedness, since this is a matter which in the absence of special constitutional restriction, belongs wholly to the legislature to determine. The power to enlarge the boundaries of a municipality by the annexation of contiguous territory is an incident to the legislative power to create and to abolish municipalities at pleasure; and it is no objection to the exercise of this power, in the absence of constitutional restriction, that the territory annexed to a municipality already has a complete municipal organization as a city, borough, town or village, or other comporate form recognized by the Constitution and laws of the State. In the absence of constitutional limitation upon the power of the legislature, it is also no objection to the valid exercise of the power that a smaller municipality is, in practical effect, merged in and consolidated with a larger municipality

> by the act of the voters of the larger city, as where the question of consolidation is referred to a popular vote of the electors of the consolidated territory, a provision which almost of necessity refers the question to the practical determination of the electors of the larger of the two bodies to be consolidated. A consolidation so effected, unless prohibited by some express provision of the Constitution of the State, is not open to attack as depriving the taxpayers and electors of the smaller municipality of their vested rights or property without due process of law, either under the constitutional provision to that effect to be found in the Constitution of the State, or the similar provision to be found in the Constitution of the United States.[6]

B. General Principles — The Effect of Annexation

The annexation to a municipal corporation of territory which has previously been outside the corporation is an act of the state and such territory thereafter stands just as any other territory within the corporation. "In the absence of special provision to the contrary, all ordinances and contracts of a general character are simultaneously extended over and become operative in the added territory, so that such territory becomes entitled to the same privileges and subject to the same burdens as that within the original limits."[7]

In the absence of special circumstances or legislation to the contrary, an annexing municipality "acquires title to the public property situated in the annexed territory without payment of compensation to the political corporation or subdivision from which the territory is taken. The legislature

however, may, and sometimes does, provide, on annexation, for an equitable division or apportionment of public property, or it provides for the payment by the annexing municipality to the political subdivision from which the territory is taken of a share of the value of the public property in such territory, or for the payment by the annexing municipality of an existing indebtedness on account of the property, as a condition precedent to taking possession thereof. On principle, and apart from express statutory provision a city annexing territory should not be required to compensate the county for public buildings or improvements situated in the annexed territory and already paid for, as distinguished from improvements as to which there is an existing indebtedness. Statutes departing from this principle will be strictly construed and confined in their application to cases clearly within their terms."[8].

An exception might well be made in the case of a governmental unit that loses public property through annexation without losing responsibility for the service to which such property had been devoted. If, for example, a town annexes territory which includes a county school building, but does not include the full area served by such building, the county may have to acquire new facilities to serve pupils in the old school district who remain outside of the new city limits. In such a case the county might have a reasonable claim for

compensation regardless of whether there is any outstanding indebtedness with respect to the building in question.

With respect to public debts the rule is clear that unless a county, municipality or other civil division is annexed or consolidated in its entirety, it remains fully liable for all of its obligations and debts -- none of which become a charge against the annexing municipality unless it is specifically so provided by the statute or ordinance making the change.[9] Conversely, the existing debts of an annexing municipality, ie. debts contracted prior to annexation, unless otherwise provided by law are chargeable against the added as well as the old territory. In short the annexed area may be taxed to pay the prior obligations of the city to which it has been added.[10]

In brief a municipality that annexes less than the total territory of another civil division ipso facto acquires full title to all of the latter's public property situated within the annexed area, but is not responsible for any debts or other obligations. These remain the full responsibility of the original contracting unit whether county, city or lesser civil division. However, just as the state's power with respect to annexation itself is plenary, so also is its power to adjust and allocate assets and liabilities between an annexing city and the governmental unit from which territory is detached. And, of course, upon annexation the newly

acquired area becomes entitled pari passu to all of the benefits and subject to all of the liabilities of the city of which it has become a part unless special provisions to the contrary have been made.

At this point we can do no better than to present the following extracts from the letter of an experienced city manager, illustrating one of the pitfalls of annexation -- failure to schedule in advance the "effects" of a municipal expansion program:

> The major problem here, however, stems from a lack of understanding on the part of the city as to what obligations were being assumed in reference to the newly-annexed areas, and, of equal importance, a lack of any time-table or well-defined schedule as to when services and, of a more complex nature, permanent improvements would or could be extended into these new areas. It would seem that the prospects for annexation, larger population, more prestige for council members and city officials, and probably a misunderstanding on the part of residents of the old city as to the benefits of annexation in terms of spreading costs, blinded everyone concerned regarding the full impact of this annexation program, and apparently some rather imprudent promises were made. I'll give you a few examples a little later on, but this would lead to the admonition - I believe that a well-defined and carefully planned schedule of services and improvements is all-important to the success of annexation, expecially to protect the integrity of the central city, after the annexation procedure has been completed. This schedule should be given wide publicity, so that no misunderstandings can arise, and it should be prepared on a conservative basis so that the annexing city will not be embarrassed by its inability to meet the schedule at some later date.
>
> Here in our town pressures began to appear on the very day annexation was completed. People in the newly annexed areas expected immediately all the services and improvements that had been developed

in the central city over a long period of years. It finally got so bad that the Mayor told me recently, that on the areas annexed last (this seemed to be a progressive annexation procedure whereby each of the various areas voted separately and at different times) he actually had police cars, garbage trucks and other service vehicles assembled at the old city limit line, and the minute annexation was announced, these vehicles sped into the newly annexed areas, much like the opening of the old Indian Territory in the mid-1800's. Well, this was one way of beating the pressure - and the story does indicate how unreasonable the residents of annexed areas can be.

Our greatest problem, however, comes from an ill-conceived street improvement program in these newly annexed areas. In order to meet the pressures (and they must have been terrific, really) the city rushed in and put down curb and gutter and street widening projects, with poor engineering and by contract, without adequate specifications and proper safeguards. That was bad enough, but the entire street drainage situation was overlooked, or disregarded, and catch-basin outlets run out from under the street, usually with one joint of concrete pipe, directly onto private property, without any right-of-way, flowage easement, property owners' consent, or any other evidence of any awareness of the problems that were being created. Last summer, about three rainstorms of cloud-burst proportions (just before my arrival) drove home the full impact of what had been done. As a consequence we have probably 250 urgent drainage complaints, damage suits by probably 50 property owners have already been filed, and the end is not in sight. The topography of our town is such that a storm drainage system will be expensive to construct. My plan on this problem is approximately this:

1. Several of the suits already filed will be appealed to the Supreme Court (of the State) in order to fix as precisely as possible our legal responsibilities.

2. The next step will be to employ a firm of competent consulting engineers to come in and prepare plans, specifications and estimates of cost on a city-wide storm drainage system.

3. Determining a construction schedule and working out the finance problem - Could be as much as $5,000,000.00.

Of course, the tragic part of all this, is that the problem could have been worked out in advance, and the whole issue avoided if clear-cut understanding had been reached before annexation was completed. Another admonition - the time to work out annexation problems and compromises is before annexation procedures are completed. Afterwards, they are citizens and taxpayers, and "I pay my taxes and I got my rights" attitude will prove all too plainly that afterwards is too late.

Finally, we are having to divert a disproportionate amount of our revenues to these newly annexed areas. As residential areas, predominately, they do not pay their way, and they give us a totally unreasonable share of our complaints and requests, and the rest of the city is suffering by reason of such financial resource diversion. This would seem to indicate another admonition - particular attention should be paid to an equitable sharing of costs of services and permanent improvements by residents of newly annexed areas, with particular reference to preventing an undue diversion of revenue resources to the new areas and at the same time to protect and continue services and improvements in the original central city, especially in the revenue producing business and commercial areas. Existing drainage systems (too small) in the down-town area are being neglected because of the demands of the newly annexed areas.

C. Tennessee Annexation Procedure — The General Annexation Statute

In Tennessee there are two basic legal approaches to the annexation problem. One is provided by general law in the following terms:[11]

> 3320. Adjoining territory may be added, how — Territory adjoining any municipality may be added thereto, and included in the corporate limits thereof, as follows: Any fifty freeholders, all of whom shall reside within the territory to be incorporated, or in the territory proposed to be added and included in said corporate limits, shall sign a petition, in

> writing, under their signatures, in which they shall describe by metes and bounds said addition for consideration and approval by ordinance.
>
> 3321. Submission to qualified voters — If approved as aforesaid, the same shall be submitted, in pursuance of proper ordinance, to the qualified voters as herein fixed for elections, at the expense of said petitioners, and if approved by a majority of said electors, upon ar election to be held by the commissioners of election of said county, and due return thereof, the same shall be declared by ordinance, and shall be a part of said municipality.

It will be noted that by the terms of this legislation annexation proceedings may be initiated only by freeholding residents of the territory to be annexed. A municipality may not formally do so. Moreover, there can be no annexation without approval of a majority of the freeholders in the territory. A mere majority of those voting on the issue will not suffice. This means, of course, that failure of a freeholder to vote constitutes a negative vote and all non-freeholding residents are disenfranchised. It also means that the boundaries of the territory to be annexed are more likely to be drawn for gerrymandering purposes than for the true needs of the metropolitan community.

As though further to discourage annexation proceedings the cost of the election must be borne by the private petitioning parties and the election itself is to be conducted by county officials who will often be unsympathetic with the entire project. Similarly the statute contemplates that no territory can be annexed unless it has at least fifty freeholding residents.

This precludes annexation of uninhabited areas in anticipation of fringe problems.

Not only are municipalities without power to initiate annexation proceedings under this legislation, but they are denied authority to modify the terms of the annexation petition. Their sole power is by ordinance to accept or (presumably) reject[12] the petitioner's terms in toto. Moreover, once a city has accepted petitioner's terms it is apparently bound to accept annexation itself after approval by the freehold voters in the territory in question.

Finally, there is no provision whatsoever with respect to adjustment or allocation of assets and liabilities as between the governmental units involved in an annexation proceeding.

D. Annexation by Private Act -- Judicial Decisions Thereunder

Obviously the Tennessee general annexation statute is too narrowly drawn to be useful in very many cases. The result is that as matters now stand Tennessee municipalities must usually call upon their local delegations to the state legislature for special, ie. private, acts to meet their annexation needs. It may be noted that the Tennessee Supreme Court, apparently recognizing the limited applicability of the general law, has held in effect that the latter is not the exclusive remedy for municipal growing pains and that

special or private annexation legislation is permissible.[13] The same court has also recognized that the alteration of a town's boundaries is a proper legislative function which may be exercised at the will of the state legislature with or without the consent of the municipality, its inhabitants or reluctant annexees.[14] Indeed such matters, being essentially political in nature, are in general not subject to judicial review.[15]

An examination of the output of the 1951 Session of the Tennessee General Assembly indicates that the standard device for altering the territorial limits of a city is a private act amending city charter boundary provisions. During the session in question thirty-six such acts were passed. In only one instance was the alteration made dependent upon acquiesence by at least some of the persons affected thereby.[16] In no case was there any legislative provision with respect to allocation of property or obligations. Such matters presumably were left for settlement by the parties involved or by the operation of the general legal principles indicated above.

There are, however, some significant court decisions concerning property, debt and taxation adjustments in previous private acts of the Tennessee legislature that should be noted here. Thus it has been held that upon division of a municipality, and presumably the same principle would apply

with respect to the division of any other Tennessee governmental unit, in the absence of legislative regulation each portion will hold in severalty for public purposes the public property which falls within its limits.[17]

A city in acquiring additional territory may assume bonds of a suburb issued for street improvements[18] and the implied restraint against legislative appropriation of municipal funds for other than corporate purposes does not extend to any expenditure required to meet obligations which a city assumes on equitable or moral grounds attending an apportionment of rights and obligations incident to annexation.[19]

Finally, while it is permissible by private act to exempt territory added to a city from taxation for debts contracted by the annexing city prior to annexation,[20] the constitutional requirement of equal and uniform taxation is violated by a statutory provision exempting annexed territory for a fixed period from taxation for current and future costs of certain municipal services, even though it is provided that during the same period the newly added territory shall not receive the services in question.[21] This decision apparently forecloses agreements, common in some states, to the effect that annexed territory shall receive preferential tax treatment until such time as the parent city is able to provide it with full service on a

basis of equality with older, established areas. Moreover, it is not permissible to attempt to attain the same results, ie. tax exemption, by the device of a tax rebate.[22]

Part III. Fiscal Aspects of Annexation

Sooner or later the sponsors of an annexation proposal must answer the question -- How will it affect me financially? The proposed annexees will ask it. So will the residents of the "old" city, especially those who are officially responsible for the fiscal management of municipal affairs. And so it is the part of wisdom to have answers carefully worked out in advance. Of course, in large part the responses will have to be based on informed estimates, but experience has shown that the nature of the problem is such that reasonably accurate predictions are possible. Obviously each community will have its own peculiar twists and variations, but there are some general principles that will apply in all annexation proceedings. These we will attempt to outline as follows:

A. Estimated Increases in City Revenue as a Result of Annexation

Enlargement of the area and population of a municipality necessarily entails expansion of its property and privilege tax bases. Similarly there will normally be an expansion of the base upon which state and federal grants and "in lieu" payments are made. For example, a city's share of the

Tennessee sales and beer tax would increase in proportion to its population increment.[23] The same presumably would be true with respect to the proposed municipal share of the state gasoline tax. Normally too, for example, "in lieu" payments by a TVA electric distribution system would increase as more of its properties are brought within the municipal boundaries.

Considerably more difficult to estimate accurately are the increases in municipal revenue which result from the fact that extension of city services normally not only increases property values but also stimulates business activity. A larger census figure, for example, because of the apparent increase in labor and consumer markets, may encourage new industries to move into the community. It may also tend to improve the city's quota not only of federal and state grants and services, but also of merchandise — automobiles, for example — which large manufacturers and distributors sometimes allocate on the basis of census figures.

Because revenue increases of this latter type cannot be accurately forecast they should not be over-emphasized in annexation fiscal plans. Nevertheless, experience in a wide range of communities indicates that in the long run these are real considerations.

Following is an excerpt from a 1952 report of the Community Services Commission for Davidson County and the City of Nashville, Tennessee,[24] which will here serve as a case study on the effect of annexation upon city revenues:

Taxes

Real and Personal Property Taxes. The assessed valuation of realty and personalty (not counting public utilities) in the suburban "study area" we estimate to be $125,000,000.00. The present City tax rate applied to this would produce $2,875,000.00 annual additional revenue.

Public Utilities. Some $9,000,000.00 of public utilities are located in this area. Nashville's tax rate would produce from this an additional revenue of $207,000.00.

Merchants' Ad Valorem. Conservatively estimated, a valuation of $8,000,000.00 is available in the suburban area; the City rate would produce from this item an annual $184,000.00.

Tax Equivalents. A valuation is made annually of property of the Nashville Electric Service on which tax equivalent payments are made. During the fiscal year ending July 31, 1951, these tax equivalent payments provided $278,099.07 in revenue to the City. It is estimated that the value of NES property in the suburban area would approximate $10,000,000.00. The revenue which would be received from the Nashville Electric Service as a result of annexing the area in which property is located would approximate $230,000.00 annually. This would be only slightly short of 100 per cent increase in revenue from this source. The Nashville Housing Authority paid in to the City of Nashville a tax equivalent of $39,923.28. Since the Housing Authority has not provided facilities outside of the present corporate limits, there would be no additional revenue from them.

Summary. A summary of added assessed valuations and tax revenues is as follows:

Tax	Added Assessments	Added Revenue
Real and Personal. . . .	$125,000,000.00	$2,875,000.00
Public Utilities.	9,000,000.00	207,000.00
Merchants' Ad Valorem . .	8,000,000.00	184,000.00
Sub-Total.	$142,000,000.00	$3,266,000.00
Tax Equivalents	10,000,000.00	230,000.00
Total	$152,000,000.00	$3,496,000.00

The 1950 assessed valuation of Nashville, including ad valorem and public utility assessments, was $240,294,171.00. This increased 6.9 per cent in 1951 to $254,938,830.00. Increases in assessments over the past 10 years show an average yearly increase of approximately 5 per cent. These increases should continue in the future. When the valuation of the study area is added to the 1951 assessment, the total valuation would amount to almost $400,000,000.00. With the past annual increases applied to this valuation (certainly with added industrial advantages of the suburban area with City services these increases should continue), assessments in five years could be expected to be $500,000,000.00, and in ten years, would reach over $600,000,000.00.

This is the place to say that Nashville has not had a general reassessment in over 35 years and a time for such action is long overdue. A reassessment would almost certainly produce more income.

Licenses and Permits

Estimated amounts of increases in this source of revenue as the result of annexation is as follows:

Source	Amount
Merchants' Privilege Licenses	$250,000.00
10% Retail Beer Tax	200,000.00
2% Gross Theatre Tax	25,000.00
Auto and Wagon License	5,000.00
Permits and Fees	100,000.00
Total	$580,000.00

Contract and franchise fees are received from private utilities operating in the City of Nashville. It is not expected that annexation would affect revenue received from this source.

Revenues from State of Tennessee

Beer Tax. A portion of the state beer tax is distributed to the cities of the state according to population. Annexation would have no effect on the revenue from this source as it is now based on the population as recorded in the last federal census. Therefore, there would be no gain until 1960, under the present law. We feel this act should be amended to provide for consideration of population added by annexation.

Income Tax. A portion of the state income tax on income from certain stocks and bonds is distributed to cities and counties according to the residence of the taxpayer. As the result of annexation the City of Nashville would receive the revenue now going to the cities of Belle Meade, Berry Hill, and a part of that going to Davidson County. This total is estimated to be $60,000 annually.

Alcoholic Beverage Tax. The present laws providing for the distribution of this tax by the state to the counties provide that, of a portion of the amounts distributed to counties with 250,000 or more population, 60 per cent will be paid to cities with 150,000 or more population. Since Nashville has been receiving this distribution from the County, no change would result from annexation.

Sales Tax. According to the Tennessee Retailers' Sales Tax Act of 1949 as amended, 12½ per cent of the sales tax collected is distributed monthly to the incorporated cities in Tennessee according to the latest federal census of population.

Since the amount of the tax a city receives is dependent on the federal census of population, it would have been to the financial advantage of the City of Nashville and to the people in the outlying area for the City to have annexed this area prior to the 1950 census.

During the fiscal year 1950-51, the City of Nashville received $857,404.12 from the state as the City's share of the sales tax. Because of the change in the distribution due to the use of the 1950 federal census, the City of Nashville cannot be expected to receive more than $775,000.00 during the fiscal year 1951-52. Had there been annexation prior to the 1950 census, an estimated $1,100,000.00 could have been expected. This amounts to $325,000.00 each year or more than $27,000.00 each month that the City is losing as a result of not being able to include in the City the estimated 90,000 population in this outlying area.

Under the present law, the City will not be able to get any advantage from such annexation until the next federal census. Only by passing an amendment to the sales tax act in the legislature could this provision be changed. Such an amendment is possible and is desirable.

A Share of the Gas Tax. If legislation is passed to allow cities to share in the gas tax, we believe annexation might bring Nashville an additional $340,000.00.

We summarize these expected increases as follows:

Taxes (and equivalents)	$3,496,000.00
Licenses and permits	580,000.00
Return on income tax	60,000.00
Sub-Total	$4,136,000.00
A share of the gas tax (if legislation is passed) . . .	340,000.00
Increased sales tax (if the law is changed)	325,000.00
Total.	$4,801,000.00

B. Estimated Increases in City Expenses as a Result of Annexation

Of course, there is no gain without pain. We have already noted that an annexing town or city may be held responsible for a reasonable share of the liabilities, including bonded indebtedness, of any governmental agency from whom it acquires territory. Moreover, as noted above, annexed areas and the residents thereof are legally entitled to receive all municipal services that are provided elsewhere within the city. To be sure this cannot come instantly -- it takes time, for example, to extend water mains and sewage facilities. But annexees have a legally enforceable claim for equal services within a reasonable time[25] and this entails municipal expenditures.

The problem then becomes one of estimating the current and capital costs of water, sewage, fire, police, garbage, street

and other city services in the annexed areas — and then of balancing such cost estimates against estimated increases in revenue. The following excerpts from 1947 Seattle, Washington, and 1950 Columbia, Tennessee, annexation memoranda will illustrate the application of these principles in concrete cases:

(1) The Seattle memo -

> With 5 areas now in process of seeking annexation, the City Council could well develop a standard procedure for appraising the merits of taking them into the main city. For each annexation, it should have the following information: Assessed value; number of homes; total population and estimated number of families; present mileage of paved and graded streets; mileage of sewers and water mains; estimated tax yield from property taxes and state grants, as against the costs for now municipal services in the area and probable outlay for capital improvements for street lights, fire stations, sewers and sewage disposal facilities, parks, transit extensions, among others. A map presenting existing factors and facilities should be prepared for the Council's consideration.
>
> Also, the Council should have reports from the engineering, fire, police, transit, light, water and health departments as to the estimated costs of new services which the district would require.
>
> For some recent annexations, the City Council has had before it some of this information. But because of the large number of new ones in the offing, it would seem that this procedure should be standardized. . . .
>
> /Advantages of Annexation from the City's Standpoint./
>
> It is almost axiomatic in municipal annexation that the average suburban residential tract yields far short of the revenues from property taxes and other sources which are necessary to pay for the additional municipal services and capital outlays the city is put to as a result of the annexation. This deficit has to be made up by taxpayers of the central city. As these annexed areas become populated and their assessed values rise producing more property taxes, this subsidy from the rest of the city would be less. In fact, there are few

areas inside the city which pay their way, the deficit being made up by the central high value commercial district.

The city's $16 million odd 1948 appropriation divided by the 71 square mile land area in the present city is $233,000 per square mile. Of course each additional square mile annexed would not immediately cost this large sum annually, but it gives an idea as to the cost of running a city on an area basis.

How Much Revenue Would Area Yield?

Yield from property taxes. As nearly as can be estimated from the County Assessor's records, the assessed valuation for this 5 square mile area is about $6,500,000. Multiplied by the 14.5 mill city tax rate, this valuation would produce about $94,000 in property taxes.

Yield from Per Capita State Grants. The Association of Washington Cities estimates that cities will receive in 1948 about $10 per capita from the state in gasoline, liquor, and other taxes. On the basis of an estimated 20,000 population in this area, it would add to the city revenues about $200,000.

Thus, this district would add about $294,000 to the city coffers in addition to which would be business and occupation, admissions and other taxes paid by this area. It might be liberally assumed that this district would yield $300,000 a year to the city or about $60,000 per square mile.

How Much Added City Costs from Annexation?

This is even more difficult to calculate. A clue comes from a recent City Engineering Department report to Mayor Devin which discloses that the 69½ acre Lake Ridge annexation taken in last year costs the city $11,712 a year in operating expenses. The following formula was used which city engineers say is applicable to similar suburban districts elsewhere. Incidentally, this well built up district showed a deficit over its revenue yield besides which the city had to spend $20,000 for a new interceptor sewer which suggests the possibilitiy of similar capital outlays in other future annexations. The Ravenna annexation of 1½ square miles will cost the city about $250,000 as its contribution toward two new sewer systems in that district, plus the special assessments.

Service	Per Year
1. Garbage collection cost	$1.97 per capita
2. Street maintenance, paved street	$378 per mile
Street maintenance, graded street	$500 per mile
3. Street lights at intersections, includes $9.00 yearly for "juice" and maintenance and balance for 20 year amortization of original installation	$14 per intersection
4. Sewer maintenance	$137 per mile
5. Police protection, 1947 budget	$4.98 per capita
6. Fire protection, 1947 budget	$4.66 per capita
7. Loss from 33% reduction in suburban city water charges	$5.88 per family

Based on the above, the above city costs would amount to about $100,000 per square mile which is far in excess of the $60,000 per square mile revenue from this district.

Besides the above, there are undistributed costs for parks, library, health, election services and city overhead expense. After coming into the city, doubtless there would be a clamor for extensions of the city transit system with lengthened routes which could not help but operate at a loss for some time.

Most of the area drains toward the Sound which would require a new interceptor sewer line or lines with an outfall into the Sound as it cannot be attached to the present city sewer system. This would be likely to cost the city an additional sum because the property could not stand the entire assessment.

With respect to the fire service, Chief Fitzgerald estimates that in a short time this district would require a new fire station, the building and site for which would cost about $55,000, apparatus $20,000 and $37,000 a year for a crew of 12 men and station maintenance.

In general, the same factors of revenues and costs would apply to the other 4 areas involving about 3 square miles adjacent to other parts of the city boundaries.

While some of these additional city costs might not be immediately incurred, they would be inevitable. Future city budgets would contain increased askings by department heads on the grounds that they had to

service more territory. The City Council, without sufficient revenues to meet them, would turn to other taxes, notably business and occupation, and raise them or impose new ones.

Also, the taxpayers in the districts would immediately impose on themselves special assessments for paving, sidewalks and similar improvements.

(2) The Columbia memo -

AREA NO. II, EAST OF PUBLIC SQUARE -- COSTS AND GENERAL INFORMATION

Boundaries:

Area II shall consist of that area surrounded by a line starting at the easternmost point of the present corporate limits, thence 1,750 feet south 6.7 degrees east, thence 3,350 feet south 7.0 degrees west, thence 1,700 feet south 89.2 degrees west to the present corporate limits, thence northerly and easterly along the present corporate limits to the point of origin.

Population.	417
No. of Residences	121
No. of Businesses	5
Density of Population: per square mile.	1,740
Assessed Valuation, (approx.)	$72,800.00
Potential City Property Tax	1,275.00
Potential Yield of Sales Tax.	1,950.00
Total Potential Revenue to City of Columbia if annexed.	3,225.00
Annual Maintenance Cost	7,465.00

Streets:

Gravel.	2.58 Miles
Black Top	2.30 Miles
	4.88 Miles

Cost of replacing gravel streets with black top, to be paid for by abutting property assessments, (approx.)	$25,000.00
Cost of maintaining existing streets per year.	834.00

Water Mains

4 inches or larger.	4,000 feet
Under 4 inches and should be replaced.	4,960 feet

Fire Hydrants and Street Lights

Now installed	none
To be installed by Columbia Board of Public Utilities	
Fire Hydrants. . .21; Street Lights . . .	35

Sewerage

There are approximately 36 septic tanks and 85 pit privies in the area. The pit privies will have to be replaced. City to work out system of servicing septic tanks.

Cost of installing sewerage system for Area No. II is estimated at $5.50 per linear foot. This includes Area II's share of overall enlargement of city sewerage facilities. This cost would be divided three ways, the city paying one-third and the property owners on each side of the street paying one-third each.

Area II's proportionate share of the expansion of police, fire and public works departments (3.8%) is $7,465. Against this the city would receive total revenue from the area of only $3,225.00.

TIME TABLE — AREA NO. II

How soon after annexation could the citizens of Area No. II reasonably expect to get full city services?

This varies by type of service. The following shows approximately when improvements in Area No. II may be made, based on calculations of city officials and to which they expect to adhere, barring unforeseen delays either in financing or construction:

1. Street Lighting — Three to 18 months from date of annexation.

2. Fire Hydrants — Three to 18 months from date of annexation.

This would involve installation of hydrants using existing and not wholly adequate mains. For the present, existing mains would provide fire protection for approximately one-third of the area, though water service to homes in the area would be slightly curtailed during the period of operation of fire department pumps used in putting out fires. The annexed territory will get the benefit of the lower city fire insurance rate as soon as annexation is official subject to such rate increases as now apply within the city.

3. Adequate, enlarged water mains -- to take care of needs for several years -- Two to three years after annexation.

4. Fire protection available from nearby hydrants within the corporate limits.

As soon as annexation is official, every available emergency measure will be taken to provide the best possible fire protection to the area. Long hose lines will be used as will chemicals and other devices.

5. Police protection -- Immediately.

6. Garbage removal -- Immediately.

7. Conversion of gravel streets to black top -- Six months to two years, subject to wishes of property owners.

A program of street improvements for the area would be adopted by the city, the streets most used and those most needing improvement would be given priority.

8. Sewerage -- Perhaps within ten years, as soon as assessed property values increase to stand needed levies, the city plans to install sewers to which householders would join. This delay is necessary because the entire sewerage system of the city is due for enlargement, and because some of the property in the area is of such low assessed value that it would not stand the necessary levies.

9. Prior to construction of sewerage lines the city will service septic tanks. When will this commence?

Immediately, at a nominal cost to householders.

C. Fiscal Effects of Annexation Upon Persons in Annexed Areas

One of the major aspects of annexation, of course, is the supplying and improving of public services and facilities in the annexed area. The suburbanite's problem then is to determine how much such improvements will cost him as compared to the cost of the lesser services and facilities that he has been receiving outside the city. But in making these computations more than mere comparative tax costs must be considered. It is clear, for example, that fire insurance rates are substantially lower in areas served by city fire departments than they are in poorly protected fringe areas. This is strikingly illustrated in the above-mentioned Nashville study which shows that whereas the city itself enjoys a Class 3 fire insurance rating, its suburban fringe is in Class 10. Thus on a home insured for ten thousand dollars the premium within the city would be $28 per year as compared to $66 in the suburbs. Annexation would save the owner of such property $38 annually, which, to get a true picture of his annexation costs, should be considered as an offset against any added taxes that he would have to pay as a city resident.

Garbage disposal, water and police protection costs, special tuition fees for outsiders who wish to send their children to city schools, wear and tear of poor suburban roads upon the suburbanites' motor vehicles, increased charges

for public conveyance facilities beyond the city limits, higher medical expenses due to lower health standards and the risks of water pollution in the absence of sewage facilities are examples of other items that must be offset against possible higher taxes incidental to city life. While some of these and similar items are not readily calculable, they are none-the-less real and should be taken into account in any realistic appraisal of annexation costs. Finally, it may be noted, that all amounts paid for city taxes are deductable from gross income for Federal income tax purposes. There is, of course, no deduction for the high insurance premiums, service fees, and similar costs incidental to living in a fringe area. Since the deductions for city taxes substituted for such fringe area costs would be in the taxpayer's top income bracket, it would mean in effect that such taxes would be reduced by some 20 per cent or more.

We draw again upon the Community Services Commission for the following case study of the fiscal effects of annexation upon individual annexees:

A WORD ON THE COST TO INDIVIDUALS

> In order to gather information concerning present expenditures for urban services borne by persons in the Nashville suburban area, the Commission has secured information on costs to individuals of services such as fire protection, police protection, refuse collection, school books, water, fire insurance, septic tank installation and maintenance, and property taxes. Septic tank installation costs were amortized over a ten-year period. Although a relatively small sample of only 39 cases was obtained, we can safely

draw some general conclusions because the sample represents a fair range of income levels and geographic location in the suburban area. Of the persons questioned, 24 are now paying more for the inadequate services received than they would be paying if inside the Nashville city limits. The typical excess expenditure was approximately $25.00 per year; the excess ranged from $1.18 to $112.44. The range reflects differing income levels and differing expenditures on septic tank maintenance, subscription services, water, and fire insurance bills.

If a comparison is made between the present suburban costs and the necessary expenditures for expanded services in Nashville after the recommended annexation and transfer of functions, 16 would save money. Although most of the persons with relatively high incomes whose property is assessed at relatively high levels would pay more, most medium and low-income people would enjoy a substantial reduction in expenditures for urban services.

Approximately two-thirds of the persons in the sample would pay less for urban services as City taxpayers than they would pay if they remained residents in the unincorporated area; this assumes that they pay the much higher County tax made necessary by the transfer of functions to the County. Savings range from $4.93 to as much as $115.24 each year, with the typical figure around $30.00. With an increase in the County tax rates, all property owners remaining in unincorporated territory would pay more for the total services they receive. . . .[26]

Mr. B, who lives in the unincorporated area south of Nashville, owns a brick veneer home assessed for $7,000.00. As is often the case, he insures his property at a value greater than assessed. For $119.40 annually, he buys $10,000.00 insurance on his house and $5,000.00 on his furnishings. His water bill is $80.00 per year, paid to the Belle Meade District; $18.00 pays for one year's refuse collection services on a two-times-a-week basis. The septic tank, installed three years ago for $175.00 has cost $18.00 yearly to maintain. Mr. B does not subscribe for private police and fire protection services. If he were to become a City resident, his water bill would drop $34.40 and his annual fire insurance bill by $77.40. His in-City

bills would be increased $10.80, but since his County tax bill would be $31.50 higher if he did not become a City resident, Mr. B in reality would save $20.70 per year under the recommendations made in this report.

Mr. C owns a brick veneer home in the Porter Road suburban area assessed for $4,600.00. Fire insurance protection of $10,250.00 on the house and $2,000.00 on furnishings costs $100.10 each year. Police and fire protection is provided by the Inglewood-Madison Police and Fire Company for $10.00 annual subscription fee; $15.00 is spent yearly for two refuse collections each week. A $300.00 septic tank has been in use for one year — too short a period for expensive maintenance costs to develop. Mr. C's water is furnished directly by the Nashville Water Department; his annual bill is $36.00. County school books cost him $6.00 per year. Were he to receive water at the City's rate and a reduction in his fire insurance premium the savings would be $22.00 and $71.63 respectively. Although joining the City would mean an increase of $15.22 in his expenditures, the amount due the County would rise by $20.70 if Mr. C continued to live in an unincorporated area. Therefore, he would actually save $5.48 per year by joining the City.

Mr. D lives in a frame house assessed for $3,500.00 in Inglewood. As a subscriber to the Inglewood-Madison Fire and Police Company, he pays $10.00 each year; for a weekly collection of refuse, he pays $18 annually. He is billed $18.00 per year for water supplied by the Madison Suburban Utility District, while his septic tank cost an estimated $250.00 when it was installed four years ago. Mr. D has one child enrolled in the County school system; textbooks cost $5.00 yearly. His annual fire insurance bill of $84.32 purchases coverage of $7,500.00 on his house and $3,300.00 on his household furnishings. If the recommendations in this report are put into effect, Mr. D would also save money. His present expenditures would be reduced by a $10.08 saving in the water bill and by $54.08 for fire insurance. Though his County tax bill would be increased $15.75 if he did not join the City, his payments in the City would be decreased $46.56 if he did join the City. This means that annexation and transfer of functions would save Mr. D $62.31 each year.

Mr. E, a resident of Woodbine, lives in a clapboard house assessed for $1,400.00. Fire insurance protection,

carried in amounts of $5,000.00 on the house and $2,000.00 on its furnishings, costs $54.18 yearly; fire-fighting protection, purchased from the Woodbine Fire Department, costs $15.00 per year. Refuse is collected once each week for an annual fee of $18.20. The septic tank, installed at a cost of $250.00 approximately five years ago, has required maintenance costing, on the average, $35.00 each year. The Radnor Water District furnishes water for $21.00 annually. If Woodbine were annexed by Nashville, Mr. E would save $115.24 annually. His water bill would drop $11.40, his fire insurance premium $34.58. If Woodbine remained unincorporated as it is today, his County tax bill would rise $6.30. Annexation to Nashville, however, would mean an expenditure drop of $108.94.

Part IV — Conclusion

We have reviewed briefly the nature of the fringe problem, the legal principles involved in annexation proceedings and the fiscal effects of annexation both from the municipal and the individual taxpayer's point of view. Obviously the problem of city growth is a difficult one for all concerned and clearly each community will have its own peculiarities.

Our effort here has been to point out the more common rocks on which annexation programs have floundered. Wherever possible we have drawn upon real-life experiences to illustrate our points.

If any one general conclusion can be put down, certainly it is this: the longer a fringe area is permitted to exist, the more difficult it is to handle. A vigorous community — one that is willing to learn from the unfortunate experiences of others — can save itself a world of trouble and expense by an annexation program that keeps constantly ahead of fringe growth.

One final word -- as we have already seen, the Tennessee general annexation law is thoroughly inadequate. This should be brought to the attention of the state legislature!

APPENDIX

Annexation May Cure Cities' Malady; League Prepares to Lick Twin Troubles

An Editorial from the September 1952
Tennessee Town and City magazine

by

Herbert J. Bingham
Executive Secretary
Tennessee Municipal League

Is your town bursting at the seams? Are potential citizens migrating across the city's lines to set up housekeeping outside? Are the Board of Aldermen developing a split personality in deciding whether obligations exist to supply municipal services to outsiders as well as to taxpayers? When the census takers reported, did you wonder if deserting populations had left you in a ghost town? Have your corporate lines been extended lately? Do you have suburbs and daylight citizens?

Many a town and city in Tennessee is suffering from a new municipal disease — "corporate constriction" complicated by "suburbanitis." The ailment is seldom completely fatal, but it can destroy the efficiency and desirability of an urban community as a good place to work, live, locate an industry or operate a business. Its ultimate effect is to stunt growth and stop progress.

Annexation Is Remedy

The cure for this malady of "corporate constriction" and "suburbanitis" is annexation. Annexation when properly applied avoids the complication of "suburbanitis" by keeping the corporate limits in the corn fields. It will work very well, however, when applied as a gradual process of absorption from year-to-year. If delayed until the suburban growth upon the corporate body has become large, and festering for lack of fire-protection, side-walks, sewers, water, sub-division and zoning controls, and other municipal services, then annexation becomes a major surgical operation of inserting these services into the built-up suburbs at enormous cost.

Monster Without the City

"Corporate constriction" and "suburbanitis" have been brought about by much mis-understanding of the proper remedy for urban ills and by several admittedly genuine difficulties. The patient — i.e., — the suburbs, frequently resist annexation because they have not recognized the hidden costs of suburban bliss — in high fire insurance rates, individual performance of garbage collection and other requirements, lower property values, slow-down in industrial development and job opportunities, etc. City governments have often been guilty of lulling the patient to sleep with opiates in the form of provision of some critical urban services, such as

water and fire protection. In other cases, a half government called a "Utility District" has been formed to supply limited services such as water. These "Utility Districts" are truly monsters without the gates of the city, gobbling up its legitimate children. These districts are initiated by as few as 25 misguided citizens who, with concurrence of the county judge, name the governing board of the district which is thereafter self-perpetuating. This utility board, and the system it operates, employs personnel, borrows money, spends money, sets rates, and furnishes services without being subject in the least to the needs and wishes of its customers or any other agency. This half government, developed as a substitute for true municipal government through annexation of suburbs, while legally a municipal corporation, is the most undemocratic and irresponsible form of municipal government ever conceived in this country.

Genuine Difficulties

The genuine difficulties confronting annexation are largely financial. The property taxes from residential areas do not return nearly the cost of rendering municipal services in such areas, but must be supplemented by the tax take from the industrial and business portions of the city in the form of property and privilege taxes, parking meters and other revenues. Therefore, annexed territory is usually a financial liability. Secondly, county-wide property tax levies and other general county

revenues paid alike by citizens in incorporated and unincorporated areas, particularly for roads, do not follow a citizen into the corporate limits. The average Tennessee county, for example, has from $20 to $25 per capita annually of State and local revenues to spend on county road construction and maintenance. While the road in front of the average suburban home, with a family of four, would scarcely receive its pro rata annual share of from $80 to $100 figured on a per capita basis, it is apparent that the suburban home owner will continue paying these taxes to the county after being annexed and receive no benefits, and will in addition pay city taxes for street purposes. The League is moving in to secure removal of a third serious road-block to annexation by sponsoring a bill in the next Legislature to permit newly annexed populations to be counted, for distribution of the sales tax and other state taxes shared with municipalities, soon after annexation instead of waiting until the next Federal Census.

In general, it may be said that Tennessee municipalities do not have a revenue system designed to collect the cost of service from residential areas. Levying fees for such residential services as sewers and garbage collection, and special assessments for street construction, will help balance the budget. Receipt of $50.00 per capita annually of the State Gasoline Tax together with the present share of the sales tax will increase the economic feasibility of annexing residential and suburban areas.

League Attacking

"Corporate constriction" and "suburbanitis" may well rank with financing and home rule as the Number 1 problems of municipal governments in Tennessee. The League is endeavoring to attack this problem in an effective way, and in cooperation with the Municipal Technical Advisory Service is preparing an "Annexation Handbook" which will be available to ALL cities sometime in October. MTAS is now engaged in making a trial run annexation study in the city of Lebanon to test the proper analysis and approach to the problem, and will be available to assist in annexation surveys in other municipalities. MTAS will also analyze the problems and results accompanying annexation in one or more cities which have recently taken in large suburban areas. Revision of the annexation laws in Tennessee may also be desirable.

A Horrible Example

The city of Nashville has emerged, as the result of the study of the Community Services Commission, which was reported in the July issue of TENNESSEE TOWN & CITY, as a horrible example of failure to annex. Nashville has not extended its corporate limits substantially for more than 25 years, and now has almost 100,000 people living in completely built up residential and commercial areas immediately adjacent to the city as compared to 173,000 inside the city limits. The tragedy is that these people have spent in vain over $7-millions for 2 and 4 inch

water lines, which must now be replaced with 6 inch lines if fire protection is to be afforded, and have invested some tens of millions in septic tanks and sewerage disposal fields which have become health menaces in a good many cases. These suburbanites must now write-off this huge investment in unsatisfactory water and sewerage disposal facilities and invest more than $30-millions in adequate facilities — a tremendous waste that could have been avoided if the corporate limits had been extended and these permanent facilities furnished as the areas were built up with homes and businesses. Chattanooga is now studying its annexation problem with the assistance of the Tennessee Taxpayers Association, and may find conditions equally disastrous and difficult.

The future battle cry of urban leaders on both sides of the corporate line may well become: "Put the corporate limits in the corn fields."

Footnotes

1. Kneier, City Government in the United States 354 (1947).

2. Commission to Investigate County and Municipal Taxation and Expenditure, The Organization, Functions and Expenditures in Local Government in New Jersey, Report 1, 175, quoted in Kneier, op. cit. 352.

3. Hobday, "Should Cities Extend City Limits,"

   1 Tennessee Town & City 13 (1950). Roterus and Hughes, "Governmental Problems of Fringe Areas," 30 Public Management 93, 94 (1948).

4. Committee on Metropolitan Government of the National Municipal League, The Government of Metropolitan Areas 88-90 (1930).

5. Id. 87-88.

6. Dillon, "Commentaries on the Law of Municipal Corporations," Vol. 1, 617 (1911).

7. 37 American Jurisprudence 651-652. City of Johnson v. Clinchfield R.R. Co., 163 Tenn. 332 (1931)

8. 62 Corpus Juris Secondum 185-186.

9. Laramie County v. Albany County 92 U. S. 307 (1875); McQuillin, Municipal Corporations, Par. 7.47.

10. Ibid.

11. William's Tennessee Code, Pars. 3320, 3321.

12. The statute speaks only of "approval" but apparently contemplates a city's withholding of approval also.

13. Bell v. Town of Pulaski, 182 Tenn. 136 (1944); Williams v. City of Nashville, 89 Tenn. 487 (1891).

14. Morris v. City of Nashville, 74 Tenn. 337 (1880); McCallie v. City of Chattanooga, 40 Tenn. 317 (1859).

15. Town of Oneida v. Pearson Hardwood Flooring Co., 169 Tenn. 449 (1935).

16. Private Acts, 1951 Session, General Assembly, Chap. 368.

17. Prescott v. Town of Lennox, 100 Tenn. 591 (1898).

18. Oehmig v. City of Chattanooga, 168 Tenn. 618 (1934).

19. Ibid.

20. U. S. v. City of Memphis, 97 U. S. 284 (1877).

21. Jones v. City of Memphis, 101 Tenn. 187 (1898). A Statute extending the corporate limits of a city and providing that the annexed territory should not be liable for any of the previous debts of the annexing city does not create a contract whose obligation cannot be impaired by subsequent legislation, but merely grants privileges which may be revoked. Galloway v. Memphis, 116 Tenn. 736 (1906).

22. American Bemberg Corporation v. City of Elizabethton, 180 Tenn. 373 (1943).

23. As the Tennessee law now stands a city's share of the general sales tax and beer tax revenues depends upon the last Federal decennial Census, and no change in population is recognized until the next such census is taken. But it is probable that an amendment will be introduced at the 1953 Session of the General Assembly to provide for recognition, for distribution of sales and beer taxes, and the gasoline tax if the Tennessee Municipal League's legislative proposal becomes law, of population added to a municipality by reason of annexation in the interim between Federal Census reports.

24. Future Nashville 190-191.

25. See footnote 7, above.

26. Because of a special district tax that applies throughout the county except within the boundaries of Nashville.

27. Some Texas and Missouri municipalities have the power to annex by simple ordinance. See Dallas County Water District v. City of Dallas, 233 S.W. 2d. 291 (1950) and Algonquin Golf Club v. Glendale, 81 S.W. 2d. 354 (1935).

MTAS CONSULTING SERVICE

As a part of its program to provide technical assistance to city officials, the Municipal Technical Advisory Service at the University of Tennessee furnishes "technical, consultative, and field services to municipalities in problems relating to fiscal administration improvements and public works and in any and all matters relating to municipal government."

MTAS services now available to all cities in Tennessee, upon request, include technical advice and assistance, by qualified consultants on problems relating to:

ACCOUNTING
ANNUAL REPORTS
CHARTERS
CODES
ENGINEERING
FEDERAL PROGRAMS
FINANCE
MANAGEMENT
MUNICIPAL LAW
ORDINANCES
ORGANIZATION
OFFICE PROCEDURE
PERSONNEL
PUBLIC RELATIONS
PUBLIC WORKS
TAX ASSESSMENT
UTILITY MANAGEMENT

In cooperation with the Tennessee Municipal League.