REPORT

of the

COMMISSION ON MUNICIPAL ANNEXATION AND CONSOLIDATION

Submitted to

THE 1959 LEGISLATURE

of the

STATE OF MINNESOTA

COMMISSION ON MUNICIPAL ANNEXATION and CONSOLIDATION

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State of Minnesota

Commission on Municipal Annexation and Consolidation

State Capitol—St. Paul 1, Minnesota

TO THE GOVERNOR OF THE STATE OF MINNESOTA
AND THE MEMBERS OF THE LEGISLATURE:

Gentlemen:

The Commission on Municipal Annexation and Consolidation herewith transmits its report containing a legislative proposal to completely recodify and revise laws and procedures with respect to municipal incorporation, annexation and other boundary changes in Minnesota, and setting forth other research and recommendations.

This Commission was established in accordance with the provisions of Chapter 833, Laws 1957. Soon after our organization, we retained Joseph Robbie, Minneapolis, as Executive Secretary and Counsel to direct Commission activities and supervise research and legislative drafting.

We have conducted extensive public hearings, consulted municipal experts, examined available source material, and appointed special study committees from among our membership to examine pertinent laws and proceedings elsewhere. We have worked in cooperation with the Legislative Research Committee and the Minnesota League of Municipalities.

From our public hearings, research and evaluations, we have arrived at what we think will be a significant contribution to Minnesota's urban political structure by creation of a Municipal Commission to hear and determine incorporation and annexation petitions. We are convinced that the metropolitan area problem is one of the most critically important to face the Legislature in the next several sessions. We recommend the continued interim study by the Legislature of all of its complex parts.

Respectfully submitted,

Louis A. Murray

Louis A. Murray, Chairman
Edward J. Volstad, Vice Chairman
Leslie E. Westin, Secretary

Joseph Robbie,
Executive Secretary

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S. F. 1508

Prepared by:
Research Department
Legislative Research Committee
State Capitol

AN ACT

CREATING A COMMISSION TO STUDY THE LAWS RELATING TO URBAN TOWNS AND TO INCORPORATION AND CHANGE OF BOUNDARIES OF CITIES AND VILLAGES, DEFINING THE POWERS AND DUTIES OF SUCH COMMISSION, AND APPROPRIATING MONEY THEREFOR.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. There is created a commission to study the laws relating to the incorporation of cities and villages and the annexation of land to and detachment of land from cities and villages and the laws granting special powers to so-called urban towns, including towns having 1,200 people residing on platted territory or having land within 25 miles of the city hall of a city of the first class. The commission shall consist of five members of the Senate to be appointed by the Committee on Committees of the Senate and five members of the House of Representatives to be appointed by the Speaker. Appointments to fill vacancies shall be filled in the same manner.

Sec. 2. The commission shall study the statutes referred to in Section 1, the experience under them, and suggestions for changes therein, and shall submit its report to the legislature no later than December 15, 1958. It shall include in its report its recommendations on the following matters, among others within the scope of its study:

(1) Minimum population, territorial and other requirements for municipal incorporations and annexations;

(2) The extent to which reliance should be placed in statutory procedures for incorporation and boundary changes of cities and villages upon the petitions of affected landowners and elections among the voters of the area affected;

(3) The need for administrative review by an impartial agency of the public interest in proposed incorporations of cities and villages, and the annexation of land to or detachment of land from cities and villages, and the nature and scope of such review;

(4) The extent to which and the method by which other political subdivisions directly affected by a proposed incorporation of a city or village or a change in boundaries of a city or village should participate in incorporation, annexation, or detachment proceedings;

(5) The need for a separate statutory class of urban towns and, if such a class is deemed necessary, the content of the statutes relating to such class, including the procedure by which a town becomes an urban town and the relationship between such towns and cities and villages.

Sec. 3. The commission shall hold meetings at such times and places as it may designate. It shall select a chairman, a vice-chairman, and such other officers from its membership as it may deem necessary.

Sec. 4. The commission may subpoena witnesses and records, employ such professional and technical assistants and employees as it deems necessary, and it may do all things reasonably necessary and convenient to enable it to accomplish its purposes. The commission shall use the available facilities and personnel of the Legislative Research Committee unless the commission by resolution determines a special need or reason exists for the use of other facilities or personnel.

Sec. 5. Each political subdivision and its officers and employees shall cooperate with the commission in the discharge of its duties and shall furnish it with available records, reports, and other pertinent information upon request.

Sec. 6. Members of the commission shall receive no compensation but shall be reimbursed for actual expenses necessarily incurred in the performance of their duties. Reinbursement for expenses incurred shall be made pursuant to the rules governing state employees.

Sec. 7. There is hereby appropriated out of any monies in the state treasury not otherwise appropriated the sum of $20,000, or so much thereof as may be necessary, to pay expenses incurred by the commission. The payment of such expenses shall be approved on behalf of the commission by the chairman and at least one other member of the commission and then shall be made in the manner provided by law. A general statement of expenses of the commission shall be included with its report.

Approved April 29, 1957.

SUMMARY, FINDINGS AND RECOMMENDATIONS

This Commission was created by the 1957 Minnesota Legislature to study the laws with respect to annexation and consolidation and the problems incident thereto. The statutory charge was contained in Chapter 833, Laws 1957, Sections 1 and 2.

The Commission employed Joseph Robbie, Minneapolis, as Executive Secretary and Counsel to direct the study and draft proposed legislation. He was assisted by Roger A. Peterson.

Study committees were appointed from Commission membership to conduct on-the-scene evaluation of the Lakewood Plan for contracting services from Los Angeles County to the municipalities within its limits; the Toronto Metropolitan Council which provides federated municipal government to the Greater Toronto area, and the Dade County Metropolitan Government accomplished by federation under county home rule in the Greater Miami area.

Public hearings and private consultations were held at which municipal experts, professional planners, political scientists, municipal lawyers, mayors, county, city and village attorneys, city managers, other township, village, city, county and state officials and the public testified. Research and academic experts and public officials outside Minnesota were consulted. The Minnesota League of Municipalities, the Reviser of Statutes, the Twin Cities Suburban Editors, the Governor's Advisory Committee on Suburban Problems, the Twin City Planners, and other interested groups cooperated.

From these studies, the Commission divided the problem into two aspects:

(1) Development of an intelligent, forward looking statutory system for the future incorporation of new municipalities and changes in existing municipal boundaries in Minnesota. This involves complete revision and recodification of all existing laws under one chapter in the Minnesota Statutes adopting modern techniques to administer the rapid urban growth which is expected to accelerate in the future with a population increase of 600,000 anticipated in five metropolitan counties by 1980;

(2) Consideration of the future necessity of coordination of municipal services within the metropolitan area where past procedures relating to incorporation, annexation, consolidation and other boundary changes have, for example, led to the development within the Twin Cities metropolitan area of the largest number of governmental subdivisions in any metropolis in America. Thus there are 104 municipalities in five metropolitan counties and approximately 250 subdivisions of government.

As to the first, Appendix A contains a complete revision and recodification of all existing laws under one chapter in the Minnesota Statutes and proposes the establishment of the Minnesota Municipal Commission to hear and determine petitions for incorporation, annexation or other municipal boundary changes under delegation of legislative authority, governed by legislative standards, with rule making power, and uniform procedures as to villages and cities of all classes.

As to the second, the Commission herewith reports its evaluation of the Lakewood Plan, the Toronto Municipal Federation and the Dade County Metropolitan Government by federation under county home rule. The Commission recommends no legislation by this report to accomplish further metropolitan coordination of municipal services by federated government or otherwise. We do suggest continued interim study by the legislature and city and village governments within the Twin Cities metropolitan area to determine how to most efficiently, effectively and economically furnish coordinated municipal services to the included villages and cities.

FINDINGS

We find that present Minnesota laws with respect to annexation, incorporation, consolidation and other municipal boundary changes are not adequate and are sometimes ineffectual to govern or administer orderly urban growth in the metropolitan area or in Minnesota's other growing cities. In many cases statutory authority does not exist to handle related situations which arise.

We find paradoxical results from the operation of present statutes including the Village of Orono which consists of four separate and distinct parts, the main part of which completely surrounds the Village of Long Lake; White Bear Township, which has nine separate and detached parts, all of which except for one side of one part are surrounded by incorporated municipalities; and other configurations which do not lend themselves to efficient, economical municipal services or effective government.

We find that transit and transportation are metropolitan area problems which should be administered and regulated on an area wide basis.

We find that the establishment of a state-wide administrative commission to apply legislative standards in hearing and determining petitions for the incorporation of new villages or for municipal boundary changes is indispensable to sound public policy in administering the future sound urban growth in Minnesota.

We find that the coordination of the municipal services on an area wide basis within a metropolis is more efficient, effective and economical than independently financed and operated services.

RECOMMENDATIONS

We recommend the adoption of the law proposed in Appendix A to establish a Minnesota Municipal Commission to hear and determine petitions with respect to incorporation, annexation or other municipal boundary changes and to recodify and revise under one chapter in Minnesota Statutes all of the laws relating to these subjects.

We recommend the continued interim study by the Minnesota Legislature and by the cities and villages within the Twin Cities metropolitan area and other interested parties of means to accomplish metropolitan coordination in providing municipal services, including the administration and regulation of transportation and mass transit, in an efficient, economical and effective manner.

REPORT OF COMMISSION ON MUNICIPAL ANNEXATION AND CONSOLIDATION

INTRODUCTION

The Commission on Municipal Annexation and Consolidation was established by the 1957 Minnesota Legislature upon the recommendation of the League of Minnesota Municipalities. (Chapter 833, Laws 1957.) Five members from the Senate and five members from the House of Representatives were appointed to serve.

PURPOSE

The Legislature expressed as the general purpose of the Commission:

"To study the laws relating to the incorporation of cities and villages and the annexation of land to and detachment of land from cities and villages and the laws granting special powers to so-called urban towns, including towns having 1,200 people residing on platted territory or having land within twenty-five miles of the City Hall of a city of the first class."

(Chapter 833, Laws 1957, Section 1.)

The Commission was charged with studying the statutes referred to, the experience under them, and suggestions for changes therein, and to report its recommendations on the following specific matters, among others within the scope of its study:

(1) Minimum population, territorial and other requirements for municipal incorporations and annexations;

(2) The extent to which reliance should be placed in statutory procedures for incorporation and boundary changes of cities and villages upon the petitions of affected landowners and elections among the voters of the area affected;

(3) The need for administrative review by an impartial agency of the public interest in proposed incorporations of cities and villages, and the annexation of land to or detachment of land from cities and villages, and the nature and scope of such review;

(4) The extent to which and the method by which other political subdivisions directly affected by a proposed incorporation of a city or village or a change in boundaries of a city or village should participate in incorporation, annexation, or detachment proceedings;

(5) The need for a separate statutory class of urban towns and, if such a class is deemed necessary, the content of the statutes relating to such class, including the procedure by which a town becomes an urban town and the relationship between such towns and cities and villages.

(Chapter 833, Laws 1957, Section 2.)

SCOPE OF THIS STUDY

After analysis of the legislative mandate, public hearings were conducted. The Commission heard testimony from municipal experts and public officials including representatives of the League of Minnesota Municipalities, professional planners and political scientists, municipal lawyers, mayors, county, city and village attorneys, city managers, other township, village, city, county and state officials, and the public.

The Commission consulted with the Planning Committee of the League of Minnesota Municipalities which sponsored the legislation establishing this Commission. The League Planning Committee gave valuable expert critical evaluation to the preliminary draft of the proposed legislation which resulted from our study and recommended endorsement and support of the principles of this proposal by the League of Minnesota Municipalities. Orville C. Peterson, League Attorney, advised and assisted the Commission throughout its deliberations.

The Commission further consulted with the Twin City Planners, the Governor's Advisory Committee on Suburban Problems and the Twin City Suburban Editors. All three groups, after evaluating the proposed legislation creating a state commission to hear petitions for municipal incorporation or annexation, consolidation or other municipal boundary changes, expressed their general agreement with the principles of this proposal.

Contact was made with other interested parties including those versed in municipal affairs, government officers and the members of the public who had not participated in the public hearings.

Outstanding experts in related municipal fields were interviewed, consulted or contacted by correspondence. Unusual opportunities were presented to the Commission for conferences with three of the outstanding metropolitan public administrators in North America. These are Frederick G. Gardiner, Chairman of the Metropolitan Toronto Council; O. W. Campbell, County Manager of Metropolitan Dade County, and Arthur G. Will, County - City Coordinator in Los Angeles. These devoted public servants fill unique positions in that area of public administration where great metropolitan centers are confronting the challenge of urban growth by experiments in metropolitan government or coordinated metropolitan municipal services.

Valuable interviews were granted by leading academic experts typified by Dr. Frank G. Sherwood of the University of Southern California who had just returned from a year's Sabattical leave as a municipal consultant in Iraq. A conference with Dr. Sherwood and Mark C. Allen, Jr., City Attorney of Inglewood, California, helped give sense and direction to our study.

Daniel R. Mandelker, Associate Professor of Law at Indiana University, who has conducted a study for the State of Indiana and is author of "Standards for Municipal Incorporations on the Urban Fringe," Texas Law Review, February, 1958, and other articles, gave helpful suggestions after reading the preliminary draft of our legislative proposal.

Professor George H. Esser, Jr., Assistant Director of the Institute of Government at the University of North Carolina, directed the research of the Municipal Government Study Commission of the North Carolina General Assembly, and presented an informative and interesting paper on municipal boundary changes at the annual institute of

government of the National Municipal League at Colorado Springs in September, 1958. We had a useful exchange of ideas with Professor Esser. The general report of the North Carolina Study Commission contains valuable preliminary conclusions concerning the question of municipal boundaries. A supplementary report is to be presented later to the General Assembly containing recommendations for legislation.

Information and ideas were likewise exchanged with others conducting similar studies in other states. For example, Richard W. Cutler, Milwaukee attorney, is drawing legislation designed to cope with the annexation problem for the Wisconsin Legislative Council. He has read and commented upon the proposal contained in this report.

The Reviser of Statutes, Joseph J. Bright, examined this proposal as to technical draftsmanship and its relationship in context to other laws.

Arthur Naftalin, Commissioner of Administration, and other state officials were consulted as appropriate.

Available source material and publications were examined.

When the Commission organized, it elected Senator Louis A. Murray as Chairman, Representative Edward J. Volstad as Vice-Chairman, and Senator Leslie E. Westin as Secretary.

The Minnesota study was conducted under the direction of Joseph Robbie, Minneapolis, who was elected by the Commission to act as Executive Secretary and Counsel. Roger A. Peterson served as his assistant for research and drafting.

We are indebted to all who devoted their time and skill to assist us in a complex assignment.

SCOPE OF THIS REPORT

From the foregoing analysis, consultation and study, the Commission determined, with due regard for the specific matters posed for consideration by the Legislature, that two problems should be separately considered:

(1) Development of an intelligent, forward looking statutory system for the future incorporation of new municipalities and changes in existing municipal boundaries in Minnesota. This involves complete revision and recodification of all existing laws under one chapter in the Minnesota Statutes adopting modern techniques to administer the rapid urban growth which is expected to accelerate in the future with a population increase of 600,000 anticipated in five metropolitan counties by 1980;

(2) Consideration of the future necessity of coordination of municipal services within the metropolitan area where past procedures relating to incorporation, annexation, consolidations and other boundary changes have, for example, led to the development within the Twin Cities metropolitan area of the largest number of governmental subdivisions in any metropolis in America. Thus there are 104 municipalities in five metropolitan counties.

These problems must be separately considered because the first relates to the extension of municipal government and the furnishing of municipal services in the future urban growth in Minnesota while the second relates to what we can do to more efficiently and economically furnish municipal services to the complex of municipalities which have incorporated in the metropolitan area under past policies and statutory procedures.

This report recommends enactment of a statute revising and recodifying all Minnesota laws relating to incorporation of new municipalities and changes in existing municipal boundaries and establishing an administrative procedure under a State agency subject to legislative standards for providing for the future orderly extension of municipal government and services to these areas. (See Appendix A.)

This report further provides a critical evaluation of what now can be done to undo the harm of past policies which have created a hodge podge of local government on the suburban fringes of the metropolitan area (without in any manner infringing upon any existing local government by changing its boundaries without local consent) to provide for coordinated municipal services more efficiently and more economically than they can be separately furnished by each city or village.

This research report includes analysis from on-the-scene study of three experiments in metropolitan coordination:

(1) **The Contract Services Plan by which Los Angeles County contracts to furnish municipal services such as police and fire protection, water or sewage disposal to the municipalities lying within its boundaries. This is more commonly known as the Lakewood Plan;**

(2) **The Metropolitan Federation by which the central City of Toronto and its twelve suburbs are governed by the Metropolitan Toronto Council. Under this plan, the Metropolitan Council furnishes principal municipal services to the municipalities within the metropolitan area while the included cities retain their identity and local autonomy in all other matters;**

(3) **The Metropolitan Government of Dade County (which includes the greater Miami area) where an expanded Board of County Commissioners by employment of a County Manager has established the American counterpart of the Toronto experience with the county government furnishing many of the municipal services while the included cities retain their identity and local government as to other matters.**

The Commission emphasizes that the proposed legislation with respect to new municipal incorporations and boundary changes deals with the problems of the future. This does nothing about the problem of coordinated municipal services to existing cities or villages. This proposal contains no statutory machinery whereby metropolitan government can be accomplished unless it would be by an improbable chain of simultaneous consolidations which would require the local consent of each existing municipality.

Some relevant laws now exist which relate to the plans now in use in Los Angeles, Toronto and Miami. Minnesota has the joint powers act (MSA 471.59) which is the enabling legislation in California to authorize the Contract Services Plan by which Los Angeles County furnishes stated municipal services to the cities within its boundaries.

The joint powers act authorizes any two or more governmental units (including counties, cities, villages, town and school districts) to make agreements for the joint or cooperative exercise of any power common to all the contracting parties. Minnesota also has other statutes which authorize different municipalities to cooperate with each other in certain specific fields such as airports, civil defense, civil service, fire protection and numerous others. These are summarized in a brochure, "Inter-Municipal Cooperation in Minnesota, 390g," which is a mimeographed publication of the Information Service, Municipal Reference Bureau, League of Minnesota Municipalities, University of Minnesota.

The Commission considers that further enabling legislation would be desirable or necessary to provide for any system of federated municipal or metropolitan government. Additional study, including serious and thoughtful consideration by the existing city and village governments in the metropolitan area, and by city and suburban study groups, particularly in the light of future research results obtained by the Metropolitan Planning Commission, should precede any concrete legislative proposals in this regard.

PLANNING FOR URBAN GROWTH

We recognized early in our study that the laws relating to the creation of new municipalities or changes in existing municipal boundaries involve the entire question of urban growth with particular reference to the metropolitan area. The incorporation of new municipalities is basically intertwined with the rapid urbanization which has followed World War II. The number of cities and villages in five counties of the Twin Cities Metropolitan area has increased from 68 to 104 since 1950. Our study closely parallels some aspects of the research activity of the Twin Cities Metropolitan Planning Commission which was created by the 1957 Legislature.

One primary consideration in the future planning of the metropolitan area (or of any growing urban area elsewhere in Minnesota) is the orderly regulation of new incorporations or boundary changes on the suburban fringe of the growing municipalities.

This relates as directly to smaller communities as it does to the metropolitan area. As Dr. Thomas H. Reed, government consultant and noted expert on metropolitan area problems, puts it, "all the phenomena of metropolitan growth are as evident in the environs of Colorado Springs as in the surroundings of Chicago, St. Louis or Denver."

Although he was speaking in Colorado Springs, Dr. Reed could as well have used as his illustration Duluth, Mankato, Rochester, St. Cloud or Austin as containing the same phenomena of metropolitan growth as Minneapolis, St. Paul or their suburbs. (See "Challenge: Metro Puzzle," **National Municipal Review**, December, 1958).

It is impossible to study the standards which should be met before a new village or city can be incorporated without considering the social, economic and other community aspects involved or without a thorough understanding of the need for municipal services by those living within the affected area. It is equally impossible to decide if the standards for incorporating a new municipality are met without considering the impact on the surrounding metropolitan complex when the proposed new city or village lies within the metropolis or on the suburban fringe.

Where uneconomic villages arise, the problem of furnishing municipal services to their people aggravate intelligent planning and all other aspects of government. Multiplying villages like rabbits can out-distance all progress achieved by otherwise intelligent planning. These uneconomic villages may be costly to people living in the adjacent area who must assist in paying for the required municipal services for the village which is not self-reliant.

For example, in the Twin Cities metropolitan area villages exist which have little or no means of furnishing their own police or fire protection thus placing additional expense on the offices of the County Sheriff and the County Attorney who are supported by county-wide revenue. By the same token, other villages exist in this area which have inadequate sewage disposal facilities which can create a problem of contamination seriously affecting the surrounding area.

Urban growth can be either a blessing or a curse to a metropolitan area depending crucially upon the existence of sound public policy established by the Legislature for the incorporation of new cities and villages or the amendment of existing municipal boundaries by annexation, consolidation or detachment.

The 104 municipalities which have arisen in the Twin Cities metropolitan area, making up a part of the largest number of governmental subdivisions in any American metropolis, have not only given emphasis to the need for this study but have created problems in furnishing adequate, economical municipal services to those living within the myriad of separate municipal governments all within the metropolitan area.

None of this is to say that there was no justification for the organization or incorporation of all of the smaller villages within the suburban area surrounding Minneapolis and St. Paul. Fifty-seven of the 104 municipalities in the five-county area were already in existence in 1930. Many of these were incorporated at a time when they were within the exurban area and expanding urban growth has only connected them with the surrounding metropolitan area in recent years. Others were organized at a time when it was impractical or uneconomical to extend utility lines or to furnish them with municipal services. But the incorporation of new communities along the urban fringe or within the heart of the metropolitan area since 1950 has been accomplished with little respect for the orderly growth of the metropolitan area or the sensible, economical provision of municipal services. As previously cited, 36 new villages have been incorporated within the five county Twin Cities metropolitan area since 1950, increasing the number from

68 to 104. Other Minnesota cities have invited our attention to growth beyond their own governmental limits and the problem is intensifying.

Whither next?

One prominent public official in one of the major metropolitan counties, when invited to appear and testify, suggested that the damage has all been done. He wrote that had our Commission conducted its study ten years ago we might have avoided many of the consequences of which he despaired. He pointed out previous efforts which he had made to obtain some legislation in the past. A shrug of the shoulders seemed to express his attitude about present efforts to provide adequate annexation and incorporation policy for the future.

He had in mind the fact that there is virtually no land left to annex to either of the major cities. He was also depressed by the crossword puzzle configuration of at least one township within his county and of uneconomical incorporations which have taken place or attempted annexations with gerrymandered boundaries.

But what he overlooked was the recent startling projection by the Twin Cities Metropolitan Planning Commission that the Twin Cities will add a population of 600,000 to its present 1,200,000 by 1980. This means a fifty per cent increase in two decades. It means a revolution in municipal services to provide for expanding boundaries and intensifying density.

And most significant to this study and for the present deliberations of the Minnesota Legislature it signifies a flurry of incorporations, annexations, detachments and other boundary actions which will dwarf the lively activity of the past decade.

The Legislature recognized the need to plan for this swift urbanization in the years to come by creation of the Twin Cities Metropolitan Planning Commission in 1957. This regional planning commission has only the authority to recommend. It can engage in exhaustive research, give sensible advice and evolve admirable plans for zoning, land use, sanitation and sewage disposal, water distribution and the many other common problems of the entire area but if, as it plans, further splintering of governmental boundaries occurs by incorporations or annexations which give no heed to these plans, the proposals will be outdated before they can be considered and new studies and plans will be required based upon the amended metropolitan map.

For the professional planners must proceed from the existing community map and metropolitan complex if their proposals are to be adapted to the area for which they plan. If the boundary changes occur apart from their study the hypotheses from which they proceed may change before the answers are obtained and published.

There is a keen awareness by local officials of the problem involved. For example, the Metropolitan Planning Commission was established with five counties only eighteen months ago. Already Carver County has been added by its own petition and another is likely to be added soon. Thus, within the first two years of the existence of the regional planning commission, it will likely encompass a seven-county metropolitan area. The figures cited in this report become more significant when it is realized that the 104 municipalities, the more than 250 governmental subdivisions, and the projected population increase of 600,000 by 1980 are all based upon the five counties — Hennepin, Ramsey, Anoka, Washington and Dakota — and does not include Carver which has already joined the Metropolitan Planning Commission or others into which urban fringe growth now extends and which may join the Commission in the near future.

THE METROPOLITAN CRISIS

The metropolitan problem is not peculiar to the Twin Cities even though, as the thirteenth largest metropolis in America, we are seeing most of its ramifications.

The urban population explosion has created a metropolitan crisis throughout America and the world. The Conference on Metropolitan Area Problems classifies it as "the major domestic problem of our times." County Manager O. W. Campbell of Dade County, Florida describes it in similar terms, seeing it as second in importance only to the international crisis.

Quigg Newton, President of the University of Colorado, regards "the economic and social upheaval taking place in all of our urban areas as one of our nation's most serious problems, having deep significance with the future well-being of billions of Americans. Unless dealt with soon," he adds, "the problem will become so out-of-hand as to be virtually unsolvable."

Studies are underway in more than fourteen states on various aspects of the metropolitan problem. We have referred to the studies in North Carolina, Indiana and Wisconsin relating to annexation. Advance reports indicate drastic statutory revision will be recommended in each instance.

Toronto has five years of significantly successful experience in metropolitan federated government. The greater Miami area, as noted, has followed suit by enlarging the Dade County Commission to provide greater representation of the cities while assuming the responsibility of furnishing certain municipal services on a county-wide basis under a County Manager. A metropolitan council has been recommended for the City and County of St. Louis. City-County Consolidation, already in existence in San Francisco, has been recommended for Sacramento, California. In Houston, Texas, the Harris County Home Rule Commission has recommended an amendment to provide the machinery through which city-county consolidation could be effectuated and a metropolitan government with broader procedural and substantive powers established.

All of these represent mid - twentieth century America groping for a solution to the problems of rapid urban growth.

Robert E. Merriam, Assistant Director of the

United States Bureau of the Budget and a former Chicago reform alderman, has said that "all levels of government and all interested groups of citizens have a vital interest in stimulating action leading toward a solution of some of the problems of jurisdiction, taxation and consolidation, all of which must be tackled if metropolitan areas are going to be able to cope with the explosive expansion of population."

The development of adequate techniques of government to furnish urban services sufficient to the needs of the people living in our swiftly swelling industrial centers is the greatest challenge to American political science and the genius of our people for effective representative government for the foreseeable future.

Dean Jefferson B. Fordham of the Pennsylvania Law School articulates this challenge. "Ours is a metropolitan civilization," he says, "in which physical, social and economic change have outrun legal and governmental adaptation. Thus, we confront a demanding challenge to our political and legal inventiveness which is of the liveliest interest to a student of the legal problems of local government. Lawyers have proved themselves experts in the structure of American business. Here is a supreme test for them, working with political scientists and others, in the governmental realm."

Finally, Herbert Emmerich, Consultant in Public Administration to the United Nations Technical Assistance Administration, terms "Metropolitanitis" a global problem. He adds that all of the great cities of the world will be watching with interest the efforts to solve it in the USA.

The Conference on Metropolitan Area Problems, referred to earlier, grew out of a need for a continuing organization to coordinate the efforts of all groups seeking solution of metropolitan problems and to promote research and consultation along these lines. It is financed by the Government Affairs Foundation, Inc. of which Nelson A. Rockefeller is Chairman.

In Minnesota, sponsorship by the League of Minnesota Municipalities of the act establishing this Commission, the enactment of the joint powers act, and creation of the Metropolitan Planning Commission by the 1957 Legislature shows a keen awareness of the whole metropolitan area problem and of the necessity to give orderly direction to the accelerating urbanization of this state.

Our study has convinced us that sound annexation policy is one of the most important tools for the future planning of the urban growth of the metropolitan area and Minnesota's other growing cities. The planners can only fight a war of attrition unless their work on the drafting board is accompanied by realistic public policy relating to annexation, consolidation and the incorporation of new cities and villages. The problems of land use, zoning, sewage disposal, police and fire protection and the many other vital municipal services can only be further complicated unless annexation and incorporation practices are brought up-to-date with mid-twentieth century urban growth.

NEED FOR RECODIFICATION

Examination of the present Minnesota statutory structure and testimony of municipal lawyers indicates that present statutory authority does not exist in many instances where annexation, detachment or other boundary changes are not only desirable but supported by virtually everyone in the affected area. This results in part from scattering of the related statutes throughout the chapters covering villages and cities of the first, second, third and fourth classes.

For example, Minnesota in recent years adopted a model village code (Chapter 412.04) which is fairly extensive in covering the situations which arise in respect to annexation. While the procedures which are provided may leave much to be desired from the standpoint of orderly metropolitan development, nevertheless a large number of situations where petitions for annexation are apt to be filed are covered by some statutory provision. But this is far from true in respect to the cities of the various classes. Oddly enough, although fourth class cities have provisions for all of the same situations where authority exists for villages to annex adjoining land, cities of the first, second and third classes do not have the statutory authority to annex adjoining land owned by the annexing village or city by resolution of the governing body as can be done by villages or fourth class cities, nor to annex land completely surrounded by municipal territory by resolution after hearing as can be done by villages or by fourth class cities with prescribed support by landowners. Villages and second, third and fourth class cities may annex contiguous airports but no similar provision is made for first class cities. Only fourth class cities can annex land from adjoining counties.

Cities of the four classes may annex the land of adjoining state institutions but no similar provision is made for villages.

Of course, much of this confusion results from laws passed to take care of special situations, such as contiguous airports or state institutions, but the crazy quilt pattern of laws which are thus created are bound to eventually leave vacuums where necessary action cannot be taken for lack of statutory authority by municipalities ready to expand through annexation.

Much of the patchwork of provisions relating to annexation, detachment or other boundary changes result from enactment of special laws to govern particular situations. Many of these laws are now obsolete. They were originally intended to apply to only one or two situations and merely confuse efforts to annex or detach in situations not covered by the special laws.

Thus, MSA 413.34 provides for the detachment of land from cities of the second class or cities of between twenty and fifty thousand population. In conjunction with the population restriction, the operation of this statute is restricted to cities in the state which are located on navigable boundary waters. Therefore, the operation of the statute is restricted by its terms to the City of Winona.

MSA 413.33 provides that property may be detached from a city of the third class by resolution if the city is operating under a Home Rule Charter, provided there is a bridge across a navigable stream on the property which navigable stream constitutes the boundary line between two counties. The restriction that there must be a bridge across a navigable stream on the property to be detached, which navigable stream must constitute the boundary line between two counties, limits the application of the statute to Robbinsdale and South St. Paul. These are the only third class Home Rule cities next to the county line with a navigable river for any part of their boundary. According to Orville C. Peterson, League of Minnesota Municipalities Attorney, "this peculiar provision . . . does not apply to any actual situation at the present time. The need it served at the time it was adopted must have been met long ago."

MSA 413.18 seems to contemplate a situation under which a third class city operates the schools. South St. Paul is the only third class city which has a special school district. It is doubtful that this law can presently be used by any third class city.

The same maze of special laws exists for the incorporation of cities. Hence, Waconia and North Mankato are the only cities now operating under MSA Chapter 411.

MSA 413.03 provides for the incorporation of villages within villages where the village includes 9,000 acres or more of land. This could only apply originally to St. Louis Park, Edina, Golden Valley, Richfield and perhaps a dozen Minneapolis suburbs in all because of the 9,000 acre provision. It was probably adopted to handle a special situation because it is inconsistent with the general policy of the statutes that no new municipal corporation may be created within the limits of an existing one.

Orville C. Peterson, League Attorney, who has prepared the notes with respect to municipal corporations for Minnesota Statutes Annotated, points out that "With the incorporation of entire townships in the metropolitan area, this section (MSA 413.03) has a much broader potential application than it had at the time my comments were prepared for MSA a few years ago." Such a provision is certainly ripe for repeal. Intended originally to handle a special situation which is no longer apparent, this kind of special law can wreak havoc with future policy. This dramatically illustrates the danger of such piece meal special legislation to handle incorporations that should be governed by broad public policy.

Laws intended to apply only to special annexation situations are likewise readily identified in the statutes. For example, MSA 413.17 providing for annexation of a city of the fourth class to a city of the third class, can be utilized at the present time only by Mankato and North Mankato and by South St. Paul and West St. Paul. MSA 413.26 relating to annexation of a city of the fourth class to a city of the first class affects only Minneapolis-Columbia Heights and St. Paul-West St. Paul. An effort by Columbia Heights to utilize this statute was unsuccessful several years ago because of failure to secure approval of the Anoka County Board after a favorable vote of Columbia Heights electors.

We can understand that some of these laws are of limited application because of geographical circumstances such as a city of the first class being contiguous to a city of the fourth class which occurs in only a few instances. Nevertheless, the patchwork of special laws has been created by the provincial approach of seeing a particular problem and legislating only to solve it rather than by the passage of laws of broad, uniform application thoroughly considered and thought out along lines of broad general policy before enactment.

The passing of such special laws has aggravated the original lack of uniformity created by separately providing for incorporation, annexation, consolidation or detachment for villages, cities of the various classes and boroughs. When a complex problem requiring highly technical procedural legislation is approached in this manner, procedural discrepancies are bound to occur including creation of a no-man's land in which there is no authority to act.

Appendix E, **Comparison of Annexation Laws,** is included in this report to show the statutory discrepancies which give rise to the need of complete statutory revision and recodification for the purpose of achieving uniformity and providing the necessary authority to handle all situations with respect to incorporating new cities and villages or changing existing municipal boundaries.

NEED FOR REVISED PROCEDURES

The case for recodification is amply supported by the foregoing account of statutory inadequacy but the necessity goes beyond mere recodification for past results from applying present statutory procedures underscore the need of adopting new techniques consonant with the requirements of our swiftly expanding urban areas.

Many witnesses testified to the confusion created by lack of uniformity of provisions as to filing and other procedural matters.

Much more importantly, the t e s t i m o n y was drastic and decisive concerning the silly confusion that comes under our present laws.

> Representatives of existing villages have raced to the City Hall or Court House to file competing petitions to annex particular territory. Under present policy, the first to file has prior claim. Similar races have occurred with respect to other types of petitions.
>
> Residents have incorporated small areas unable to furnish the complete package of municipal services merely to avoid annexation to an existing adjacent contiguous village. These defensive incorporations have plagued nearly every major urban area in America.
>
> Other villages have been organized solely to preempt the tax base created by establishment of a new industry. This is unfair to those in the surrounding area and can raise real complications in r e s p e c t to government finance.
>
> Villages have been incorporated for the single purpose of providing a liquor license to the sponsors of the incorporation petition because under Minnesota law such licenses cannot be granted in an unincorporated

area. In some instances, the liquor license is obtained in a new village which has no means of adequately policing the liquor licensee and the responsibility falls to the sheriff, county attorney and county taxpayers.

A county attorney testified that he and the sheriff could substantially reduce their law enforcement staff were it not that villages have been incorporated in his county with no hope of furnishing those services for themselves. He further testified that the same villages must depend upon other county officials to perform other village functions at expense to the taxpayers of the entire county.

Virtual islands have been created of unincorporated territory surrounded by an incorporated village.

Gerrymandered municipal boundaries have created configurations even more ludicrous than those mentioned above because petitioning parties seeking incorporation or annexation have by-passed entire blocks or residential areas where a vote unfavorable to their petition might be cast. Thus persons properly belonging in the incorporated area have been excluded and vice versa.

Cases have been stalled in the courts while litigants jockey for position leaving confusion as to the governmental status of the affected area.

While the Minnesota Supreme Court decided much earlier that it is an unconstitutional delegation of authority to designate the courts to administer annexation laws, the Court subsequently held that an area must be so conditioned as to be suitable for subjection to municipal government before it can be incorporated or annexed to an existing village. This is true even where the Legislature has not so provided. Hence, the courts have through the years sketched out what constitutes suitability for municipal government piece meal as each case reaches them.

The Village of Orono consists of four separate distinct and detached parts, the main part of which completely surrounds the Village of Long Lake.

A portion of Crystal Village is detached and completely within the Village of New Hope. The small Village of Hilltop lies within the Village of Columbia Heights.

White Bear Township now consists of some nine separate and detached parts, all of which except for one side of one part are surrounded by incorporated municipalities.

The small Village of Loretto is now dwarfed and surrounded by Medina Village.

Other paradoxical results created by the existing law relative to the symmetry, configuration, and location of municipal boundaries are readily apparent from Appendix B.

If all of this were not enough, consider the problem which is swiftly approaching with the federal government launched upon construction of a system of interstate highways in cooperation with the several states. The new freeways will ruthlessly bisect many existing municipalities or cut off parts of villages or cities from the municipality to which they were formerly attached, sometimes with no access point to the freeway within the cut-off municipal area. New procedures must envision handling these situations.

Furthermore, under existing Minnesota law, where a freeway passes at the edge of an existing city or village, there is nothing to prevent real estate developers or business entrepreneurs without administrative determination or review from building shopping centers or other businesses on the other side of the freeway or from incorporating a new village without regard to what it does to the downtown section of the existing village. The new village may be unable to provide services to its own people but the self-interest of the developers may, nevertheless, be served. This is but an additional reason for considering the matter of public policy inherent in any determination of municipal boundaries in a swiftly urbanizing society.

Again, these problems are not peculiar to Minnesota. We have only in the last decade reaped the whirlwind of the population explosion previously experienced in other metropolitan areas. In California, one of the classic examples of incorporating an area for the sole purpose of avoiding annexation to an existing city occurred with the discovery of oil in the 1920's in Long Beach. Signal Hill was incorporated as a tax colony. It is entirely surrounded by the City of Long Beach and has no excuse for existence other than to deprive the city upon which it is so dependent of tax support from the land so richly laden with golden oil. The hundreds of oil derricks which arise are thus within but not a part of Long Beach.

California has experienced a rush of newly incorporated cities since World War II, particularly within Los Angeles County and the surrounding area. Perhaps some of this has been encouraged by the willingness of Los Angeles County to contract to furnish the necessary package of municipal services. The reasons which motivate residents to incorporate new villages or cities are vividly illustrated in this area. For example, the City of Industry in the San Gabriel Valley was incorporated for the special purpose the name implies.

Dairy Valley was incorporated to preserve dairy communities with a municipal governmental climate favorable to continued land use for dairying and to assure regulations with respect to health and sanitation at the municipal level not unduly burdensome to the dairy farmers. Los Angeles County furnishes health service to all but four cities within the county and now forces dairy men to bury manure and control the fly menace.

Dairyland, the same type of community as Dairy Valley, was never actually incorporated but exists for the same purpose.

Rolling Hills Estates, walled in residential city with a guard at its entrance, was incorporated so its inhabitants could continue to live in exclusive splendor.

Lakewood was a defensive incorporation to avoid annexation. When it contracted with Los Angeles County to furnish its municipal services, Lakewood gave its name to the plan by which the County furnishes to the city the package of municipal services.

Cabazon was incorporated so its inhabitants could continue to play draw poker without interference.

Thus, California's City of Industry, city of homes, city of draw poker, city of dairies and tax source city indicate the decisive role that the desire to control zoning, land use and taxes play in motivating the establishment of cities.

In Minnesota and elsewhere, defensive incorporations to avoid annexation or incorporations to pro-

vide liquor licenses or control land use have resulted in villages of but a few hundred people in the heart of the metropolitan area.

Before the urban sprawl spread industry, business and population "heterogenously . . . with utter disregard for the set boundaries of local government, there may have been ample reason in the long period in which the continent was being settled to provide a ready means by which the few hundred or even the few score inhabitants of each newly settled hamlet might, as a municipality, work together to solve their own problems," as Dr. Thomas H. Reed indicates. The same may well be true where communities arose on the urban fringe or in the exurban area where extension of utilities or municipal services was impractical or uneconomic and incorporation seemed the only answer.

But, as Dr. Reed continues, "it is a very different thing to apply the same liberal standards to the incorporation of little groups of householders in a rapidly growing metropolitan area and this is exactly what has been done in many states, to the utter governmental fragmentation of the metropolitan areas. In the 174 metropolitan areas listed by the 1957 census, there were 3,422 municipalities, more than 1,000 of less than 1,000 population, not to mention 2,317 townships underlying units predating the advent of the automobile." (Dr. Reed, Challenge: Metro Puzzle, supra.)

As he spoke, Dr. Reed might well have had in mind the Twin Cities area with its 104 municipalities and more than 250 governmental subdivisions in five counties.

RECOMMENDED LEGISLATION ESTABLISHING MUNICIPAL COMMISSION

The Commission recommends that the 1959 Minnesota Legislature enact the bill set forth in Appendix A to this report creating a municipal commission to hear petitions for the incorporation of villages, the annexation to municipalities of contiguous unincorporated and incorporated property and the detachment of property from a municipality.

This proposal encompasses the complete recodification of all Minnesota laws presently in effect relating to incorporation, reincorporation, annexation, consolidation or detachment for villages, boroughs or cities of the first, second, third or fourth class. Thus, if the proposal is adopted, all of the Minnesota law relating to incorporation of new villages or municipal boundary changes will be found under new Chapter 414 of the Minnesota Statutes.

PROPOSED MUNICIPAL COMMISSION

The Governor will be empowered to appoint a municipal commission of three members — a Chairman, Vice-Chairman and Secretary — for terms of four years. The Commission shall hear petitions for the purposes set out above. The Commission's Chairman shall be a lawyer because of the quasi-judicial nature of the proceedings to be heard by the Commission. The other Commission members "shall, in so far as possible, have experience and knowledge in the field of urban development and administration," and the Secretary shall be a full time employee to conduct the administrative affairs of the Commission. The Chairman and Vice-Chairman are to be reimbursed on a per diem basis. Section I of the proposed bill, providing the foregoing, likewise prescribes monthly meetings of the Commission, authority to hire expert consultants in technical fields, subpoena of witnesses, and power to make reasonable rules and regulations in accordance with normal administrative procedure.

Section I also provides that the Chairman of the Board of County Commissioners and the County Auditor of the county in which all or a majority of the property to be annexed or incorporated is located shall serve as additional, ex officio members of the Commission in the more important Commission proceedings relating to incorporation of a village or annexation of an existing municipality by a contiguous municipality. This contemplates a three-member Commission for administration of Commission affairs and hearing and disposing of the more routine petitions with local representations provided where the importance of the petition makes it desirable. The Chairman of the Board of County Commissioners and the County Auditor sit on these proceedings without inheriting new administrative tasks to burden them in the discharge of their present offices.

The Legislature contemplated that this Commission consider the establishment of such a municipal commission when they charged us to study "the need for administrative review by an impartial agency of the public interest in proposed incorporations of cities and villages, and the annexation of land to or detachment of land from cities and villages, and the nature and scope of such review." (Chapter 833, Laws 1957, Section 2 (3)).

We find that the establishment of a state-wide administrative Commission to apply legislative standards in hearing and determining petitions for the incorporation of new villages or for municipal boundary changes is indispensable to sound public policy in administering the future urban growth in Minnesota. We have found no expert opinion extant which disagrees. We have encountered but one witness who thinks present incorporation procedures are adequate. Even on the sensitive question of the level at which administrative review should exist there was a surprising unanimity of opinion that incorporations and annexations are a matter of state-wide policy requiring a state-wide commission to administer them.

Three expert opinions suffice:

David R. Mandelker in his excellent article on "Standards for Municipal Incorporations on the Urban Fringe," Texas Law Review, supra, says as to incorporations:

> **". . . The power to incorporate should be delegated to an administrative agency under legislative standards which give only general guidance along the lines desired. Standards and policies could then be developed at an agency level that would take into consideration all of the factors involved."**

While he was treating the subject of incorporation in the metropolitan areas, his comments bear equally to the matter of incorporations of villages wherever they occur.

Dr. Thomas H. Reed, one of the authors of the National Municipal League's study, "The Government of Metropolitan Areas," (1930) said in his 1958 address to the National Municipal League's Conference on Government:

> "The state must provide a means of bringing about metropolitan integration which cannot be thwarted by the penny-wise opposition of a local clique or rest on the soles of suburban particularism. No other agency than the state can accomplish the reorganization of the structure of local government necessary to a solution of the metropolitan problem."

(Dr. Reed, Challenge: Metro Puzzle, supra.)

Again, the North Carolina Study Commission says in its previously quoted 1958 report:

> "The question of municipal boundary extension should be a matter of state-wide policy and the state should define the type and character of areas which could be provided municipal services in the interest of sound urban development."

The observations which gave rise to this conclusion are of considerable interest. Noting its alarm at "the experience in other states where failure of cities to expand their boundaries periodically has resulted in what is called the 'metropolitan problem,'" the North Carolina Commission said it had observed elsewhere heavily populated fringe areas surrounding a metropolitan city including fringe areas that are, in every sense of the word, slums; fringe areas whose problems of sanitation and traffic and law enforcement are so great that cities are discouraged from attempting annexation, and fringe areas so poorly developed that the city finds it impossible to extend water and sewer facilities through these areas to serve presently undeveloped land that could accommodate sound development.

The North Carolina report also refers to a study of urban areas "where the fringe is not unincorporated but a tangled thicket of small, financially weak and competing towns and special districts. In these areas, it is impossible to find any one governmental unit which has the jurisdiction or financial ability to provide those services and facilities which are essential to the development of the entire urban area."

The North Carolina study was much broader than ours. It was created to determine the legislative changes needed if the municipalities in North Carolina are to provide for "orderly growth, expansion and sound development." It made legislative recommendations in respect to planning programs, subdivision of land, zoning ordinances, zoning beyond municipal limits, county subdivision and zoning control, financing municipal government, taxes, fiscal management and major street developments. Yet the Commission acknowledged in its general report that recommendations with respect to planning and the control of land development do not fully meet the problem of urban fringe growth. Observing that "the boundaries of a city should include all of that part of the urban area which has developed in such a fashion as to presently require the package of services offered by a city, as well as that part of the urban area which is presently being developed in such a way as to need such services in the very near future," the North Carolina Commission recommended state-wide policy as to the question of municipal boundary extension.

PROPOSAL AS TO INCORPORATIONS

We have provided by Section 2 of our legislative proposal in Appendix A for the incorporation of villages by petition to the Municipal Commission. Subdivision 1 provides for the petition and requires that the necessary population to incorporate must be not less than 500 persons. This is a change from the existing requirement of 100 persons.

We found virtually no one here or elsewhere in the current period of urbanization who thought that 100 is a realistic figure for incorporation. California is considering increasing the requirement to 2,000 population. We seriously considered that figure as to those counties defined as being metropolitan by the Bureau of Census of the United States Department of Commerce.

We were dissuaded only by the consideration that if the Municipal Commission has the discretionary authority to grant or deny such a petition based upon whether or not the area is suitably conditioned to be subject to municipal government and can reduce or enlarge the proposed area or find the area to be more suitable for annexation the Commission can evolve standards which will eliminate impractical or uneconomical incorporations without raising the population requirement yet higher. Density and area are as important as population in making a determination. One of the vices of current procedure is that once the population requirement is met discretion vests only in the voters of the area included in the incorporation petition to determine whether or not a new village should be created and is subject to review by the court only as to the reasonableness of the determination by the voters that the newly incorporated area is so conditioned as to be properly subjected to village government.

We were instructed to reconsider the population minimum for incorporation by Chapter 833, Laws 1957, Section 2(1).

Provision is made for the Commission's hearing and notice by subdivision 2, for the Commission's order by Subdivision 3 and for filing the incorporation document by Subdivision 4.

It is to be noted that the provision for hearing, notice and filing is made uniform as to incorporations and all other actions to be heard by the Municipal Commission. Presently it is impossible to determine even the number of new incorporations in the multi-county Twin Cities metropolitan area without consulting the records of the County Auditor in all of the affected counties. This condition will be eliminated by adoption of our recommended legislation.

Subdivision 3 relates to the Commission order and contains eight enumerated factors upon which the Commission must make a finding of fact before it can issue an order. The Commission is not bound to grant or deny the petition based upon any specific finding as to any of these enumerated factors. The factors are provided in the legislation, not only as to incorporation but as to annexation and other boundary petitions, to make certain that the Municipal Commission acts reasonably after ascertaining the pertinent facts. These factors have been developed from a complete analysis of all of the Minnesota Supreme Court decisions determining the validity of incorporation. Their presence at Section 2, subdivision 3 of the proposed MSA Chapter 414 helps assure a determination that the delegation of legislative authority to administer incorporation is constitutional.

Appendix C contains our analysis of Minnesota Supreme Court decisions testing the validity of incorporations. The digest of each case shows the standards which were considered by the court to determine whether or not the area was so conditioned as to be properly subjected to village government. The factors enumerated in the statute upon which the Municipal Commission must make findings follow the lines of these cases.

Appendix D contains a short summary of procedures in other states. There is such a wide divergence of incorporation and annexation practice in the several states that we have included only some representative jurisdictions in Appendix D. We compared Minnesota Law with the laws of other jurisdictions.

We pause to inform the Legislature that of all of the considerations before this Commission for study the most difficult of solution was the determination of standards by which the proposed Municipal Commission should test the suitability of new municipal incorporations or annexations. Professor Esser of the University of North Carolina, who directed the research for the report of the Municipal Government Study Commission of the North Carolina General Assembly, favors specific standards. Most other experts seem to prefer general standards.

We were governed somewhat by the Minnesota cases which imply an attitude by the Minnesota Supreme Court that the test of an area being so conditioned as to be properly subjected to municipal government must be met as a matter of law. We were, therefore, guided by findings which the court has made in determining the validity of incorporations. The same is true with respect to annexation which is treated in a later section of our proposal.

We might have provided for findings by the Municipal Commission on the factors which have been considered by our Supreme Court in the past and then added specific standards. We did not do this because we finally concluded with Professor Mandelker (Indiana University Law School) that "the power to incorporate should be delegated to an administrative agency under legislative standards which give only general guidance along the lines desired. Standards and policies could then be developed at an agency level that could take into consideration all of the factors involved."

We conclude that the Municipal Commission, under the power to "make such rules and regulations, as are reasonably necessary," can best evolve the standards to be applied, after making the findings required by the proposed statutes, after concentrated study of their duties and based upon the fact situations which occur in the cases before them.

PROPOSAL AS TO ANNEXATION OF UNINCORPORATED PROPERTY

Section 3 of the proposed law provides for the annexation of unincorporated property to a municipality, containing the provision for the initiating petition at subdivision 1 thereof, for hearing and notice at subdivision 2, for the Commission's order at subdivision 3, and for the filing of the annexation order at subdivision 4.

Subdivision 3 contains the nine factors upon which findings must be made by the Municipal Commission before an order can be entered. As in the case of incorporations, the Municipal Commission is not bound by its particular findings on any of these enumerated factors. It must determine all of these facts before it can reach a decision. The considerations here were the same as in the case of incorporation in the development of these factors. They were delineated from previous court decisions. They are subject to the development of rules prescribing standards by the Municipal Commission as experience dictates.

PROPOSAL AS TO ANNEXATION OF INCORPORATED PROPERTY

Section 4 of the proposal provides for the annexation of incorporated property to a municipality. The organization of this section is the same as in Section 3 relating to the annexation of unincorporated property, provided by subdivision 1 for initiating the petition, by subdivision 2 for hearing and notice, by subdivision 3 for the Commission's order and by subdivision 4 for filing of the annexation order.

Subdivision 3 relating to the Commission's order sets forth the factors upon which particular findings must be made before the Commission may enter an order. Here the considerations in developing these factors are again the same as in the case of incorporations or annexations of unincorporated property. They have been developed from court decisions and are not prescribed to bind the Municipal Commission to a particular finding in support of its order. Because we are here dealing with annexation of incorporated property, the question of suitability for municipal government does not occur as in the case of incorporations or the annexation of unincorporated property and the factors upon which findings must be made are, therefore, only two in number.

In achieving complete statutory uniformity as to annexation procedure relating to villages, boroughs and cities of all classes, we have reduced the situations in which annexations occur to unincorporated

property and incorporated property. This is the present process in California. We find no reason for separate annexation processes for villages, boroughs or cities of the many classes or for special classes of property except for the distinction between unincorporated and incorporated area. Reducing the classifications of annexation in this manner alone clears out most of the confusion and the repetitious and specialized situations in current Minnesota annexation law.

In overhauling incorporation and boundary change procedures we have complied with Chapter 833, Laws 1957, Section 2 (2) and (4), instructing us to consider the reliance which should be placed on local consent of property owners and voters and the part which should be played in these proceedings by local political subdivisions. We have safeguarded local consent by election of municipalities to be annexed and have provided for broad participation by affected land owners, political subdivisions and others in the proceedings before the Municipal Commission.

PROPOSAL AS TO URBAN TOWNS

Perhaps the thorniest problem presented to this Commission for study and construction of a new statutory technique by the Legislature was posed by Chapter 833, Laws 1957, Section 2(5) which charged us to investigate "the need for a separate statutory class of urban towns and, if such a class is deemed necessary, the content of the statutes relating to such a class, including the procedure by which a town becomes an urban town and the relationship between such towns and cities and villages."

This is a quandary which has puzzled the Legislature and called for special class legislation throughout past sessions. It led to a study by the Minnesota Legislative Research Committee in 1953. This Committee filed an extensive report with the 1955 Legislature. ("Problems of Urban Towns (Townships) in Minnesota," **Minnesota Legislative Research Committee**, Publication No. 58, November, 1953.)

The report pointed out that under Minnesota laws towns are organized units of local government generally based upon the congressional-land survey townships of thirty-six square miles although they may have larger or smaller area; that towns are usually rural in character and provide certain limited local governmental services for people living outside incorporated cities and villages; but that **near larger cities towns often are so densely populated as to become more urban than rural in character.** The report defines this latter group of towns as being the urban towns upon which the study was centered.

In creating this Commission, the Legislature by Chapter 833, Laws 1957, referred in Section 1 to "towns having 1,200 people residing on platted territory or having land within twenty-five miles of the City Hall of a city of the first class." The Legislature apparently had in mind the "1,200 population on platted territory" and the proximity to the city hall of first class cities as being elements assisting in the definition of an urban town.

We have considered in this study the definition by the 1953 Legislative Research Committee of an urban town as being one near larger cities so densely populated as to be more urban than rural in character. We have likewise considered that any unincorporated town within twenty-five miles of the city hall of a city of the first class having 1,200 people residing on platted territory is presumed to be more urban than rural in character. Proceeding from this, we have sought to solve the problem which has bothered the Legislature for years, namely, how to provide urban services for townships which are more urban than rural in character but which have, nevertheless, failed or refused to incorporate under existing statutes.

Parenthetically, it is to be noted that this is quite the opposite of the problem of the multiplying small, uneconomical villages which have arisen on the urban fringe or sometimes within the heart of the metropolitan area where there has been little excuse for incorporation. With the urban towns which remain unincorporated, we have the opposite tendency to expect to exercise village powers without assuming the full responsibility of village government.

This proclivity by those living in unincorporated township areas which have become urban in character and lie in close proximity to major cities has caused town governments to visit the Legislature at every session seeking special laws to permit them to exercise those village powers which are necessary for their comfortable existence. Obviously, the township (or town) laws which are designed only for the governing of an agricultural area become inadequate when a town becomes more urban than rural in character.

The 1953 Legislative Research Committee report on problems of urban towns pointed up the problems created by the enactment of these special laws. The report likewise listed the seven means by which townships can provide themselves needed and desired governmental services. These seven methods are:

1. Granting special powers to towns;
2. Creation of special districts for certain services;
3. Expansion of services provided by counties;
4. Joint exercise of common powers;
5. Extending municipal services beyond municipal boundaries;
6. Annexation to an existing municipality; and
7. Incorporation as a separate municipality.

The Research Committee discussed these various approaches. It pointed out that granting special powers to certain urban towns is not a desirable way to meet their problems. It emphasized the limitations of providing separate classification for urban townships, of creating special districts for certain services in urban towns, of expanding services provided by counties, or of the joint exercise of common powers under the Joint Powers Act. As a forerunner to the study by our Commission, the Legislative Research Committee in its 1953 report referred to annexation and incorporation as basic

approaches to the solution of the problems of urban towns. "Through annexation to existing cities or villages the people of urban towns become a part of a government which has statutory authority to provide governmental services needed and desired by its citizens. Annexation can be accomplished without enacting additional laws and without adding to Minnesota's already numerous local governments," the Committee concluded. Similar approval of incorporation was expressed.

Although the Legislative Research Committee did not propose new legislation, it concluded that two main approaches are left to the solution of the problems of urban towns:

(1) To adopt a strict policy of not giving them special dispensation but encouraging them to seek fundamental and lasting means of meeting their problems through annexation and incorporation; and

(2) To create a separate classification of urban towns and grant them specific authority relating to special assessments for local improvements and other public undertakings short of those which can be accomplished by incorporated municipalities.

In the final sentence of its report, the Committee said, "which policy is to be followed is properly a matter for legislative determination."

In choosing between the two alternatives posed by the Legislative Research Committee in this report written in 1953 for the 1955 Legislature, we find that the first suggestion, "to seek fundamental and lasting means . . . through annexation and incorporation," is preferable. The creation of a State Municipal Commission to hear petitions for incorporations or annexations furnishes the machinery by which suitable annexation or incorporation can be accomplished when such townships become more urban than rural in nature.

We find that it would be much more difficult and complex to create a separate classification of urban towns and to grant them specific authority relating to special assessments for local improvements and public undertakings short of the authority given to incorporated municipalities. Creation of such a separate special classification or urban towns would only complicate the Minnesota situation under which we already have villages, boroughs and cities of four classes. We find no valid reason why an urban township which has lost its agricultural character should not be governed by the laws relating to municipalities and should not assume urban responsibilities. We recognize the difficulty of determining when a township passes from predominantly rural to urban characteristics. In defining when this transposition has occurred, we are intentionally more conservative as to population minimum than the definition of urban towns contained in the 1953 Legislative Research Committee report or in the classification contained in Section 1 of the Act creating our study Commission. (Towns having 1,200 people residing on platted territory or having land within twenty-five miles of the City Hall of a city of the first class.) (Chapter 833, Laws 1957.)

Hence, we have provided by Section 5 of the proposed law (Appendix A) for the incorporation of any urban township having a population in excess of 2,000 exclusive of any municipality or part of a municipality within the township according to the last federal decennial census or for the annexation for all or any part of such unincorporated township area to a contiguous municipality. This presently affects nine urban towns. The list is contained in Appendix H.

We provide by Subdivision 2 for applying the standards fixed by this proposed law for the incorporation of municipalities and the annexation of land to municipalities to determine whether the area will be best served by incorporation, annexation or by remaining as a township. The Municipal Commission may provide for the incorporation or annexation of a part or all of the unincorporated property within the township.

The people residing in the unincorporated area of the township are given the first opportunity to petition for incorporation or for annexation. Should they fail or refuse to so petition, the Municipal Commission may then by its own motion provide whichever municipal government, incorporation or annexation to another municipality, it deems more advantageous to the residents.

We also recognize the odd configuration of the remaining unincorporated territory in some of our urban towns including situations where strips or islands of unincorporated area are separated from the other unincorporated property within such towns. It is from our awareness of this problem that we leave to the determination of the Municipal Commission whether all or only a part of the remaining unincorporated area should be incorporated or annexed. We further recognize that even in an urban town having more than 2,000 people residing in the unincorporated area thereof there still may be land which is predominantly agricultural in nature. Our proposed solution takes account of this and permits the Municipal Commission to exclude such agricultural land from incorporation or annexation.

We are further cognizant of the fact that some unincorporated parts of an urban town may be better served by annexation and other unincorporated portions of the same urban town may be better served by becoming incorporated. Such problems may also be resolved by the Municipal Commission.

In creating municipal territory from unincorporated urban towns the value of the Municipal Commission can be understood. Without this machinery there is no orderly means by which this unincorporated urban territory can be brought within municipal boundaries without leaving the situation open to the same chaos which has occurred with voluntary incorporations on the urban fringe. Our problem of deciding what to do about the urban towns became simpler when we crossed the bridge of decision concerning the recommendation to establish a Municipal Commission.

Oddly enough, the lone witness, previously referred to in this report, who was completely satisfied with present procedures as to incorporation was just as dissatisfied with the unwillingness of urban towns to assume municipal responsibility by petitioning for incorporation or annexation. He was

one of the first to suggest compulsory incorporation or annexation. We refined this suggestion by giving persons living in such an area the first opportunity to express their wishes by petition as to whether they should incorporate or be annexed to an existing village or city.

PROPOSAL AS TO DETACHMENT

Section 6 of our proposal (Appendix A) relates to the detachment of property from a municipality. Its provisions are again uniform with those relating to annexation or incorporation. Thus, Subdivision 1 provides for the petition for detachment, Subdivision 2 for hearing and notice, Subdivision 3 for the Commission's Order, and Subdivision 4 for the filing of the detachment order.

PROPOSAL AS TO JUDICIAL REVIEW

Section 7 of the proposal (Appendix A) provides for direct appeals to the Supreme Court from the orders of the Commission. This original jurisdiction is provided in recognition of the public interest involved in appeals to determine the validity of an incorporation or annexation. Confusion as to municipal boundaries hampers sound local government and can operate to the prejudice of inhabitants of the affected area. We are aware of delays which occurred in past cases to the detriment of the community involved.

Such appeals are taken to test the regularity of the proceeding and whether the determination was arbitrary, oppressive, unreasonable, fraudulent, contrary to law or without sufficient evidence to support the order.

OTHER PROVISIONS

Section 8 provides an appropriation for the support of the Commission's function. Section 9 recodifies present law relating to incorporation of a village as a city of the fourth class. Section 10 recodifies MSA 412.013 permitting lease or purchase of sewer or water facilities by villages containing within their limits plants for the concentration of taconite from the owners thereof; amends MSA 412.021, subdivision 1, merely as a procedural matter, and amends MSA 412.031 by terminating the charter of the Borough of Belle Plaine and establishing it as a city of the fourth class.

Belle Plaine is presently the only borough in Minnesota. We find no reason for its continued existence in this category. Uniformity will be promoted by placing Belle Plaine among cities of the fourth class.

COORDINATED METROPOLITAN SERVICES

There are several means by which municipal services may be furnished on a coordinated basis to all of the political subdivisions within a metropolitan area. Some of the possibilities are:

1. A federal system of metropolitan government.
2. County-wide metropolitan government.
3. Contracted services furnished by the county to the municipalities within its boundaries.
4. City-county consolidation.
5. Special districts to furnish particular services such as we now have in the Twin Cities metropolitan area in the Twin Cities Sanitation District, the Metropolitan Airports Commission and the Metropolitan Planning Commission.

This report expresses no recommendation for legislation to establish a particular form of coordinated metropolitan services. We, nevertheless, are aware of the need for such coordination. A separate study to determine efficient and economical means of providing municipal services to all of the people within the metropolitan area or any Minnesota urban area would be valuable to future legislative sessions and to the governing bodies of cities and villages within this state.

For the purpose of this report, we publish the observations of the study committees which considered the experience in Los Angeles, Toronto and Dade County for whatever insight they furnish into the problem of providing necessary municipal services to those living within urban or metropolitan areas.

THE LAKEWOOD PLAN

The City of Lakewood in greater Los Angeles was incorporated as a general law city in California in 1954. The service pattern evolved for the city, known as the "Lakewood Plan," provides for the performance of municipal functions through contractual arrangements with Los Angeles County while local control of municipal affairs is reserved to the city. This approach is one which has received national attention as a means of promoting greater governmental efficiency and economy in meeting the metropolitan area problem.

While in other states contractual arrangements have undoubtedly been made for the furnishing of certain municipal services by the county to the city, the Lakewood plan is the first instance in the United States wherein all municipal services were supplied to a city through an outside entity as a substitute for local administration.

The legal authority for this plan is originally based in the California Constitution (Article XI, Section 7½) which authorizes county charters to provide for the performance of municipal services by the county through contract. Thus, the California Constitution contemplates such an ultimate technique of metropolitan government. The Los Angeles County Charter embodies the constitutional empowerment and the joint powers act (California Government Code, Section 6,500, et seq) also provide such authority.

Although the Lakewood Plan did not evolve until 1954, Los Angeles County had thirty years of prior experience in supplying some services to cities beginning with contracts for public health, sanitation, tax assessment and collecting.

Services furnished to Lakewood fall into three major contract categories:

(1) Contract services which are self-financing where the services are financed entirely by fees collected from private citizens;

(2) Contractual services for which statutory fees have been set such as the collection of taxes and services of the treasurer and auditor; and

(3) Contractual services compensated for on a computed cost basis, dependent upon the extent of services, including building inspection, enforcement of city health ordinances and many other services.

Since California law inhibits gifts by the county, there must be adequate consideration for the provision of such services by the county to the city. Thus, intricate cost accounting is required to determine proper charges for the services thus provided.

The acceptance of the Lakewood Plan is indicated by the fact that sixteen cities have incorporated in Los Angeles County since 1954 and fifteen of these sixteen cities have contracted for essentially the same package of services as was put into effect in the City of Lakewood. Significantly, there was no new incorporation in the County of Los Angeles in the fifteen years prior to 1954 during which the unincorporated area of the county increased in population by 159%. The plan is in use in cities varying in population from 500 to 89,000 including the City of Industry, the City of Dairy Valley and Rolling Hills previously alluded to in this report.

The tendency of the Lakewood Plan to encourage incorporation of new municipalities may or may not be a blessing although services are undoubtedly furnished more economically and efficiently by the county to the many cities which purchase them than these services could be provided individually by each of the cities. If the county-wide services which can thus be purchased in a complete package so that the newly formed city will be required to produce none of these services itself, incorporations may occur in areas which might be served by annexation to an adjacent city if more realistic annexation policies were adopted. This might over a period of years be more beneficial to the total metropolitan community than to encourage new cities to arise because of the ease with which they can purchase services from the county without establishing the services for themselves.

We found opinion in California, particularly among academic experts or students of the metropolitan problem not holding city offices, that one of the unfortunate aspects of the Lakewood Plan is this encouragement to found new cities which would otherwise not incorporate if they were not able to purchase municipal services from an outside source.

Certainly this is something to consider before planning widespread establishment of services on this basis in the Twin Cities or elsewhere. Nevertheless, we recognize that before the process of metropolitan coordination by establishment of any form of metropolitan government or federation can get underway to administer the service functions while leaving autonomy to the included cities, the contract services plan may give relief to sorely pressed taxpayers by eliminating the necessity of wasteful and duplicating systems of municipal services in every city within the metropolitan area.

Indeed it is infinitely preferable to sell a new city the entire package of services already established at the county level than it is to have small hamlets spring up on the urban fringe to provide such services as they can on an expensive and many times inefficient basis and to forego the services, many times including law enforcement, which they cannot properly provide for themselves.

The Lakewood Plan does erect a transitional device by which metropolitan services can be coordinated more efficiently, effectively and economically until such time as a metropolitan technique of government suitable to the population within any given metropolitan area can be devised.

It may be true that the purchase of services from the county postpones the day when metropolitan federation or other area-wide government comes into being. If this is true, the corresponding benefit may, nevertheless, justify the use of contractual arrangements between city and county as invented in the Lakewood Plan.

Mark C. Allen, Jr., City Attorney of Inglewood, predicts that after further experience with the Lakewood Plan, the incorporation of new cities will cease to be a significant result. The long inactivity in creation of new cities prior to Lakewood may have triggered the recent rush to incorporate when the Lakewood Plan solved the problem of obtaining reasonably priced municipal services.

This system of contract arrangements for services has much to recommend it in contrast to the special taxing or assessment districts (such as our own Twin Cities Sanitation District) in that it avoids creation of another new taxing unit, another commission or board, and another diminution of local authority within each municipality. We found in California and elsewhere antipathy toward the special taxing district to furnish coordinated municipal services. The principal objections seem to be that if enough of these districts spring up to furnish all of the needed municipal services within a metropolitan area the maze of special government subdivisions thus created will complicate rather than consolidate or reduce overlapping political subdivisions now in existence without furnishing adequate representation to the municipalities or the people involved. "Taxation without representation," was commonly heard in Minnesota, California and elsewhere as a description of special taxing or assessment districts which furnish these services.

Harold W. Kennedy, Los Angeles County Counsel, gave a comprehensive account of the Lakewood Plan in a speech entitled "County Viewpoints on Metropolitan Government — Is the Lakewood Plan the Answer?" before the Metropolitan Government Symposium held under the auspices of the Los Angeles Chamber of Commerce April 8, 1958 at the Hotel Statler-Hilton. Mimeographed copies have been distributed by the Chamber and include a description of the major services available to cities, a summary of costs to the cities for county services, and a copy of the general agreement by which such services are furnished. We recommend this speech and the accompanying Appendices for a complete exposition of the Lakewood Plan.

Mr. Kennedy enumerates the advantages of the plan both to cities and the county. He claims that "the Lakewood Plan has been very successful." He supports his point by citing the sixteen cities which have incorporated since 1954 of which fifteen have contracted for the same services provided to Lakewood. He further stresses the benefit gained by Lakewood and the other cities from "a county government organized and prepared to render these services and whose controlling board and officers were willing to ungrudgingly engage in this pioneering effort." He refers to the provision of a "necessary transitional framework sufficient to enable newly incorporated areas to carry on basic governmental services during their initial period of existence," which we think to be perhaps its outstanding value, assuming the desirability of the creation of the new city.

Mr. Kennedy evaluates the Lakewood Plan in much the same manner himself when he says that it "provides a transitional mechanism which, if employed for no other reason, justifies itself in immediately providing essential governmental services through experienced personnel at a reasonable cost and without the necessity of substantial initial capital outlay."

The County Counsel stresses that the benefits of the Lakewood Plan are mutual to the participating city and county. He points out the area of public safety services such as police, fire, health and civil defense to support his position, emphasizing that crime, epidemics, floods and fires do not necessarily recognize city boundaries.

The extensive development of the Lakewood Plan has caused establishment of a position unique to public administration in the United States. The position of County-City Coordinator of Los Angeles County is the only one of its kind yet established. The first incumbent, Arthur G. Will, negotiates the contracts between Los Angeles County and the participating cities and coordinates the relations between them. He is an exceptional administrator, a keen student of municipal affairs and public administration, and brings ingenuity and skill to this experiment in metropolitan coordination. Like Frederick G. Gardiner in Toronto, he impresses his own personality and skill on a pioneer assignment giving proof that any system is dependent upon the quality of the man who administers it. County Counsel Kennedy admits that in a less favorable governmental climate the Lakewood Plan might not succeed. He might have added that with less expert handling it might fail.

Arthur G. Will describes his duties as Los Angeles County-City Coordinator as being "to provide information to groups working to incorporate, to assist newly incorporated cities in obtaining municipal services, to advise the chief administrative officer and members of the board of supervisors on problems relating to cities within the county, to prepare studies and report concerning the provision of municipal services, to appear before a legislative committee and various other groups to explain the contract service plan." While this describes comprehensive duties, we are of the opinion that Mr. Will's position and responsibility carry greater significance than his modest position description of his assignment.

On balance, we think that the system of furnishing municipal services by the county by contractual arrangement with participating cities, as accomplished by the Lakewood Plan, has achieved favorable results in California and is a possible means of metropolitan coordination in Minnesota and elsewhere, at least during the interim before coordinated government can be established. Conceivably the Lakewood Plan is gradually furnishing the basis for county-wide government in Los Angeles County.

Through the foresight of the Minnesota League of Municipalities, we have the joint powers act (MSA 471.59) which authorizes the exercise of joint powers between a county and city or between and among other subdivisions of government. This furnishes the basis for contracted services from a county to the cities within its boundaries at the present time. A fact which complicates any future plan of metropolitan coordination in the Twin Cities area is the existence of at least seven counties within the metropolitan area with more to come as the area expands. Obviously, without county consolidation, no plan of city-county government or of county-wide government can ever come about. **It may be, therefore, that the only hope of starting to coordinate overlapping municipal services will be through use of the joint powers act until coordinated government is achieved unless we are to multiply special service districts to which many find objections.**

TORONTO METROPOLITAN FEDERATION

Toronto embarked upon a dramatic experiment in federated metropolitan government on January 1, 1954 which threatens to revolutionize the government of metropolitan areas and the coordination of metropolitan services throughout North America.

This significant experiment was triggered by enactment of the Municipality of Metropolitan Toronto Act by the 1953 Ontario Legislature. (Now Chapter 73 of the Statutes of Ontario, 1953.) This act provides for a federal system of municipal government. The municipalities retain their autonomy in respect of local matters and have representation on the Metropolitan Council which is responsible for the provision of the metropolitan services. The Metropolitan Council is composed of twenty-five members including twelve from the major City of Toronto and twelve from the twelve suburban cities. Fdererick G. Gardiner, Q. C., was appointed by the Lieutenant-Governor-In-Council as the First Chairman of the Council for the period ending December 31, 1954 and has since been reelected annually by the Council who are empowered to elect a Chairman from among their members or any other person.

Enactment of the Municipality of Metropolitan Toronto Act had an interesting history which probably could not be repeated in the United States. In 1949, the Toronto and York Planning Board under the Chairmanship of Mr. Gardiner issued a report

recommending the progressive amalgamation of the thirteen municipalities which now constitute metropolitan Toronto. The City of Toronto adopted this recommendation in 1950 and applied to the Ontario Municipal Board for an order that the thirteen municipalities be progressively amalgamated into one municipality.

The Ontario Municipal Board which is a quasi-judicial body appointed by the province to supervise and approve matters affecting municipalities conducted hearings for one year concerning the City of Toronto amalgamation application and an application of the town of Mimico for the establishment of an interurban administration area.

Because of the expressed hostility of many of the suburbs, the Ontario Municipal Board issued the "Cumming Report," so named for its Chairman, Lorne E. Cumming, dismissing both applications and recommending the formation of a metropolitan municipal government. Enactment of the Municipality of Metropolitan Toronto Act followed in the 1953 Legislature.

Mr. Gardiner wryly recalls that he was called a dictator of every sort publicly by the suburbs when the Toronto and York Planning Board recommended amalgamation in 1949. An odd twist is that while Gardiner recommended amalgamation, which was rejected by the Ontario Municipal Board because of suburban opposition, he was persuaded to become First Chairman of the Metropolitan Toronto Council and has since become a devout supporter of federation as opposed to amalgamation. He has changed his mind in the light of his experience with the Metropolitan Council through more than four years of eventful operation. Oddly enough, after these four years of significant success, not only has Chairman Gardiner been converted from amalgamation to federation, but the hostile suburbs have been converted to federation from their fierce independence and their insistence on separate provision of its own municipal services by each suburb.

This has furnished the middle ground for the two opposite points of view so that when the Ontario Municipal Board called for an evaluation of the experience during the first four years of Metro, the only brief opposing continued metropolitan federation was submitted by the mayor of the City of Toronto who proposed amalgamation instead. His principal argument was that the major city is the backbone of Metro, furnishing most of its revenue, and amalgamation would be fairer to the central city.

One wonders what his opinion will be as the suburban area continues to grow and the relative financial contribution of the combined suburbs becomes greater than that of the central city. This period seems to be rapidly approaching. We heard comment in official quarters in Toronto that the mayor's position was political in nature for whatever appeal it might have to the residents of the City of Toronto. A submission by other Toronto city officials supported metropolitan federation.

Chairman Gardiner proudly proclaims that virtually everyone in the metropolitan area now favors the Metropolitan Council and that probably a majority of all area voters would now approve amalgamation. There is considerable opinion that the federation may gradually relax opposition to area-wide government to a point where quiet and orderly transition to amalgamation occurs. Mr. Gardiner, the original supporter of amalgamation, now seems to hope that this does not happen. He is satsified with the balance which is achieved between the efficient provision of metropolitan services by the Metropolitan Council and the preservation of local identity and autonomy as to other matters.

When Metro was established in January, 1954, two necessary tools had already been provided: (1) a unified area - wide assessment bringing assessments into equality; and (2) an area-wide planning of land use and development under the Metropolitan Planning Board whose powers extend beyond the boundaries of the metropolitan area and include the five townships and eight urban municipalities which lie on the fringe of the area. The Twin Cities area now has a Metropolitan Planning Commission. Unified area-wide assessment is not only desirable from a tax standpoint but could well be provided by the Legislature as a forerunner to any form of coordinated municipal services.

The empowering act defines the powers of the Metropolitan Council and those retained by local municipalities. The metropolitan corporation has no general powers but only those specifically conferred by the special act of incorporation and amendments thereto. This is similar to the federal system of government in the United States under which all powers not specifically enumerated to the federal government are reserved to the state. Indeed the compromise devised by the Ontario Municipal Board to create federated municipal government because of the protests of Toronto suburbs against amalgamation was the same happy device arrived at by our constitutional fathers when the Articles of Confederation proved to be ineffectual but the colonies were, nevertheless, wary of a strong central government. The enumeration of powers to the federal government and reservation of all other authority to the local units is a classic system to obtain coordinated efficiency without surrendering local autonomy. It may come into increasing use to solve the problem caused by urban population sprawling beyond the boundaries of government.

The metropolitan corporation is responsible for the planning, financing, constructions, administration and operation of metropolitan services. They include, together with other collateral and incidental services, schools, sewage disposal, water supply, major roads, transportation, regional parks, and certain social welfare services such as aged persons' homes, the financing of the hospitalization of indigent patients, and the financing of children's aid society. In 1955, a special committee of the Council recommended that legislation be passed to provide for a metropolitan police force which became operative on January 1, 1957. The brief submitted by the Metropolitan Council to the Ontario Municipal Board evaluating experience with federated mu-

nicipal government from January 1, 1954 to June 15. 1957 when the brief was submitted, suggested that a special committee is likely to recommend establishment of fire protection services on a metropolitan basis to become effective within the next five years. ("A Submission by the Council of the Municipality of Metropolitan Toronto to the Commission appointed by the Lieutenant - Governor - In - Council of the Province of Ontario to inquire into the affairs of the metropolitan corporation, June 15, 1957," published by the Metropolitan Corporation.) This brief was prepared by the officials and department heads of the metropolitan corporation.

A Metropolitan School Board was created as a co-partner of the Metropolitan Council by the 1953 Act. The board has certain planning and financial responsibilities in the field of education but does not manage or administer any school. For example, the board coordinates school planning by its review of school building proposals of local boards to ensure that new schools meet the needs of the area as a whole, its authorization of attendance area changes, to ensure that full use is made of existing schools, and its review of new subdivision proposals to ensure that an adequate school service can be provided.

Eleven Boards of Education within the metropolitan area still operate the public (elementary) and secondary schools.

We found common agreement in Toronto and Dade County and in every area we studied that metropolitan control of transportation and mass transit is essential to metropolitan coordination and to the highest level of municipal services. In Toronto, mass transit is considered in connection with the problem of freeways and parking facilities in determining the most effective means of avoiding congestion in the downtown Toronto area. Significant progress is being made by considering transit as an area-wide problem in conjunction with other component parts of how to get people to and from the downtown business district.

We note that in Minnesota, the Metropolitan Airports Commission controls the airport and neither of the major cities, the suburbs nor any metropolitan agency control mass transit. This is regulated by the Minnesota Railroad and Warehouse Commission, a state-wide agency, which at times has no representation from the metropolitan area. We suggest consideration by the legislature of metropolitan regulation of mass transit as another step toward adequate, coordinated metropolitan services.

The Metropolitan Licensing Commission took over the issuance of licenses on a metropolitan basis on January 1, 1957. The Commission consists of two Magistrates and the Chairman of the Metropolitan Council. One of the Magistrates, Frederick W. Hall, is the present Chairman.

The amalgamation of the police forces of the thirteen municipalities into one metropolitan police force under the jurisdiction of a metropolitan board of police commissioners and a metropolitan chief of police became effective on the same date.

Chairman Gardiner lists four municipal services which stood out among others as being absolutely essential to the proper development of the area: an adequate water supply, an adequate sewage disposal system, adequate arterial highways and the means whereby educational facilities could be provided over the full area within the bounds of a reasonable tax rate. This description should seem familiar to Minneapolis, St. Paul and their respective suburbs.

Referring to "the increasing inability of the three large and expanding residential municipalities of Scarborough, North York and Etobicoke to finance their school programs," Mr. Gardiner cites the use of the combined financial resources of the metropolitan area to substantially assist these municipalities. Forty-six new public schools and seventy-four public school additions, and five new secondary schools and fifteen secondary additions, have been completed since January, 1954.

In addition, the metropolitan corporation arranged within the social welfare field for realignment of the jurisdiction of the three children's aid societies so that there will be one metropolitan Toronto children's aid society for the Protestant children and one metropolitan Toronto Catholic children's aid society, both financed on a metropolitan basis. The metropolitan corporation now pays the cost of hospitalizing indigent patients in all the public hospitals in the area and pays capital grants for new buildings and additions. The metropolitan corporation has constructed and has now in operations Green Acres Aged Persons' Home at New Market to accommodate 550 special cases. Another similar home has been acquired and will accommodate an additional 200 elderly people. Negotiations continue for acquisition to accommodate more patients as this troublesome problem grows.

Each municipality pays annually that amount of the metropolitan corporation's total financial requirements for the year which is in the same ratio as the local area municipalities total assessment is to Metro's aggregate assessment. It is for this reason that reassessment upon an equal basis of all property within the metropolitan area was a necessary condition precedent to creation of the Metropolitan Council.

For a concise review of the functions and accomplishments of the Metropolitan Council, see Frederick G. Gardiner, Q. C., Chairman of Metropolitan Toronto Council, "Progress of the Municipality of Metropolitan Toronto," Board of Trade Journal, December, 1956.

Mr. Gardiner, in this article, after reviewing the governmental structure created by the federation of Toronto municipalities, says:

> "The consolidated financial position of metropolitan Toronto is an enviable one. Its assessment increased by $106 million dollars in 1954, by $156 million in 1955 and is increasing in 1956 at a rate which will be in excess of $120 million for the year. This additional assessment is well-balanced. It is in excess of 45% industrial and commercial as compared to 55% or less residential. Such a tax base is very satisfactory. The ratio of metropolitan net debt to assessment is about 7% which is considered to reflect a very satisfactory financial position.
>
> "Metropolitan debentures were issued in 1954 at a rate of approximately 3.5%, in 1955 at a rate of approximate-

ly 3.8% and so far in 1956 at an average rate of about 4.35% . . ."

Perhaps the most exciting accomplishment of Metropolitan Toronto comes in the field of finance and fiscal management. One estimate indicates that more than $20 million dollars will be saved in interest payments alone by the pledge of the entire credit of the thirteen constituent municipalities for any loan made for any purpose for any of them over the amortized period of present loans. More than $5 million has already been saved. Difficult financial straits and impending defaults by some of the Toronto municipalities gave rise to the creation of the Ontario Municipal Board in the 1930's. Since creation of metropolitan Toronto, municipalities which were virtually without credit standing were able to borrow on Wall Street as preferred credit risks so that the entire municipal structure in metropolitan Toronto now enjoys the highest credit rating, consequently the lowest interest rate, obtainable by any foreign municipality.

The school construction crisis incident to the population explosion, the rapidly approaching emergency in the provision of adequate homes for the chronically ill or indigent patients, and other problems of mid-twentieth century urban growth require the pooling of credit and financial resources of the governments within a metropolitan area. Metropolitan Toronto is a shining example in this field.

Chairman Gardiner sums up his views in the Board of Trade article with justifiable pride when he says, "Metropolitan Toronto has proven beyond any doubt that it offers a sane, sensible and efficient answer to the solution of metropolitan problems which confront all metropolitan cities where the constituent municipalities jealously guard the retention of their local autonomy."

And Dr. Thomas H. Reed, while taking note of the defects of the Toronto plan, nevertheless says in his speech to the National Municipal League previously reported, "that no individual or community in the Toronto area has been deprived of the privileges of local self-government. The setup is no less democratic because the province has determined that some of the functions formerly performed by the separate municipilities should now be performed by a new unit established by law. It is time that our states took their courage in their hands and said to the jealously wrangling units of our metropolitan areas, 'here is the pattern with which you shall exercise your privilege of local self-government.' "

Although this report makes no recommendation for enactment of specific legislation to immediately accomplish metropolitan coordinated services or metropolitan coordinated government, we would not accurately report the views of the study committee which visited Toronto if we were not to inform the Legislature that this Commission was greatly impressed with what it saw in metropolitan Toronto. We were inspired not alone by the dedication and zest with which Frederick G. Gardiner has indelibly imprinted his doggedness of purpose and facility for administrative accomplishment in the field of metropolitan government but by the sense of community cooperation and common agreement on the desirability of area-wide federation which has been instilled into the people of the area within half a decade. It was difficult to sense in greater Toronto in 1958 that in 1953 the suburbs were hostile to metropolitan government. The fortunate device of federation has during the five years of Metro's life brought about common acceptance of the desirability of this plan.

We were likewise impressed with the improvement of welfare services to the aged and the indigent, the removal of past abuses by a metropolitan licensing procedure, the promise of greatly improved mass transportation through the Metropolitan Transit Commission, and the giant strides which have been made in the field of finance and fiscal management.

We have previously alluded to the difficulties inherent in determining a technique or structure for providing coordinated metropolitan services or a coordinated metropolitan government to the Twin Cities area which extends over seven counties. We have said that city-county consolidation short of county-county consolidation will not provide an ultimate solution even if it would partially solve the problem by occurring with respect to either or both of the major cities. The Lakewood Plan cannot be adapted to the seven-county area for the same reason although limited accomplishment can be made by extensive use of the joint powers act. Metropolitan federated government cannot be brought to this area through the mechanics of a county manager system such as in Dade County, Florida because of our multi-county situation. We have commented upon the additional patchwork which would result in creation of further special taxing districts to furnish particular services such as the Twin Cities Sanitation District.

The answer may lie in a study to determine how metropolitan federation can most effectively be constructed for the Twin Cities metropolitan area. We repeat what we have said earlier that this report proposes no new legislation to accomplish this purpose. We again stress that consideration of coordinated metropolitan services or federation should play no part in the deliberations on the proposed legislation contained in this report creating a state municipal commission to hear and determine incorporation, annexation and other boundary change petitions.

We do earnestly recommend to the Governor the 1959 Minnesota Legislature, and the municipalities in the Twin Cities metropolitan area that serious study be given to what has been accomplished in Toronto and elsewhere to determine what structure will furnish coordinated municipal services to the people of the area most efficiently, effectively, and economically, serving the greater community interest, while preserving local autonomy as to other problems to every included city or village. This is the challenge of the future to the Twin Cities metropolis. We suggest to the Legislature that its role should be continued interim study to devise enabling legislation, subject to the local consent of existing municipalities, to permit a

coordinated metropolitan community to develop. Coordination and cooperation are the key words to future efficiency and effective government in this and every metropolitan area.

METROPOLITAN DADE COUNTY

The American counterpart of the Toronto plan has been established in Dade County, Florida comprising the Greater Miami Area through expansion and empowering the Board of Dade County Commissioners to accomplish metropolitan government.

The creation of metropolitan Dade County government was preceded by unsuccessful attempts in 1945, 1947 and 1953 at city-county consolidation. The gravity of the metropolitan problem is dramatically illustrated by the fact that the 1953 proposition to abolish the City of Miami and to assign responsibility for its functions to the county was defeated by Miami city voters by only 980 votes. Little wonder that the disturbed Miami officials created a Metropolitan Miami Municipal Board consisting of outstanding citizens.

This Board, according to County Manager O. W. Campbell, was directed to study local government in the county, "to determine what consolidation, merger, federation or reorganization thereof was desirable for economy, efficiency and the solution of metropolitan problems and to draft and propose a plan of improvement and necessary implementing legislation. This 3-M Board of twenty established a technical committee of consultants through the University of Miami, which recommended and secured the employment of the Public Administration Service to do the survey work."

The result was published, **The Government of Metropolitan Miami,** Public Administration Service, 1954, and has served as the blue print for the current pattern of Dade County government.

Mr. Campbell describes this plan as "very remarkable and important . . . simple . . . functional . . . indigenous . . . democratic." Acknowledging that the structure is only partially finished, he says that the paper or legal work is accomplished. He realistically refers to the bitter controversy which preceded and succeeded this development and in explanation asserts that American inventiveness has been thwarted in the field of local government because "local government, particularly as it relates to large cities and metropolitan areas, has historically been dominated in petty detail by state legislatures controlled by a rural membership."

After this critical observation, the first county manager of Miami Metro credits the Florida State Legislature and state administration for presenting a constitutional amendment to the voters to give metropolitan Miami complete home rule, enabling the voters of Dade County to adopt metropolitan government at their will. (See **"The Dade County Experiment in Metropolitan Government to Date"** by Orvin W. Campbell, county manager, Dade County, Florida; a speech delivered to the metropolitan government symposium April 8, 1958 at the Statler-Hilton Hotel, distributed by Los Angeles Chamber of Commerce. See also **First Annual Report on the Progress of Metropolitan Dade County, Florida,** by O. W. Campbell, county manager, as presented to the Board of County Commissioners.)

The constitutional amendment, among other things, enabled Dade County to adopt a charter to change the boundaries of or to abolish all municipal corporations, county or district governments, special taxing districts, authorized boards or other governmental units or to transfer all the functions and power of any municipal corporation or other governmental unit in Dade County to the county. It was adopted by Florida voters on November 6, 1956. The metropolitan charter to implement this home rule amendment was adopted by the voters of Dade County on May 21, 1957. What Dade County voters have in mind is best expressed by the preamble of the charter:

> **"We, the people of this county, in order to secure for ourselves the benefits and responsibilities of home rule, to create a metropolitan government to serve our present and future needs, and to endow our municipalities with the rights of self-determination in their local affairs, do under God adopt this home rule charter."**

The Charter then provides for expansion of the County Commissioners to be more representative of the constituent city and furnishes the legal structure for metropolitan government by the Dade County Commissioners with a county manager as the chief administrative officer.

Mr. Campbell, former San Diego City Manager, was a natural choice to take over this difficult assignment. He waded in with characteristic bluntness to put Metro in operation. Needless to say, he ran headlong into opposition resulting in substantial litigation challenging the legal authority of the metropolitan government and eventually challenging its existence to the voters. Mr. Campbell and the Dade County Metropolitan Charter received a resounding victory on April 30, 1958 when an effort to amend the Charter, which would have eventually destroyed it, was defeated by an unofficial vote of 73,957 to 49,469.

Strangely enough, the amendment was sponsored by the twenty-six cities organized as the Dade County League of Municipalities and was known locally as the "Autonomy Amendment." Strangely enough also, the Metro opponents claimed that their amendment was harmonious with the Metro concept. County Manager Campbell said the vote "should put Dade County at least a decade ahead in becoming the metropolis of the future." The Miami Herald called it "the most conclusive endorsement ever given by Greater Miamians to the philosophy of area-wide metropolitan government." (See "Dade County Metro Charter Upheld," National Municipal Review, November, 1958, for a description of the Dade County Metro Charter. See also National Municipal Review, June, 1957, page 305.)

Progress in Dade County was limited during the first year of bitter contention including extensive litigation and leading to the September 30, 1958 referendum. Subsequent peace gestures had been made by both sides and Metropolitan Miami should

now shift into high gear to try to equal the accomplishments of Metropolitan Toronto.

One equally hopeful sign, despite his outspoken criticism of those who stand in his way whose motives he questions because of their vested interests in the status quo, lies in the fierceness with which County Manager O. W. Campbell stands for the principle of home rule and the local autonomy of existing cities.

For example, Mr. Campbell is opposed to a metropolitan police force which has been presently in existence in Toronto. He is one of those who feels that the exercise of the police authority should be kept as close to the immediate locality as is possible consistent with effective law enforcement because of the principles of basic freedom which are involved. Calling the metropolitan problem the greatest crisis of our time, subordinate only to the international dilemma, he says that there are few directions that metropolitan government can take. One is the all-encompassing city. Yet this public servant, administering the largest council-manager form of government in the United States, and playing perhaps the most significant role in any metropolitan government yet devised in this country, is violently opposed to the construction of the all-encompassing city. He prefers federation, preservation of local autonomy and identity, provision for only those services on an area-wide basis where included municipalities cannot adequately furnish them locally, and expresses the fear that unless constructive action is taken the most readily apparent solution will be the swallowing of the adjacent municipalities by the major cities.

A career public administrator, Mr. Campbell has labored in the vineyard of professional city managers who have been criticized so often for being arbitrary and dictatorial in administering city affairs. Frederick G. Gardiner, Chairman of the Metropolitan Council in Toronto, objects to the manager form of government for this reason and says his people would not stand for it because of its undemocratic aspects. Yet Mr. Campbell is unwilling to extend to a metropolitan government many of the functions which Chairman Gardiner has taken in stride in developing metropolitan Toronto. Both of these leaders are moving with ability and determination in the same direction toward federated municipal government, but, because they are determined and able people, have come up with different recommendations as to how this can be accomplished with the greatest modicum of democracy.

In Metropolitan Miami, the Charter retains the cities as they exist and provides that they may not be abolished without approval of a majority of their electors. Self-determination of local affairs is retained except as specifically ceded to the county by the Charter. For example, the city may provide for higher standards for zoning, service and regulation than those established by the Board of County Commissioners. The county is made responsible for those functions or facilities that are of region-wide importance including water works, sewage disposal systems, arterial roads, harbor facilities, general hospital, regional parks, mass transit, housing and urban renewal, major drainage programs, air pollution control and similar activities. The county is also made responsible for uniform traffic, building and zoning codes, licensing standards and procedures, assessment and tax collection, welfare administration, public health responsibility, mosquito abatement and other similar services. Some of these are performed in conjunction with the cities. Some services are wholesaled to the cities and retailed by them to the customers.

The county is required to establish and maintain minimum standards and services throughout the entire area under its jurisdiction with regard to all local affairs, regardless of what agency may be performing or providing the service.

The Board of County Commissioners was expanded from five to eleven members by adding five to be elected from and by districts, supplementing the five already elected from districts by county-wide vote, plus one new member each to be elected by and from any municipality having a population of 60,000 or more. The Board appoints the county attorney. All independent county offices, other than school board, school superintendent and court officers are abolished. The abolition of these county offices created one of the challenges to the authority of the Dade County Metro. The Florida Supreme Court upheld Metro.

One significant accomplishment which has already been obtained lies in the field of traffic control where householders, business people and pedestrians were virtually making their own traffic regulations in some parts of the Miami area. A uniform traffic code will govern traffic and a county-wide court will enforce traffic regulations.

It is too early to evaluate the success in Dade County. The project is only well underway. However, the atmosphere has been improved and decks cleared for action by the resounding victory at the polls. Vested interests opposing Metro are now likely to learn to live with the federated municipal government administered by the County Commissioners because of their defeats in the courts and by the voters.

Yet, County Manager O. W. Campbell recognizes the realities of the situation when he concludes:

> "The great hope of Metropolitan Miami is a government fitted to the reality of the area, to its people, to its economy and to its full potential. The recent effort to this end was born of the need for change and is designed to meet future needs and adjustments as circumstances may dictate. As it develops competence it will prove its versatility and worth. Indeed, as it gains momentum, it may cast into historical oblivion our traditional forms of urban-local government. With this properly in mind, I suggest you keep a close watch upon the governmental experiment in Miami, Dade County, Florida. You may find much to adopt to your own community, and much to avoid. In any event, the show will not be tedious or dull."

Mr. Campbell delivered this speech on April 8, 1958, several months before Metro in its infancy fought for its life at the polls. He was prophetic when he said that "the show will not be tedious or dull." Every American metropolis, including the Twin Cities, will be watching to determine if this is the answer to their metropolitan problems.

Appendix A

A BILL

FOR AN ACT CREATING A MUNICIPAL COMMISSION TO HEAR PETITIONS FOR THE INCORPORATION OF VILLAGES, THE ANNEXATION TO MUNICIPALITIES OF CONTIGUOUS UNINCORPORATED AND INCORPORATED PROPERTY, THE DETACHMENT OF PROPERTY FROM A MUNICIPALITY, THE APPROPRIATION OF FUNDS FOR THE SAME, PROVIDING FOR THE NUMBERING THEREOF, AMENDING MINNESOTA STATUTES 1957, SECTION 411.01, 412.013, 412.021, 412.031, AND REPEALING MINNESOTA STATUTES 1957, SECTION 340.11, SUBDIVISION 15, 366.02 TO 366.022, 368.01 TO 368.12, 368.50 TO 368.53, 368.61 TO 368.84, 412.011, 412.012, 412.041, 412.051, 412.071, 413.03, 413.12, 413.13 TO 413.137, 413.14 TO 413.143, 412.921, 413.15 TO 413.26, 413.30 to 413.34.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

SECTION I. (CHAPTER 414.01) (CREATION OF COMMISSION). A Commission is hereby created to hear petitions for the incorporation of property into villages; the detachment of property from municipalities; and the annexation of property to municipalities. The term municipalities as used herein includes villages and cities of all classes.

The Commission shall be composed of a Chairman, Vice-Chairman and Secretary appointed by the Governor. The Chairman shall be admitted to practice law in the State of Minnesota and shall have the powers and duties prescribed by the general law applicable to the heads of departments and agencies of the State. In proceedings for the incorporation of a village pursuant to petition and the annexation of a municipality or municipalities to a contiguous municipality, the Chairman of the Board of County Commissioners and the County Auditor of the County in which all or a majority of the property to be annexed or incorporated is located, shall serve as additional and ex officio members of the Commission for the purpose of such proceedings.

All those appointed shall have been residents of the State for at least five years prior to the appointment. All appointments shall be made within thirty days after the effective date of Chapter 414, and those appointed shall, in so far as possible, have experience and knowledge in the field of urban development and administration. Each appointed member shall serve for four years and until his successor is appointed and has qualified, or until he is removed by the Governor for cause after notice and hearing. In case any of the positions shall become vacant, the Governor shall appoint a member for the unexpired term who shall thereupon immediately take office and carry on all the duties of the office.

The Commission shall meet once each month at a regular time to be established by the Chairman.

It is authorized to transact business and conduct hearings by a majority of its members. The Chairman, in his discretion, may order the consolidation of separate hearings in the interest of economy and expedience. In those proceedings in which the Commission is composed of 5 members, no order of the Commission shall be final unless approved by three of the five members, and in all other proceedings unless approved by two of the three members.

Each member of the Commission shall receive $50.00 per day while in attendance at hearings, excepting the Secretary who shall receive a salary of $7,200.00 per year payable semi-monthly and shall devote full time to the duties of his office. Each member of the Commission shall be reimbursed for actual expenses incurred in accordance with regulations relative to travel of state officers and employees.

All correspondence and petitions shall be addressed to the Secretary who shall be charged with conducting the administrative affairs of the Commission, notifying the members of hearings and making arrangements for the hearings as to time and place, giving proper notice in the areas affected as hereinafter provided, keeping records and minutes, and providing secretarial service.

The Commission shall have authority to hire expert consultants in such fields as civil engineering, sociology, and economics to provide specialized information and assistance, and any member of the Commission, except those who are ex officio, conducting or participating in the conduct of any hearing shall have the power to administer oaths and affirmations, to issue subpoenas, and compel the attendance and testimony of witnesses, and the production of papers, books and documents.

Subpoenas shall be issued to any of the parties upon request upon a showing of general relevance and reasonable scope of the evidence sought.

In order to carry out the duties and powers imposed upon the Commission it shall have the power to make such rules and regulations, as are reasonably necessary, in accordance with the procedure proscribed in the general laws relating to Departments and Agencies of the State.

SECTION 2. (CHAP. 414.02) (INCORPORATION OF A VILLAGE).

Subd. 1. (INITIATING PETITION). Three or more voters residing within an area containing a resident population of not less than 500 persons, and which is not included within the limits of any

incorporated municipality and, which area includes land that has been platted into lots and blocks in the manner provided by law, may initiate proceedings for incorporation as a village. They shall take a census of the resident population in the area and make a census list showing the buildings in the area used for residence and the people living in each. If the population of the proposed area is found to be 500 or more, a petition may be prepared and submitted to the Secretary of the Commission requesting the Commission to hold a hearing on the proposed incorporation. The petition shall be attached to the census list and shall state the quantity of land embraced in it, platted and unplatted land, the assessed valuation of the property, both platted and unplatted, the number of actual residents, the proposed name of the village, a brief description of the existing facilities as to water, sewage disposal, and fire and police protection, and shall include a map setting forth the boundaries of the territory. It shall be signed by at least 100 voters who are residents of the area to be incorporated, and it shall be verified by the oaths of the census takers declaring that the census was accurately taken, specifying the dates when it was begun and completed, and that the statements in the petition are true.

Subd. 2. (COMMISSION'S HEARING AND NOTICE). Upon receipt of a petition, made pursuant to Subdivision 1, of this section, the Secretary of the Commission shall designate a time and place for a hearing on the petition, such time to be not less than 30 nor more than 40 days from the date the petition was received. The place of the hearing shall be within the county in which the greater area of the property to be incorporated is located and is to be established for the convenience of the parties concerned. The Secretary shall cause a copy of the petition together with a notice of the hearing to be sent to each member of the Commission, to the chairman of the county board and the town board in which all or a part of the property to be incorporated is located, and any duly constituted municipal or regional planning commission exercising authority over all or part of the area. They may submit briefs, prior to the hearing, for or against the proposed incorporation, stating clearly and succinctly the reasons therefore. Notice shall be posted not less than 20 days before the hearing in three public places in the area described in the petition, and the Secretary shall cause two weeks notice of the hearing to be published in a newspaper qualified as a medium of official and legal publication of general circulation in the area to be incorporated.

Subd. 3. (COMMISSION'S ORDER). Pursuant to a hearing on a petition for the incorporation of a village under Subdivision 1, the Commission shall affirm the petition for incorporation if it finds that the property to be incorporated is so conditioned as to be properly subjected to municipal government. As a guide in arriving at a determination, the Commission shall make findings as to the following factors: 1. The population of the area within the boundaries of the proposed incorporation. 2. The area of the proposed incorporation. 3. The area of platted land relative to unplatted land. 4. The character of the buildings on the platted and unplatted lands. 5. Past expansion in terms of population and construction. 6. Prospective future expansion. 7. The assessed value of platted land relative to the assessed value of the unplatted areas. 8. The present and/or expected necessity and feasibility of providing governmental services such as sewage disposal, water system, zoning, street planning, police and fire protection. The Commission shall have authority to alter the boundaries of the proposed incorporation by increasing or decreasing the area to be incorporated so as to include only that property which is so conditioned as to be properly subjected to municipal government. In the event the boundaries are to be increased, notice shall be given to the property owners encompassed within the area to be added, by mail within 5 days, and the hearing shall reconvene within 10 days after the transmittal of such notice, unless within the 10 days those entitled to notice give their written consent to such action. The petition shall be denied if it appears that annexation to an adjoining municipality would better serve the interests of the area. If the proposed incorporation includes a part of an organized township, the Commission shall apportion such property and obligations in such manner as shall be just and equitable having in view the value of the township property, if any, located in the area to be incorporated, the assessed value of all the taxable property in the township, both within and without the area to be incorporated, the indebtedness, the taxes due and delinquent and other revenue accrued but not paid to the township. Subsequent to the apportionment, the area incorporated will not be liable for the remaining debts of the township. The order of the Commission shall be final and if the petition is denied, no petition for incorporation may be submitted which includes all or a part of the same area, within two years after the date of the Commission's order. If the petition is denied in part, no petition for incorporation or annexation to the newly formed village, as hereinafter provided, which includes all or a part of the area deleted from the original petition, may be submitted to the Commission within two years after the date of the Commission's order. The order shall be issued by the Commission within a reasonable time after the termination of the hearing.

An order affirming a petition made pursuant to Subdivision 1 shall fix a day not less than 20 days nor more than 30 days after the entry of such order when an election shall be held at a place designated by the Commission within the area to be incorporated. The Secretary shall cause a copy of the order affirming the petition, as submitted or as amended by the Commission, including notice of the election, to be posted not less than 20 days before the election in three public places in the area described in the petition, and shall cause two weeks notice of the election to be published in a newspaper qualified as a medium of official and legal publication, of general circulation in the area to be incorporated. The Commission shall also appoint three electors resident in the area to act as judges of election and shall fix a time, not less than six

hours and until at least 7 o'clock P. M., when the polls shall be open at the election. The judges shall conduct the election so far as practicable in accordance with the laws regulating the election of town officers. Only voters residing within the territory described in the Commission's order shall be entitled to vote. The ballot shall bear the words, "For Incorporation" and "Against Incorporation" with a square before each of the phrases in one of which the voter shall make a cross to express his choice. The ballots and election supplies shall be provided by the petitioners.

Subd. 4. (FILING OF INCORPORATION DOCUMENT). Immediately upon the completion of the counting of the ballots, the judges of the election shall make a signed and verified certificate declaring the time and place of holding the election, that they have canvassed the ballots cast, and the number cast both for and against the proposition, and they shall then file the certificate with the Secretary of the Commission. The Secretary shall attach the certificate to the original petition, the original order affirming the petition as submitted or as amended in the order, and the original proofs of the posting of the election notice. If the certificate shows that a majority of the votes cast were "For Incorporation," the Secretary shall forthwith make and transmit to the secretary of state and to the county auditor or auditors of the county or counties in which the property is located, a certified copy of the documents to be then filed as a public record, at which time the incorporation shall be deemed complete. If the vote is adverse, no subsequent petition to incorporate the same territory shall be entertained by the Commission within two years after the election and the expense of the attempted incorporation shall be borne by the petitioners. If the vote is favorable, all proper expenses incurred in the incorporation shall be a charge upon the village.

SECTION 3. (CHAP. 414.03). (ANNEXATION OF UNINCORPORATED PROPERTY TO A MUNICIPALITY).

Subd. 1. (INITIATING PETITION). A petition for the annexation of adjoining unincorporated property may be initiated by resolution of the annexing village or city or by three legal voters residing in the area to be annexed, or by one or two legal voters if they own all the property stated in the petition. If initiated by resolution, the village or city council shall cause a census to be taken of the area showing the buildings in the area used for residences and the number of people living in each, or, if initiated by three legal voters residing in the area, they shall take a census containing the same information. The census list shall be attached to the petition which requests the Commission to hold a hearing on the proposed annexation. The petition shall set forth the boundaries of the territory, the quantity of land embraced in it, the number of actual residents, the number and character of the existing buildings in the area and the existing facilities such as water system, zoning, street planning, sewage disposal, fire and police protection. Under both methods of initiating the petition it shall be verified by the oaths of the census takers declaring that the census was accurately taken, specifying the dates when it was begun and completed, and that the statements in the petition are true.

Subd. 2. (HEARING AND NOTICE). Where the property to be annexed is owned by or completely within the boundaries of the annexing municipality, no hearing is necessary and the annexation shall be deemed complete upon issuance of an order approving the petition and resolution by the annexing municipality approving the annexation.

If the petition has been initiated by all or a majority of the land owners, in area and number, no hearing is necessary and the Commission may proceed to a decision, unless the Commission exercises its authority pursuant to this section by increasing the area to be annexed by including additional owners which inclusion eliminates the required majority, the newly included owners shall be notified within 5 days and a hearing shall be conducted as hereinafter provided unless within 10 days after transmittal of such notice written assent is received from the new owners in sufficient number to provide the required majority.

In all other proceedings, upon receipt of a petition for annexation, the Secretary of the Commission shall designate a time and place for a hearing on the petition, such time to be not less than 30 nor more than 40 days from the date the petition was received. The place of the hearing shall be within the annexing village or city, or the area to be annexed, depending on which best serves the interest of the parties. The Secretary shall cause a copy of the petition together with a notice of the hearing to be sent to each member of the Commission, and to the chairman of the county board and the town board in which all or a part of the property to be annexed is located, and any duly constituted municipal or regional planning commission exercising authority over all or a part of the area. They may submit briefs prior to the hearing, for or against the proposed annexation stating clearly and succinctly the reasons therefore. Notice shall be posted not less than 20 days before the hearing in three public places in the area described in the petition and in three public places in the annexing village or city, and the Commission Secretary shall also cause two weeks notice of the hearing to be published in a newspaper, qualified as a medium of official and legal publication of general circulation in the area to be annexed.

Subd. 3. (COMMISSION'S ORDER). Pursuant to a hearing on a petition for the annexation of unincorporated property to a village or city, or if no hearing was required under the foregoing provisions, the Commission shall affirm if it finds that the property to be annexed is so conditioned as to be properly subjected to municipal government and if it finds that the annexation would be to the best interest of the village or city and of the territory affected. As a guide in arriving at a determination, the Commission shall make findings as to the following factors: 1. The relative population of the

annexing area to the annexed territory. 2. The relative area of the two territories. 3. The relative assessed valuation. 4. The past and future probable expansion of the annexing area with respect to population increase and construction. 5. The availability of space to accommodate that expansion. 6. Whether the taxes can be reasonably expected to increase in the annexed territory, and whether the expected increase will be proportional to the expected benefit inuring to the annexed territory as a result of the annexation. 7. The presence of an existing or reasonably anticipated need for governmental services in the annexed territory such as water system, sewage disposal, zoning, street planning, police and fire protection. 8. The feasibility and practicability of the annexing territory to provide these governmental services presently or when they become necessary. 9. The existence of all or a part of an organized township within the area to be annexed and its ability and necessity of continuing after the annexation. If a complete organized township is included within the area to be annexed, its residents shall remain liable for any existing indebtedness of the township existing prior to the annexation. In the event only a portion of an organized township is ultimately included in the area to be annexed, the Commission shall apportion such property and obligations in such manner as shall be just and equitable having in view the value of the township property, if any, located in the area to be annexed, the assessed value of all the taxable property in the township, both within and without the area to be annexed, the indebtedness and the taxes due and delinquent. The Commission shall have authority to alter the boundaries of the area to be annexed by increasing or decreasing the area so as to include only that property which is so conditioned as to be properly subjected to municipal government and to preserve the symmetry of the area. The petition shall be denied if it appears that the primary motive for the annexation is to increase revenues for the annexing municipality and such increase bears no reasonable relation to the value of benefits conferred upon the annexed area. The order of the Commission shall be final. If the petition is denied in whole, no petition which includes all or a part of the same area may be submitted within two years after the date of the Commission's order, or if the petition is denied in part no petition which includes all or a part of the area denied may be submitted within two years after the date of the Commision's order. The order shall be issued by the Commission within a reasonable time after the termination of the hearing.

Subd. 4. (FILING OF ANNEXATION ORDER). Immediately upon the execution of the annexation order, a certified copy shall be sent to the council of the annexing village or city and to the individual petitioners if initiated in that manner. If the order affirms the petition for annexation in whole or in part, a certified copy shall be sent to the secretary of state and the county auditor of the county or counties in which the property annexed is located. The annexation shall be deemed final as of the date of such filing, or on such later date as is fixed in the annexation order.

SECTION 4. (CHAP. 414.04). (ANNEXATION OF INCORPORATED PROPERTY TO A MUNICIPALITY).

Subd. 1. (INITIATING THE PETITION). Incorporated municipalities may be annexed to contiguous municipalitis which have a greater population in accordance with the following procedure; A petition for a hearing on the subject of annexation of a municipality to a contiguous municipality may be initiated by resolution, either by the proposed annexed or annexing municipality, or by resident legal voters of the proposed annexed municipality equivalent in number to 10% or more of the legal voters of the municipality, according to the number of votes cast for mayor at the last municipal election, or where no mayor is elected, 5% or more of the legal voters of the municipality who voted for governor at the last general election. The term contiguous, for the purposes of this section, shall include municipalities sharing a common boundary. The term shall also include a situation where three or more municipalities are the subject of a single petition and are all connected by common boundaries, so that each municipality shares a common boundary with at least one of the included municipalities and with the annexing municipality sharing a common boundary with at least one of the municipalities to be annexed, in which case the municipalities to be annexed shall be deemed contiguous to the annexing municipality. The petition shall include maps indicating the boundaries of the proposed annexed municipality and of the annexing municipality and shall set forth the quantity of land embraced in each municipality, the number of actual residents based on the last federal decennial census and the estimate of population based on the computations contained in the county auditor's office in the county wherein the municipalities are located, the existing governmental facilities such as water system, sewage disposal, zoning, street planning, fire and police protection, and the existing debt and assessed valuation of each municipality.

Subd. 2. (HEARING AND NOTICE). Upon receipt of a petition for the annexation of an incorporated municipality made pursuant to Subdivision 1 of this section, the Secretary of the Commission shall designate a time and place for a hearing on the petition, such time to be not less than 30 nor more than 40 days from the date the petition was received. The place of the hearing shall be within the county in which the greater area of the property to be incorporated is located and is to be established for the convenience of the parties concerned. The Secretary shall cause a copy of the petition together with a notice of the hearing to be sent to each member of the Commission, and to the chairman of the county board in which all or a part of the municipality to be anexed is located, and any duly constituted municipal or regional planning commission exercising authority over all or a part of the area. They may submit briefs prior to the hearing for or against the proposed annexation,

stating clearly and succinctly the reasons therefor. Notice shall be posted not less than 20 days before the hearing in three public places in the area described in the petition, and the Commission Secretary shall also cause two weeks notice of the hearing to be published in a newspaper qualified as a medium of official and legal publication of general circulation in the area to be annexed.

Subd. 3. (COMMISSION'S ORDER). Pursuant to a hearing on a petition for the annexation of a municipality to an adjoining municipality, the Commission shall affirm the petition if it finds that the annexed municipality is so conditioned and so located as properly to be made a part of the annexing municipality, and if it finds that the annexation will be for the best interests of the municipalities. As a guide in arriving at a determination, the Commission shall make findings on the factors as enumerated in Subdivision 1 of this Section and in addition thereto: 1. Whether the results of the annexation will be to provide more economical and efficient governmental services such as water system, sewage disposal, road maintenance, public recreation and planning, fire and police protection. 2. The existing indebtedness of both municipalities.

The Commission shall not have authority to alter the boundaries of the municipality or municipalities to be annexed. The petition shall be denied if it appears that the primary motive for the annexation is to increase the revenues of the annexing municipality and such increase bears no reasonable relation to the value of benefits conferred upon the annexed municipality. The order of the Commission shall be final and if the petition is denied, no petition for the annexation of the same municipality or municipalities may be submitted within two years after the date of the Commission's order, which shall be issued by the Commission within a reasonable time after the termination of the hearing.

Each municipality shall remain liable for its then existing outstanding debt, however upon completion of the annexation proceeding, the newly formed municipality shall be liable as a whole for any indebtedness thereafter incurred.

If the municipality to be annexed includes fractional portions of any school district or school districts and the annexing municipality constitutes a special school district, the Commission shall include in its order provision for an equitable division of the school property and school obligations located in the municipality to be annexed, between the annexing municipality and the school district or districts affected. The Commission shall apportion such property and obligations in such manner as shall be just and equitable, having in view the location and value of the public buildings and real and personal property of the affected school districts, the amount of taxes due and taxes delinquent and the indebtedness of such school districts or district, if any, and for what purpose the same was incurred, all in proper relation to and in view of the last assessed valuation of all the taxable property of such school districts or district. Upon completion of the proceedings as hereinafter provided in this section, the school districts or district embraced within the annexed municipality shall become a part of the special school district of the annexing municipality. The foregoing will control if the annexed municipality constitutes a special school district and the annexing municipality contains fractional portions of any school district.

Where the ward system of electing councilmen exists in an annexing municipality, the Commission shall establish wards in the annexed municipality consistent with the existing wards or the prescribed method of establishing wards of the annexing municipality.

Where the petition for annexation has not been initiated by the annexing municipality, an order affirming a petition for the annexation of a municipality to a contiguous municipality shall submit the order to the annexing municipality for approval or rejection by resolution within 30 days, and where the proceeding contemplates the annexation of more than one municipality the approval by resolution may be conditioned upon an election, as hereinafter provided, in favor of annexation in part or all of the municipalities to be annexed. Where the petition is initiated by the annexing municipality an order affirming the petition shall submit the order to the governing body or bodies of the municipality or municipalities to be annexed for approval by resolution within 30 days. If rejected by such resolution or resolutions, the proceedings are then terminated as to the municipality or municipalities rejecting. If approved, and in all other cases, the order shall then fix a day not less than 20 days nor more than 30 days, after the entry of such order, when an election shall be held at a place designated by the Commission within the municipality to be annexed. The Secretary shall cause a copy of the order affirming the petition, including the notice of the election, to be posted not less than 20 days before the election in three public places in the municipality to be annexed, and shall cause two weeks notice of the hearing to be published in a newspaper qualified as a medium of official and legal publication, of general circulation, in the municipality to be annexed. The Commission shall also appoint three electors resident in the area to act as judges of election and shall fix the time, not less than six hours and until at least 7 o'clock P. M., when the polls shall be open at the election. The judges from each municipality shall conduct the election in accordance with the laws or charter formerly regulating the election of municipal officers in the annexed municipality. Only voters residing within the municpality or municipalities to be annexed shall be entitled to vote. The ballot shall bear the words "For Annexation" and "Against Annexation" with a square before each of the phrases in one of which the voter shall make a cross to express his choice. The ballots and election supplies shall be provided by the petitioners or the municipality in which the petitioners reside.

Subd. 4. (FILING OF ANNEXATION ORDER). Immediately upon the completion of the counting of the ballots, the judges of the election shall make a signed and verified certificate declar-

ing the time and place of holding the election, that they have canvassed the ballots cast, and the number cast both for and against the proposition and they shall then file the certificate with the Secretary of the Commission. The Secretary shall attach the certificate to the original petition, the original order affirming the petition as submitted or as amended in the order, and the original proofs of the posting of the election notice. If the certificate shows that a majority of the votes cast were "For Annexation," the Secretary shall forthwith make and transmit to the secretary of the state and to the county auditor or auditors of the county or counties in which both municipalities are located, a certified copy of the documents to be then filed as a public record, at which time the annexation shall be deemed complete and the annexing municipality shall assume and be charged with all the outstanding bonds and obligations of such annexed municipality and of such school districts as provided in Subdivision 2 of this section; and all moneys, claims, and properties, including real estate, school sites, school buildings, and the proceeds of all taxes levied and collected and to be collected belonging to, owned, held, or possessed by such annexed municipality or school district or districts as provided in Subdivision 2 of this Section, shall become and be the properties of such annexing municipality with full power and authority to use and dispose of the same for public purposes as the council of such annexing municipality may deem best.

The new municipality shall assume the name of the annexing municipality unless previous to the election another name is chosen by joint resolution of a majority of the municipalities involved in the petition.

Subsequent to the election, a municipality, which only shares a common boundary with a municipality which has voted against annexation, may not be annexed to the annexing municipality even though a majority of the votes were "For Annexation."

The number of license privileges existing in the municipalities prior to annexation and pursuant to state law shall not be diminished as a result of the single municipality created by the annexation.

All proper expenses incurred in the annexation proceedings shall be a charge upon the municipality initiating the proceeding.

If the vote is adverse, no subsequent petition to annex the same municipality shall be entertained by the Commission within two years after the election; and the expenses of the attempted annexation shall be borne by the petitioners, except where the petitioners are individuals, in which case the expense shall be borne by the municipality in which they reside.

SECTION 5. (CHAP. 414.05). (INCORPORATING OR ANNEXING TOWNSHIPS ACCORDING TO POPULATION).

Subd. 1. Within one month after the effective date of each federal or state census, the Commission shall cause to be determined the townships which have a population in excess of 2,000 exclusive of any municipality or part of a municipality within the township.

Subd. 2. Applying the standards fixed by law for the incorporation of municipalities and the annexation of land to municipalities pursuant to petition, the Commission shall determine whether all or a part of the area will best be served by incorporation, annexation, or to remain as a township.

Subd. 3. If the Commission determines that incorporation as a village will best serve the area, it shall issue its order incorporating the town or part thereof as described in the order, as a village, under the same name or in the event of duplication under a name selected by the Commission, within 6 months after notice is given to the town board and county board in which the township is located, or only the county board if there is no organized town board. If only a part of the township is to be incorporated the order shall apportion such property and obligations in such manner as shall be just and equitable having in view the value of the township property, if any, located in the area to be incorporated, the assessed value of the taxable property in the township, both within and without the area to be incorporated, the indebtedness, the taxes due and delinquent, and other revenues accrued but not paid to the township. Subsequent to the apportionment the area to be incorporated will not be liable for the debts of the township. The Municipal Commission, at the termination of the six month period, shall appoint three electors resident in the area to act as judges of election and the first election of village officers shall be controlled by the law applicable to the first election of officers in villages newly incorporated pursuant to petition. The incorporation will be deemed complete upon the election of such village officers unless within the six month period a petition for incorporation is submitted which includes all or a part of the township affected by the order at which time the latter proceedings shall control.

Subd. 4. If it is determined that annexation to an adjoining municipality will best serve the interest of the area, it shall, upon the termination of the six month period and in the absence of a duly submitted petition for the annexation of unincorporated area, during that six month period, which includes all or a part of the township, initiate proceedings for annexation which shall be controlled as near as is practical by the law relative to the annexation of unincorporated areas.

SECTION 6. (CHAP. 414.06) (DETACHMENT OF PROPERTY FROM A MUNICIPALITY).

Subd. 1. (PETITION FOR DETACHMENT). Property which is situated within the corporate limits of and adjacent to the municipal boundary, unplatted, and occupied and used exclusively for agricultural purposes may be detached from the municipality according to the following procedure: The petition may be initiated by resolution of the municipality to which the land is attached or by

all the land owners of land to be detached if the area is less than 40 acres and by 75% of the owners if over 40 acres. The petition shall set forth the boundaries and the area of the land to be detached, the number and character of the buildings, the resident population, and the municipal improvements, if any, in the area.

Property over which a municipality possesses an easement may be detached by resolution of its council and petition to the Commission if it is to be concurrently annexed by an adjoining municipality and that intention is signified by resolution. The Commission may enter an order to effectuate the detachment and concurrent annexation. All other property which is to be detached and annexed concurrently by an adjoining municipality and such intention is indicated by respective resolutions, may be so detached and annexed by order of the Commission if the owners of two-thirds of the area of the property affected give their consent in writing.

Subd. 2. (HEARING AND NOTICE). If identical petitions are submitted by the municipality and the owners of the land to be detached as provided in Subdivision of this section, no further proceedings are necessary. In any other case, upon receipt of a petition, the Secretary of the Commission shall designate a time and place for a hearing on the petition, such time to be not less than 30 nor more than 40 days from the date the petition was received. The place of the hearing shall be within the municipality to which the land is attached as the Secretary may direct. The Secretary shall cause a copy of the petition and notice of hearing to be sent to each member of the Commission and to be sent to the council of the municipality to which the property is attached and to at least 75% of the owners of the property proposed for detachment. and shall cause two weeks notice of the hearing to be published in a newspaper qualified as a medium of official and legal publication, of general circulation, within the municipality.

Subd. 3. (COMMISSION'S ORDER). Pursuant to a hearing under this section, the Commission shall affirm the petition for detachment if it finds that the requisite number of property owners have signed the petition if initiated by the property owners, that the property is unplatted and used and occupied exclusively for agricultural purposes, that the property is within the boundaries of the municipalities and is adjacent to a boundary, that the detachment would not unreasonably affect the symmetry of the settled municipality, and that the land is not needed for reasonably anticipated future development. The Commission shall have authority to decrease the area of property to be detached and may include only a part of the proposed area in its order. If the municipality from which the property is to be detached constitutes a special school district, the detached property shall become a part of the school district or districts which it adjoins as determined by the Commission and it shall thereupon be attached to and become a part of the town which it adjoins; however, if the tract adjoins more than one town, it shall become a part of each town, being divided by projecting through it the boundary line between the towns. The detached area may be relieved of the existing indebtedness of the municipality and school district and be required to assume the indebtedness of the school district and/or township of which it becomes a part, in such proportion as the Commission shall deem just and equitable having in view the amount of taxes due and delinquent and the indebtedness of each school district, township, and the municipality affected, if any, and for what purpose the same was incurred, all in relation to the benefit inuring to the detached area as a result of the indebtedness and the last assessed value of the taxable property in each school district, township, and the municipality.

The order of the Commission shall be final and if denied in whole, no petition for the detachment of the whole or part of the same property may be submitted within two years after the date of the Commission's order. If denied in part, no petition for the detachment of the whole or a part of the area deleted may be submitted within two years after the date of the Commission's order.

Subd. 4. (FILING OF DETACHMENT ORDER). Upon completion of the order, the Secretary of the Commission shall transmit a copy thereof to the secretary of state, the county auditor or auditors of the county or counties, town board, school district, and municipality in which the land is situated. Thereupon the order is to be deemed final.

SECTION 7. (CHAP. 414.07) (APPEALS TO THE SUPREME COURT FROM ORDERS OF THE COMMISSION). The Supreme Court shall have original jurisdiction upon appeal to review the final orders of the Commission. Any party, or the State of Minnesota, by the attorney general, may appeal to the Supreme Court within 30 days after service of a copy of such order on the parties, by service of a written notice of appeal on the Secretary of the Commission. Upon service of the notice of appeal, the Commission, by its Secretary, shall forthwith file with the clerk of the Supreme Court a certified copy of the order appealed from together with the findings of fact and the record, on which the same is based.

The person serving such notice of appeal shall, within five days after the service thereof, file the same with proof of service with the clerk of the Supreme Court; thereupon the Court shall have jurisdiction over the appeal. In reviewing the order of the Commission the Court shall limit its review to questions affecting the jurisdicton of the Commission, the regularity of its proceedings, and, as to the merits of the order, whether the determination was arbitrary, oppressive, unreasonable, fradulent, under an erroneous theory of law, or without any evidence to support it. The Court shall have the authority to reverse and remand the decision of the Commission, with directions to the Commission to proceed with the correct view of law in mind; to permit the Commission to take additional evidence, or to make additional findings in accordance with law. Such appeal shall not stay or

supersede the order appealed from unless the Court upon examination of the order and the return made on the appeal, and after giving the respondent notice and opportunity to be heard, shall so direct; however, in no event shall the Court so direct, when an order contemplates an election, until subsequent to the said election. In the absence of an appeal as provided, the Commission's order shall be final.

SECTION 8. (CHAP. 414.08). There is hereby appropriated out of any funds in the State treasury not otherwise appropriated, the sum of $70,000.00

SECTION 9. (CHAP. 414.09).

Minnesota Statutes Section 411.01 is amended to read:

Subd. 1. Population. Inhabitants of contigous territory not organized as a city, but organized as a village, and having not less than 1,000, nor more than 10,000 inhabitants, may become incorporated as a city of the fourth class, as provided in Subdivisions 2 to 6.

Subd. 2. Petition. A petition addressed to the county board of the county in which the whole or the larger part of the village is situated, which is signed by one-fourth of the number of legally qualified voters residing in the village proposed to be incorporated as a city that voted in the village at the last preceding general election for state officers, may be filed with the auditor of the county praying that the existing village be incorporated as a city of the fourth class, and that an election be called to determine whether or not such city shall be incorporated. Such petition shall set forth the mete and bounds of the existing village, and the population thereof, and the number of voters voting in the village at the last general election for village officers, and of the proposed wards thereof. The residence of each signer shall be stated opposite the signature, but the signatures to the petition need not be appended to one paper. The petition shall be verified by the oaths of at least three of the petitioners, declaring the statements made in the petition to be true. In addition thereto, the petitioner procuring the signatures to each paper and petition shall make an oath before a person competent to administer oaths, that each signature is the genuine signature of the elector whose name purports to be thereto subscribed, and that each signer is an elector duly qualified to vote within the village designated in the petition as the village proposed to be incorporated as a city of the fourth class.

Subd. 3. Resolution of county board. If it shall appear that petition is in due form, complies with the provisions hereof, and is signed by the proper number of electors residing in the village sought to be incorporated as a fourth class city, of which latter fact the affidavit of the petitioners procuring signatures on such paper and petition shall be prima facie evidence, the county board shall adopt a resolution approving the petition and in the resolution shall designate the time and place of holding a special election upon the proposition, which election shall take place not less than 30, nor more than 40, days from the time of presenting and filing the petition with the county auditor; and the county board, in the resolution, shall specify the location of the polling place in each ward, and that the polls will be open from 8 A. M. to 8 P. M., and shall prescribe a form of notice of such special election, a copy of which shall be attached to the resolution, in which notice shall be stated the time of such special election, the location of the polling place in each ward, the hours during which the polls shall be open, together with a statement of the question to be voted upon. Thereupon the county auditor shall cause a copy of the petition, resolution, and notice to be posted in at least five conspicuous places in the proposed city, at least 20 days prior to the date of such election, and shall cause the notice to be published in some legal newspaper published in the proposed city at least once each week for two consecutive weeks prior thereto, and if there be no newspaper published therein, then in a newspaper published in the same county.

Subd. 4. Inspectors of election. The county board in its resolution, shall name three legally qualified voters residing in the proposed city, but not more than one from a single ward, if there be three or more wards, who shall act as inspectors of election, who shall supervise the holding of the election and conduct the same in accordance with the laws applicable to the election of village officers in such territory. The county board, in its resolution, shall name and appoint three judges and two clerks of election for each ward who shall be legally qualified voters residing within the proposed city. They shall perform the duties of judges and clerks of election prescribed by the general election laws. When the polls have been closed they shall correctly count and record the results of the election, tabulating the same, and delivering these results and tabulations to the inspectors of election. Thereupon the inspectors of election shall canvass the results of election and forthwith make and file with the county auditor a certificate declaring the time and place of holding of the election; that they have canvassed the ballots cast thereat, and the number cast, both for and against the proposition, and the final results thereof. The certificate shall be signed and verified by at least two of the inspectors to the effect that the statements thereof are true. The inspectors shall preserve all ballots, tally sheets, and tabulations pertaining to the election, and forward the same, in sealed containers, to the county auditor as soon after the election as conveniently may be to be by him kept according to law.

SECTION 10. (CHAP. 414.10). Minnesota Statutes Section 412.013 is amended to read: Any village containing within its limits a plant for the concentration of taconite, either under construction or in operation, by resolution of its village council may lease or purchase from the owners thereof sewer or water facilities or both and operate the same. Any such lease made by such village prior hereto, by action of the village council, is hereby validated and such village may continue to provide sewer and water services to its inhabitants thereunder.

Minnesota Statutes Section 412.021, Subdivision 1, is amended to read: Upon the filing of the certificate with the secretary of state, if the vote is in favor of incorporation, the judges of election appointed by the municipal commission shall fix a day at least 15 and not more than 30 days thereafter and a place for the holding of an election for village officers. The judges shall also fix the time, not less than three hours, during which the polls shall remain open at the election and shall post a notice setting forth the time and place of such election in three public places in the village for at least ten days preceding the election.

Minnesota Statutes Section 412.031 is amended to read:

The charter of the borough of Belle Plaine is hereby terminated and it shall become a city of the fourth class, covered by the applicable laws. Until the next city election, the officers of the borough shall continue the discharge of their official duties, being governed therein as far as is practicable by the statutes relating to cities of the fourth class. Within four months prior to the first city election, the city shall be divided into wards pursuant to law and the first election shall be governed by the law applicable to the first election in any incorporated cities of the fourth class, however, the date of the first election shall be the same as the regular biennial elections in cities of the fourth class.

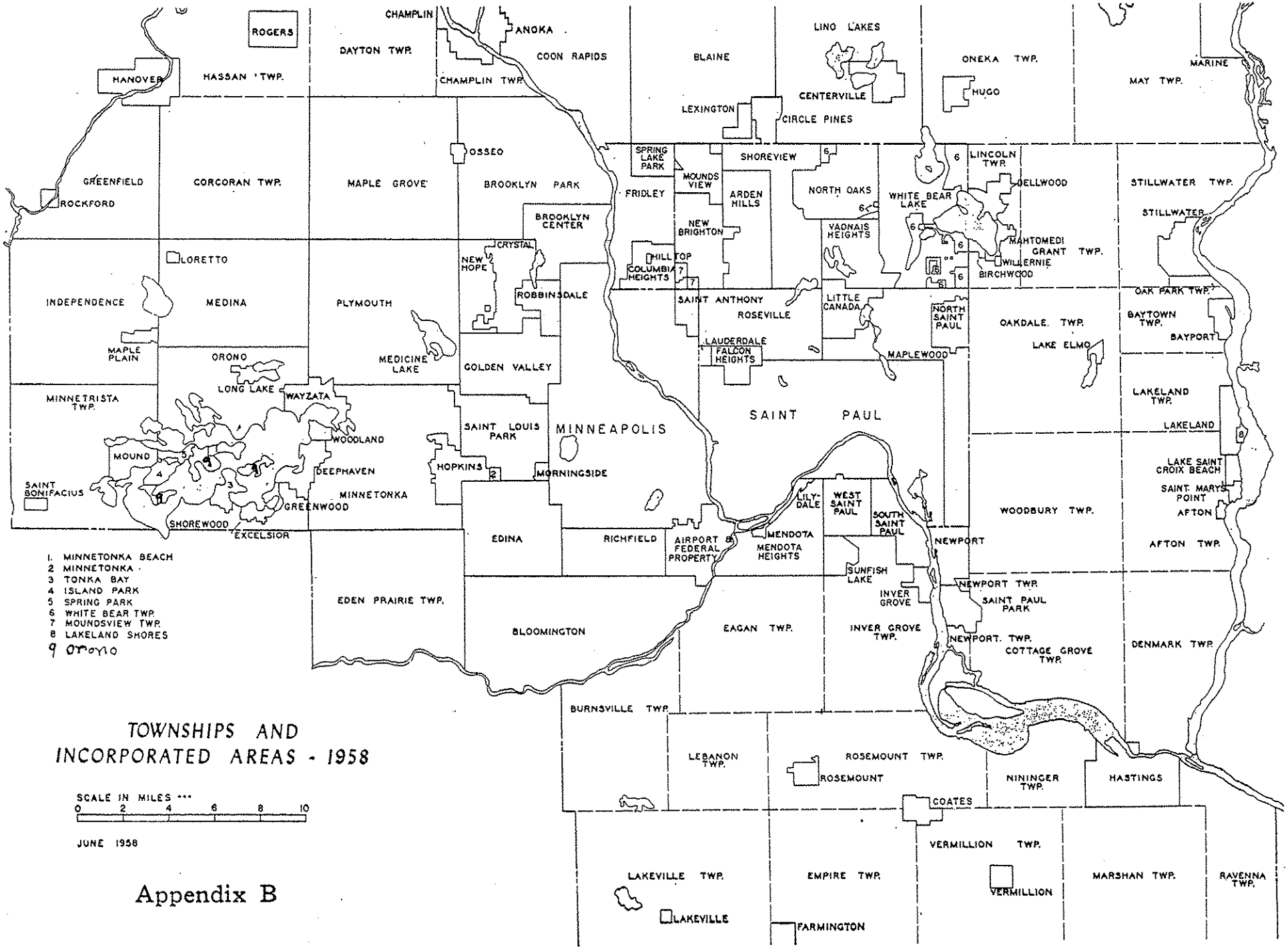
SECTION 11. (CHAP. 414.11). Minnesota Statutes 1957 Sections 340.11, Subdivision 15, 366.02, to 366.022, 368.01 to 368.12, 368.50 to 368.53, 368.61 to 368.84, 412.011, 412.012, 412.041, 412.051, 412.071, 413.03, 413.12, 413.13 to 413.137, 413.14 to 413.143, 412.921, 413.15 to 413.26, 413.30 to 413.34 are hereby repealed.

SECTION 12. (CHAP. 414.12). This act shall become effective upon final enactment.

Appendix B

The following, readily apparent on the map, are some of the more obvious paradoxes which have resulted from archaic laws relative to municipal creation and boundary change.

1. The Village of Orono consists of four separate distinct and detached areas. See key No. 9.
2. The main part of the Village of Orono completely surrounds the Village of Long Lake, the incorporation of Orono being subsequent to that of Long Lake.
3. The small Village of Hilltop located within the Village of Columbia Heights.
4. A portion of Crystal Village detached and completely within the Village of New Hope.
5. A portion of Minnetonka Village (See No. 2) detached from the village, although it is recognized this area is used for park purposes.
6. The Township of Moundsview now consists of two small segments. (See No. 7.)
7. White Bear Township (See No. 6) now consists of some nine separate and detached parts, all of which, except for one side of one part, are surrounded by incorporated municipalities.
8. The small Village of Loretto is now dwarfed and surrounded by Medina Village.


ROGERS
CHAMPLIN
ANOKA
DAYTON TWP.
COON RAPIDS
BLAINE
LINO LAKES
ONEKA TWP.
MARINE
HANOVER
HASSAN TWP.
CHAMPLIN TWP.
LEXINGTON
CENTERVILLE
HUGO
MAY TWP.
CIRCLE PINES
OSSEO
SPRING LAKE PARK
SHOREVIEW
LINCOLN TWP.
GREENFIELD
CORCORAN TWP.
MAPLE GROVE
BROOKLYN PARK
FRIDLEY
MOUNDS VIEW
ARDEN HILLS
NORTH OAKS
WHITE BEAR LAKE
DELLWOOD
STILLWATER TWP.
ROCKFORD
BROOKLYN CENTER
NEW BRIGHTON
VADNAIS HEIGHTS
STILLWATER
LORETTO
CRYSTAL
NEW HOPE
HILLTOP
COLUMBIA HEIGHTS
MAHTOMEDI
GRANT TWP.
WILLERNIE
BIRCHWOOD
INDEPENDENCE
MEDINA
PLYMOUTH
ROBBINSDALE
SAINT ANTHONY
ROSEVILLE
LITTLE CANADA
NORTH SAINT PAUL
OAKDALE. TWP.
OAK PARK TWP.
BAYTOWN TWP.
BAYPORT
LAUDERDALE
FALCON HEIGHTS
MAPLEWOOD
LAKE ELMO
MAPLE PLAIN
ORONO
MEDICINE LAKE
GOLDEN VALLEY
LONG LAKE
WAYZATA
LAKELAND TWP.
MINNETRISTA TWP.
SAINT PAUL
LAKELAND
SAINT LOUIS PARK
MINNEAPOLIS
WOODLAND
MOUND
LAKE SAINT CROIX BEACH
HOPKINS
MORNINGSIDE
DEEPHAVEN
SAINT BONIFACIUS
SAINT MARYS POINT
MINNETONKA
GREENWOOD
LILY-DALE
WEST SAINT PAUL
SOUTH SAINT PAUL
WOODBURY TWP.
AFTON
SHOREWOOD
EXCELSIOR
EDINA
RICHFIELD
AIRPORT & FEDERAL PROPERTY
MENDOTA
MENDOTA HEIGHTS
NEWPORT
AFTON TWP.
SUNFISH LAKE
NEWPORT TWP.
INVER GROVE
SAINT PAUL PARK
EDEN PRAIRIE TWP.
BLOOMINGTON
EAGAN TWP.
INVER GROVE TWP.
NEWPORT. TWP.
COTTAGE GROVE TWP.
DENMARK TWP.
BURNSVILLE TWP.
LEBANON TWP.
ROSEMOUNT TWP.
ROSEMOUNT
NININGER TWP.
HASTINGS
COATES
VERMILLION TWP.
LAKEVILLE TWP.
EMPIRE TWP.
VERMILLION
MARSHAN TWP.
RAVENNA TWP.
LAKEVILLE
FARMINGTON
1. MINNETONKA BEACH
2 MINNETONKA
3 TONKA BAY
4 ISLAND PARK
5 SPRING PARK
6 WHITE BEAR TWP.
7 MOUNDSVIEW TWP.
8 LAKELAND SHORES
9 ORONO
TOWNSHIPS AND INCORPORATED AREAS - 1958
SCALE IN MILES
0 2 4 6 8 10
JUNE 1958

Appendix B

Appendix C

ANALYSIS OF MINNESOTA CASE LAW RELATING TO INCORPORATION AND ANNEXATION

Analysis of the decisions of the Minnesota Supreme Court is helpful in arriving at tests which have been used to determine whether or not a particular area is suitable for incorporation under the existing laws.

VALIDITY OF INCORPORATIONS

The first decision dealing with the validity of an attempted incorporation is **State ex rel vs. Minnetonka Village,** 57 Minn. 526, 59 NW 972, 1894. The attempted incorporation was pursuant to Minnesota Laws 1885, Chapter 145 which provides that any district, sections or parts of sections which have been platted into lots and blocks, also the land adjacent thereto, such territory containing a resident population of not less than 175, may become incorporated as a village. Of course, the important phrase here for further definition and elaboration by the Court was "lands adjacent thereto." The Court defines this phrase at page 533:

> "The law evidently contemplates as a fundamental condition to a village organization a compact center or nucleus of population on platted land; and, in view of the express purposes of the act, it is also clear that by the term lands adjacent thereto is meant only those lands lying so near and in such close proximity to the platted portion as to be suburban in their character and to have some unity of interest with the platted portion in the maintenance of a village government. It was never designed that remote territory having no natural connection with the village and no adaptability to village purposes should be included."

In applying the definition to the facts of the particular incorporation at hand, the Court decided that if the thirty sections involved in the incorporation, twenty-three contained no platted land or collection of houses in the nature of a village. The court further rules that the greater part of the resident population was strictly rural or agricultural and there were about one hundred fifty cultivated farms within the boundaries of the proposed village. The Court said at page 532:

> "It is apparent that this large territory essentially rural has no fitness for village government and absolutely no community of interest in respect to the purposes for which such a government is designed."

The validity of an incorporation was again dealt with in **State ex rel Childs vs. Village of Fridley Park,** 61 Minn. 146, 63 NW 613, 1895. Here the proposed incorporation as a village encompassed about 15 square miles. In applying the test enumerated in the Minnetonka Village case as to what constitutes land adjacent thereto, the Court held the attempted incorporation of the Village of Fridley Park void. It found that buildings on each of the fifteen included sections ranged in number from three to twelve. Sixty percent of the population of the proposed village lived outside of the only aggregation of buildings which could approach a village in the usual and ordinary meaning of that word.

In view of the foregoing, the Court held that the boundaries of the existing village encompassed land which was remote from the nucleus of buildings and had no unity of interest with it in the maintenance of a village government.

In **State ex rel Douglas vs. Village of Holloway,** 90 Minn. 271, 96 NW 40, 1903, the boundaries of the proposed village covered six sections or equivalent to 3,840 acres. The platted portion of the proposed village covered only forty acres. All the remainder of the land was devoted to agricultural purposes. The attempted incorporation was held void without elaboration by the Court. Apparently the decision rested solely on the disproportionate area of platted land to agricultural land and also the necessity of including agricultural land to arrive at the requisite population for incorporation.

In **State ex rel Young vs. Village of Gilbert,** 107 Minn. 364, 120 NW 528, 1909, the proposed village covered an area of 2,240 acres of which eighty acres were platted. Ninety-eight people resided on the platted area. The village was located in the mining area of Northern Minnesota and the total area contained three mines which had populations of 183, 84 and 68. In deciding this case, the Court referred to an amendment to the previous incorporation statute. The statute, Section 700 R.L. 1905, read:

> "Territory not already incorporated which has been wholly or partly platted into lots with a view to village occupancy and which has a resident population of not more than 3,000 nor less than 200 may be incorporated as a village in the manner hereinafter prescribed but the unplatted part of such territory must adjoin the platted portion and be so conditioned as properly to be subjected to village government."

The Court indicated that the Legislature, in passing the new amendment, merely incorporated the test previously expressed by the Supreme Court. The Court, in holding the incorporation void, said at page 367:

> "As to these scattered communities every element of suburban character and unity of interest is lacking."

Up to this point all the cases are those in which the attempted incorporation was held void. The first case in which the incorporation was held valid in a quo warranto proceeding was **State vs. Village of Allis,** 112 Minn. 330, 127 NW 1118, 1910. Here the attempted incorporation also involved mining property. Two tests were announced which could be used to determine whether unplatted territory was properly within the boundaries of the Village: First, is the property so near to the center of the platted land as to make it suburban in character, and second, does the unplatted land have a community of interest with the platted land. In this case two sections (or 1280 acres) were included within the proposed village. Two hundred acres were platted. Thus the proportion of platted to un-

platted area was not as disproportionate as in previous cases. The Court, in referring to the earlier cases, held that here the relation was not so disproportionate as to allow the Court to dissolve the incorporation as a matter of law and that more evidence would be necessary before such a determination could be made. The evidence would have to show whether or not the inclusion of the unplatted area was necessary to conserve the comfort, convenience and health of the people living in the village proper.

The decision in **State** vs. **Village of Dover,** 113 Minn. 452, 130 NW 74, 1911 represents a trend of the Court in limiting the scope of review of the validity of an incorporation. In this case, the proposed village encompassed 640 acres of which seventy-five acres was platted and 565 unplatted. The population of the area was 244. At the election for incorporation, a total of 55 votes were cast. The Court looked at the assessed valuation of the unplatted property relative to that of the platted real estate. The value of the unplatted property was $21,875. The value of the platted property was $28,530. The Court also examined the nature and number of the buildings existing within the populated area. As to the unplatted areas, the Court stated at 456:

> "It is not necessary that all such lands shall be platted, graded or used for village purposes at any particular time in the future. Adjoining lands may be brought within the limits of the corporation and subjected to village government if it may fairly be said that there exists or may exist within a reasonable time in the future a unity of interest in the enforcement of the law such as police patrol and the public health."

With respect to the scope of review, the Court stated at 456:

> "The line must be drawn somewhere what territory shall and what shall not be included in the question of fact to be determined by the people immediately interested. The soundness of their judgment in passing on the question must be tested as questions of fact in other cases are tested on appeal. If the evidence reasonably tends to show that the decision is within the statute then the Court cannot interfere."

In **State ex rel** vs. **So-called Village of Minnewashta et al,** 165 Minn. 369, 206 NW 455, the proposed incorporation involved a population of 800 and a total area of 3,000 acres. There existed a nucleus or assemblage of buildings but the Court found that in reality this was merely a suburb of the existing Village of Excelsior. The remainder of the property involved consisted of farms containing from seven to two hundred acres. The Court dwelt on three factors which had a bearing on the validity of an incorporation.

1. The proposed incorporaion must contain a "compact center or nucleus of population on platted land."
2. As to the unplatted property, there must be a natural connection or community of interest between it and the nucleus of population.
3. The property must be adaptable for village purposes. This requirement cannot exist if the land is exclusively agricultural or rural.

The Court found the attempted incorporation invalid for failing to meet these tests.

The Court again dealt with mining property in **State** vs. **Village of Leetonia,** 210 Minn. 404, 298 NW 717, 1941. Here there were fifteen quarter sections or a total of 600 acres included in the proposed incorporation. One quarter was platted which contained a population of 396. The Court considered the relative assessed valuation of the property. The assessed valuation of the one 40 which was platted was $15,728. The assessed valuation of the remaining forty acre tracts was $883,622. The Court concluded from these figures that the motive for including the greater part of the property in the incorporation was to increase revenues. The rule regarding scope of review as announced in the Dover case was reiterated by the Court in declaring that the question of incorporation is a question of fact for the voters and will not be disturbed unless it exceeds all the bounds of practical reason. The Court considered the future expansion of the area and concluded that the mining operation had been suspended indefinitely and it was uncertain when it would reopen.

Here, then, we have two basic factors involved in the determination that the incorporation was void: first, and apparently most important, the relative assessed valuation, which indicated that the primary motive for including a greater portion of the unplatted property was to provide a tax source; second, since mining operations had been suspended, there was no indication that the community would be growing in the future.

In **State** vs. **North Pole,** 213 Minn. 297, 6 NW 2d 458, 1940, the requirement of a compact center or nucleus of population was found lacking and, therefore, the incorporation was held void. The proposed incorporation covered an area of 233 acres which was ½ mile long and between 250 to 2,600 feet wide. One hundred and three of these acres had been platted, one-half of which was on each end of the strip. On one of the platted areas, there was a hotel, a nightclub and various summer cottages and soon after the attempted incorporation, a liquor license was issued by the new village. Although not expressly stated by the Court, it is apparent that the motive for incorporation was the acquisition of authority to issue a liquor license. It seems that this motive can be just as fatal as the motive to include property solely for the purpose of acquiring an increased tax source.

The Court in **State** vs. **Village of St. Anthony,** 223 Minn. 149, 26 NW 2d, 193, 1947 indicates that this requirement of a compact nucleus of population does not require that the nucleus include business buildings. The Court makes reference to the incorporation statute in that it does not require a business nucleus. Here 1,086 acres were included in the proposed incorporation, of which 233 were platted. The area contained a population of 420. The Court adopted the definition of a village as announced in the **Minnetonka** case, supra. and in the **Allis** case, supra. at page 332.

In a recent case, **State ex rel Northern Pump** vs **The Village of Fridley,** 233, Minn. 442, 47 NW 2d 204, 1951, the Court defines incorporation as a legislative function and says at page 446,

"This Court has refrained from interfering with the exercise of the delegated legislative functions as long as the incorporators have exercised those functions within the scope of the power delegated but it interfered when it was thought to be exercised unreasonably."

In determining whether the legislative function was exercised unreasonably by the incorporator, the Court considered the following factors: The proposed area was 5 miles long and from 1 to 3 miles wide. It contained a population of 2,300. Its mail service was served by city delivery rather than rural delivery and the area was entirely within the suburban area of the City of Minneapolis and within the metropolitan district as outlined by the U. S. Department of Commerce. It also had adequate transportation facilities, paved highways, bus lines and telephone communication.

As being highly indicative of the suburban character of the area, the Court considered the average size of the family dwelling and the fact that 70% of the family residences occupied less than one acre of land. Another extremely important factor to the Court was the past growth in population and building as reflecting the potential future growth. Seventy per cent of the total population had moved into the area within the last three to five years and only 14% of the residents had lived in the area for more than 10 years..

In applying the test as stated in the **Dover** case, supre, to these factors the Court concluded that they were unable to say that the electorate in the village had exercised the legislative function unreasonably. The adaptability of various governmental functions such as sewage disposal, water system, lighting, fire and police protection was also stressed. All of the services were considered to be common to the entire area.

VALIDITY OF ANNEXATIONS

The first decision with respect to the validity of an annexation is **State ex rel Smith** vs. **Village of Gilbert,** 127 Minn. 452, 49 NW 951, 1914. The statute under construction relative to the authority to annex by a village provided that any territory containing not less than 75 persons, unincorporated, which adjoins a city or village, and no part of which territory is more than 1½ miles from the present limits of such city or village which it adjoins, may be annexed. Here the area contained 590 people. It was unincorporated. No part of it was more than 1½ miles wide from the village limits and it contained 1,880 acres. The Court held that the test of whether or not the area is so conditioned as to be properly subjected to village government relative to the validity of incorporation is also applicable to the validity of a proposed annexation. The Court recognized that the creation and change in boundaries by annexation or severance and the conditions upon which such creation or change may be made were legislative and not judicial functions. In determining whether the legislative function had been abused, the Court considered again the relative assessed value of the village to the annexed area. The village had an assessed value of one-quarter million whereas the annexed area had an assessed valuation of five million. But the Court further recognized that the Legislature, in granting authority to annex, had not made relative value a condition for or against annexation. Although the relative value here was greatly disproportionate, the Court did not feel constrained to hold that this rendered the exercise of the legislative function by the electorate unreasonable.

In **State ex rel Hilton** vs. **Village of Kenney,** 146 Minn. 311, 178 NW 815, 1920, annexation which added 1,560 acres to the village which contained 1,180 acres was contested. The addition encompassed thirty-nine quarter sections of land, thirty-five of which had no inhabitants. Four quarters had a total of 108 people, ten of whom were legal voters. Of these thirty-nine tracts, a mining company owned six and was about to open a mine on one quarter section. The Court again recognized the fact that it was reviewing a legislative function and stated that the decision of the electorate would not be set aside unless the evidence clearly showed the following factors:

1. That the annexed territory was not suburban in character.
2. That it was not likely to become suburban in character in the future.
3. That there was no community of interest between the annexed territory and the annexing area.
4. That there was no indication that such a community of interest was likely to exist.

In comparing the case to the previous **Gilbert** and **Allis** cases, the Court listed the factors considered at page 315: The area and the character of the land in the annexation involved the number of residents in the annexed territory, the population of the village proper and the community of interest between the people living or working on the annexed territory and those in the platted village.

In **State ex rel Hilton** vs. **Village of Buhl,** 150 Minn. 203, 184 NW 850, 1921, the annexation was held invalid. The Court seemed to limit the scope of review even further by stating that the decision of the voters was not to be disregarded unless it clearly appeared arbitrary. This case also involved mining property. The Court considered the following factors in invalidating the annexation:

1. The area of the village relative to that of the annexed territory was 1,640 acres compared to 2,800 acres.
2. The population of the village was 2,008 compared to population of the annexed area of 109 of whom nineteen were legal voters.
3. The assessed value of the village was 9½ million compared to the assessed value of annexed area of 4½ million dollars.

4. There was no evidence of mining development expected in the near future.
5. The levy of taxes in the village had virtually doubled in three years from 1917 to 1920 and the village had an indebtedness in excess of $600,000.00.
6. It was anticipated that the taxes in the annexed territory would increase.

The Court in concluding stated on page 207:

"We would blind ourselves to the fact if we decline to see that the purpose of the annexation of all this territory is to annex sources of revenue rather than territory properly subject to village government. We do not hesitate to hold that the annexed territory is not so conditioned within the meaning of the Legislature as to be subjected to the village government of Buhl and that the annexation is arbitrary and invalid."

In **State ex rel Danielson** vs. **Village of Mound,** 234 Minn. 531 (1951) 48 NW 2d 855, which exhaustively discussed the procedural aspect of Quo Warranto to test the validity of an annexation, the Minnesota Court declared void a proposed annexation to the Village of Mound. It was recognized that the annexation of additional territory to a village involved a legislative function delegated by the Legislature. Here the property to be annexed only abutted the village by an elongated stem which was a railway right of way. The connection was held **not** to provide a practical and usable connection for the discharge of normal municipal functions. It could not "reasonably or feasibly be used in providing the new tract with the usual village services by means of water, sewage, gas and electric connections" and further policemen and firemen could only discharge their duties by travelling in part outside their normal jurisdiction. Accordingly, the action of the village approving the annexation was void as arbitrary and unreasonable because the territory was not so conditioned as to be properly subject to village government.

State ex rel Orono vs. **Village of Long Lake,** 247 Minn. 264, 77 NW 2d 46 (1956) seems to be the most recent case concerned with the propriety of an annexation. The annexation was upheld with little discussion, affirming on the grounds of **State** vs. **Village of Mound, supra.** The opinion primarily concerned itself with the priority of annexation proceedings instituted by the Village of Long Lake and incorporation proceedings instituted by the Township of Orono covering the same property. In regard to this issue it was held that the municipal authority which first institutes valid proceedings under the power granted by the statutes has the exclusive jurisdiction over the area in question.

INCORPORATION OF VILLAGES AS CITIES OF THE FOURTH CLASS

A problem as to incorporation of villages between one and 10,000 population as fourth class cities in that an attempt to incorporate as a fourth class city is usually accompanied by a change in boundaries.

In **State ex rel Hilton** vs. **City of Nashwauk,** 151 Minn. 534, 186 NW 694, 1922 it was determined that such an incorporation must meet the requirements for incorporation as a village or for annexation proceedings. The Court considered the following factors:

1. The area to be incorporated as a fourth class city covered 9½ square miles.
2. The area included a village which covered four square miles and had a population of 2,500. The village had public lighting, water, sewage, a village hall, paved streets and a grade and high school valued at $800,000.00.
3. There are eight mines within the village proper and three mining areas within the 4½ square miles to be added to the village. This area contained a population of 300.
4. The tax value of the village was $1,557,000. The tax value of the surrounding territory to be incorporated into the fourth class city was $886,000.
5. The tax values in the city were not increasing but had decreased and the village had a net debt of $127,000.00.

In view of the foregoing facts, the Court concluded at page 549:

"The nearby tax values rather than appropriate municipal government suggests the reason of a city of so inclusive limits."

In **State ex rel Stunts** vs. **Chisholm,** 199 Minn. 403, 273 NW 235, 1937, the town of Chisholm attempted to double its size by incorporating as a city of the fourth class. Some of the additional area apparently contained no population and the Court at page 415 stated that a territory cannot be urban which has no population nor which is not likely to have population in the future. The Court further considered that the Village of Chisholm had ample room for expansion and that population had been decreasing rather than increasing. Therefore, there was no necessity for doubling the size of the existing village. The incorporation of the Village of Chisholm as a city of the fourth class was valid, but only to the extent of the boundaries of the pre-existing village. There seems to be here a new factor in determining the ability of a municipality to expand, namely, the existence of room within the existing village for expansion.

As to Minnesota law with respect to incorporation and annexation and subjects pertinent to this study see also Dunnell Dig. No. 6526-6530.

Appendix D

BRIEF SUMMARY OF REPRESENTATIVE ANNEXATION PROCEDURES IN OTHER STATES

VIRGINIA

One basic factor regarding the Virginia system which must be understood is the concept of city-county separation. This merely means that once an area becomes part of an incorporated municipality it is no longer available as a source of revenue to the county. This concept is not found in express constitutional or statutory authority but is an outgrowth of tacit recognition in certain statutory provisions. (See **The State and The Metropolitan Problems, Report to the Governor's Conference,** John C. Bollens, Director, 1956).

The significance of this lies in the fact that a proposed annexation or incorporation deprives a county of material wealth. This provides the basis for dissension and disapproval. Therefore, a disinterested body with powers of final determination was considered the only solution.

Annexation courts were established consisting of three judges. Although the investing of this authority in the court system is generally considered unorthodox in that it represents an improper delegation of a legislative function, the Virginia Court in Henricks County vs. City of Richmond, 106 Va. 282, 55 SE 683, 1906, circumvented the objection by holding that the determination was one of fact and not of legislative discretion.

The procedure for annexation with respect to any city or town is the same. The annexation proceeding may be initiated in one of two ways. The first method is by ordinance passed by a majority of all the members of a city or town council which in effect requests the judicial board to order the annexation. In order to provide the court with information, the ordinance must contain the metes and bounds and the size of the area to be annexed, general information concerning the subdivisions, industrial areas, farm areas, vacant areas and others, "together with any other information, deemed relevant as to possible future uses of property within the area." The ordinance must also contain "a general statement of the terms and conditions upon which annexation is sought, and the provisions planned for the future improvement of the annexed territory, including the public utilities and services therein."

The second method is by petition of 51% of the voters of the territory to be annexed, or by petition of the county in which the territory to be annexed is located.

Provision is made for the publication of the ordinance or petition and, if initiated by the municipality by ordinance, it must give notice to the State's Attorney and to the governing body of the county wherein the territory is located to the effect that a motion will be made to the court in not less than thirty days for an order granting the annexation. Any voters in the territory to be annexed may become parties to the proceeding by petition, and any county whose territory is affected by the proceedings, or any city or town, may appear and should be made parties to the proceedings. If proceedings are pending as to the same territory, they are consolidated and heard together as one proceeding, and a determination made with regard to the interest of all the parties concerned.

At pre trial conferences consideration is given to the assessed values and ratio of assessed values to true values and the tax rate for each year of the five years preceding in the county, municipality, and area proposed to be annexed; the school population and enrollment; the cost of education per pupil, and the estimated population.

The tests used by the Court to determine whether or not the order of annexation should be granted include:

(1) The necessity and expediency of annexation. This test is satisfied if the annexation would result in: the best interests of the county and city or town and the best interests of the services to be rendered and needs of the area proposed to be annexed, and the best interests of the remaining portion of the county.

(2) The cooperation and compliance of the annexing area with previous annexation orders.

(3) The remaining area in the county after annexation, giving regard to whether or not sixty square miles remain, or if not, whether the county is retaining insufficient in area, population or revenue sources to support the county government and the schools.

(4) The nature of the territory annexed as a compact body adapted to city improvements or improvements which the city will need in the near future for development. This test is not essential if the annexed area is needed to compose a compact body.

The court commission composed of three judges has authority to alter the boundaries of the proposed area as presented in the ordinance or the petition. Also, in view of the concept of city-county separation, the court may at its discretion order that the annexing city be required to assume a "just proportion" of any "existing debt" owed by the county. This has provided no problem where the whole area of an incorporated town, road or school district were included in the territory to be annexed. In these cases the Virginia Court has required the annexing city to assume the full amount of the outstanding debts and obligations of the annexed unit. A problem is encountered where only a portion of a unit is annexed to determine what portion of any indebtedness should be assumed.

As stated in 41 Virginia Law Review 1129,

"Terms and Conditions of Annexation Under the 1952 Statute," C. W. Bain (1955) at page 1140:

> "In a majority of the cases, however, the city was 'required to assume the same percentage of indebtedness that the assessed values of all properties subject to local taxation situated in the area annexed or to the assessed value of the same type of property in the whole county, or district, prior to annexation. The percentage figure obtained from computing this ratio was then applied to the total amount of existing debt in the county or district of which the city was to assume a portion and the city was required to assume responsibility for the resulting sum.'"

The city is required to compensate the county for school buildings and public buildings which are located in the annexed area. According to subsequent amendment this amount was to be determined by the existing value of the school or public building and not by any formula involving the original cost minus depreciation. The requirement of compensation was extended to other public improvements by a subsequent amendment. However, where the annexation area was required to compensate the county for a public improvement the most of that particular public improvement was not included in the computation made in ascertaining the extent of the debt which was to be assumed by the annexing territory. Credit was also to be given the annexing area for any contribution it had made towards the public improvement for which it was compensating the county.

The mandatory quality involved in the aforementioned requirements was eliminated by the 1952 Virginia Legislature. As stated by Bain at page 1148, "The statute containing these provisions begins with the statement that the annexation court '. . . in making its decision shall balance the equities of the case, and shall enter an order setting forth what it deems fair and reasonable terms and conditions. . .' Schools and other public improvements are no longer treated separately from other permanent public improvements, and the word 'reimbursement' formerly used in connection with the latter has now been replaced by the word 'compensation.' Also, there is no longer a mandatory requirement that a city reimburse the county for certain items. Instead an annexation court now 'shall have power' in the proceeding 'to determine, to require, and to prescribe,' in order to fix what it deems 'fair and reasonable terms and conditions' upon which annexation shall be permitted."

The problem just discussed would be virtually non-existent in Minnesota because the state does not share the concept of city-county separation with Virginia.

The court commission may at its discretion require the expenditure of funds by the annexing area in the annexed area to bring the annexed area up to a standard to that of the remainder of the city.

The annexation order becomes effective at the end of the year in which it is issued, or, if, in the discretion of the court, it is deemed necessary to extend it, it may be extended to the end of the following year. If the initiating municipality refuses to accept the annexation order as issued by the court commission, the action or proceeding is dismissed and the initiating municipality must pay all costs including attorneys fees. The general provision on costs in annexation proceedings is that they shall be paid by the initiating city, town or county and assessed as in other civil cases.

With respect to offices, officers, wards and voting, the county officers of the area annexed serve until the end of their term for which they were elected or appointed. The area annexed is attached to an existing ward or is organized into a new ward or wards and, if the latter, the municipality selects a proper number of councilmen to serve until the next general election.

The enforcement of the annexation order is left to the court commission.

The Virginia statutes provide for consolidation of cities which are coterminous or adjacent to each other but the statute specifically excepts cities between 40,000 and 75,000 population. The proceedings are initiated by ordinance of one of the cities or both. Ordinances must be passed by a majority of all the members of the city council and must include the following provisions:

1. The name of the proposed municipal government.

2. Whether the expanded unit shall be governed by the charter of one of the cities or by the general laws governing cities.

3. The particular motivation or inducement to annexation or consolidation, if any.

4. The appointment of a committee of not more than five which will be available to meet with a committee of the other city to settle the terms and conditions of annexation or consolidation and prepare an effectuating ordinance.

The lack of a joint committee by one of the cities is not fatal and, in the event it refuses to cooperate, the initiating city may propose and submit its own ordinance. If the ordinance is the product of a joint committee the consolidation may be completed by separate ordinances in each city passed by a majority of all the members elected to the council. However, there must be a ratifying election in the smaller cities and also one in the larger city if one-fourth of its voters petition for an election. These conditions may also be altered by the ordinances adopted by the joint committee in that the ordinance may require a ratifying election in any event by both cities. If there has been no joint committee the initiating city may petition the court commission to call a special ratifying election in the other city.

Similar provision for annexation or consolidation is provided with respect to coterminous or adjacent towns but the procedure is to a great extent simplified.

Provision is also made for the annexation or consolidation of various counties, cities and towns, if certain requirements with respect to density of population and area are satisfied. The consolidation may result in the formation of one city or county or more than one of each. The proceeding is in-

itiated by joint agreement or by petition signed by 10% of the voters in any one of the governmental units concerned requesting their governing body to initiate proceedings for a joint agreement. If no joint agreement is reached, the court may still require a vote, and the agreement must contain provisions for the disposition of property, for their reimbursement or assumption of a just proportion of any existing debt of any consolidating county, city or town by the consolidated city or the appropriate county or counties. The agreement may contain provision as to tax rates for the next five years.

The completion of these proceedings do not change the districts for representation in the state legislature. Also, in these proceedings, the consent of towns in the territory consolidated is not required.

Provision is also made for the consolidation of two or more counties by a summary procedure.

Procedures for detachment are also provided. The property subject to detachment is apparently restricted only to property which lies on the border of the town or city. The proceeding is initiated by ordinance of the municipality detaching the property.

In order to grant the detachment order the court must find, among other facts, that the detachment will not leave the bonded debt of the municipality in excess of the constitutional limitation, (18% of the assessed value of all remaining real estate); that the property owners in the detached area will suffer no substantial injury as a result of the detachment and that the detachment will be for the best interest of the city or town.

Another procedure is provided for detachment in the case of a town which is located in two counties. The property subject to detachment is apparently restricted only to that which borders the town.

Discretion is vested in the court to provide in its order as to the payment of any debts or obligations of the town as between the county and the inhabitants of the town as the court may deem just and equitable.

The foregoing may be found in the 1950 Virginia code including 1956 supplement sections 15-68, 15-78, 15-110, 15-152 to 15-231.4.

IOWA

The Iowa court in the recent case of **State** vs. **Town of Riverdale,** 57 NW 2d 63, 1953 held that a delegation of the legislative function of annexation and incorporation to the courts is unconstitutional on the basis that under existing legislation the court was required to make a public decision as to desirability.

One interesting statute which was passed by the 1957 Legislature and is obviously the recognition of certain circumstances which have occurred throughout the country regarding large municipalities provides that municipalities may not be incorporated within a three - mile urbanized area around cities of 15,000 or more population. This is undoubtedly an attempt to prevent the surrounding of large municipalities with smaller inefficient governmental units.

Under present Iowa law (Section 362.26) annexation by a city or town of adjoining unincorporated territory is initiated by council resolution followed by a vote of the annexing area. If the majority is in favor, the municipal council files a suit in equity against the owners of the property to be annexed. In order for the court to grant the decree of annexation it must appear "that there is an affirmative showing that the municipal corporation is capable of extending into such territory substantial municipal services and benefits not heretofore enjoyed by such territory, so that the proposed annexation will not result merely in increasing the revenue from taxation of such municipal corporations . . ." It will be noted that in this legislation, as opposed to that existing in 1953, the court is superficially not called upon to determine desirability, and, therefore, it is assumed to be constitutional.

Petitions of annexation may also be initiated by 10% of the owners of territory proposed to be annexed. This is followed by a vote in the annexing city. If a majority is in favor of annexation, a suit is filed in equity similar to the former described proceedings execept that the parties are in reverse positions. In such a proceeding if all of the owners of the property proposed to be annexed join in the petition the annexation is final.

Provision is also made for the annexation and consolidation of two contiguous municipalities. Each municipality appoints three commissioners to meet and fix the terms of the proposed annexation. In the terms the pre-existing indebtedness of the annexing city is to be paid by a tax on the city's territory as it existed prior to the annexation, and the pre-existing indebtedness of the annexed city is to be paid in the same manner. However, if the annexed city owns property, the property is transferred to the annexing city and the annexed city is given a credit to the extent of the value of the transferred property against its indebtedness.

When the councils of the respective cities approve of the proposed annexation it is submitted to a vote by the people and, when a majority of the votes cast in each city or town approve, the annexation becomes final.

Detachment is provided for by Section 362.32 and .33 of the Iowa code. The petition for detachment is initiated by a majority of the property owners in the area to be detached or a majority of the property owners in the city or town from which it is to be detached. Types of territory which can and cannot be detached are not specified by the Legislature. Once the court approves of a detachment petition it appoints a commission of three disinterested parties to hold a hearing and make an equitable distribution of the assets and liabilities. This decision is reviewed by the court de novo and a decree is entered.

KENTUCKY

Kentucky provides for six classes of cities; first, 100,000 or more population; second, twenty to 100,000; third, eight to twenty thousand; fourth, three to eight thousand; fifth, one to three thousand; and sixth, less than 1,000 population.

In all cities except fourth class cities a proceeding for annexation or detachment is initiated by ordinance. However, as to annexation the property must be unincorporated but for detachment a particular type is not specified. Within 30 days after the enactment of the ordinance any resident or property holder of the area to be annexed or detached may file a petition in the Circuit Court and, if the annexing city is a first class city, the proceeding will be tried according to the practice followed in jury cases and in all others the proceeding shall be tried in equity. The court or jury must find the following facts:

1. That less than 75% of the property owners in the proposed area disapprove of the annexation or detachment;
2. That the proceeding will be for the best interest of the city; and
3. That an approval of the proceeding will cause no manifest injury to the persons owning real estate in the affected territory.

Even if more than 75% have registered disapproval, the court or jury will order the annexation if it finds that a failure to annex or detach will "materially retard the prosperity of the city and of the owners and inhabitants of the affected area."

No appeal is allowed from the judgment of the Circuit Court in proceedings involving cities of the third or fifth classes.

Separate provision is made for the annexation or detachment by a fourth class city. The proceeding is initiated by a city ordinance. Apparently any territory may be annexed. As to detachment, no specification is made. As to the number of residents disapproving of the annexation or detachment, a majority rather than 75% is provided. However, no provision is made for granting the annexing or detachment order if more than a mapority disapprove of the annexation or detachment as in annexation by the other cities. If disapproved, no further proceedings can be taken within two years.

Special provision is made for the annexation or consolidation of first or second class cities of all or part of lesser cities. The first class city may annex all or any part of a second, third, or fourth class city but may annex all or any part of a fifth or sixth class city. The proceeding is initiated by an ordinance passed by the annexing city and then the issue is submitted to a vote by the voters in the proposed annexed city or that portion of the city which is to be annexed. A majority vote will allow the passage of an ordinance declaring the annexation or detachment final. If the annexation is rejected by the voters, no proceeding to annex the same territory can be initiated within five years.

NEBRASKA

A special provisions for annexation and consolidation applies to cities in the metropolitan class (having more than 100,000 population) which includes only Omaha. The annexation is initiated and becomes final upon passage of an ordinance by the city council of the annexing city. It may include any lands except agricultural lands which are rural in character and may include cities of the first class which have less than 10,000 population or any adjoining city of the second class or village. No provision is made as to appeal nor as to any restrictions on the frequency with which annexations may be carried out.

Provision is also made with reference to cities of the primary class or cities of between 40,000 to 100,000 population, which only includes the City of Lincoln. Here any land which is contiguous is the proper subject for annexation (and even agricultural land) is not eliminated by the statute. However, if the only purpose of such annexation is to increase revenues it will not be allowed. See **Witham vs. City of Lincoln**, 250 NW 247, 1933.

Cities of the primary class may also annex second class cities and villages according to the following conditions:

1. The second class city or village must adjoin the annexing city, or
2. It must be a second class city or village which adjoins a second class city or village adjoining the primary city;
3. Although not adjoining the primary city, if it is supplied in whole or in part with certain public utility services from plants or systems mainly located in the primary city it is the proper subject of annexation.

Here the proceeding is only initiated by a petition to the officers of the municipality to be annexed which petition must be signed by 20% of the electors of that municipality. A vote is then held at the next general election and if a majority approve the annexation the primary city is notified of that approval. If the primary city annexes by ordinance it then becomes final.

As a special provision under this proceeding policemen and firemen of the annexed municipality become members of the police and fire departments of the primary city.

In cities of the first class (those between 5,000 and 40,000 population) with reference to subdivided or surrounded land, if the territory is adjacent and has been subdivided into parcels containing not more than five acres or a tract which consists of five or more acres which is entirely surrounded by the city, annexation may take place and be final by ordinance.

Another provision allows annexation by cities of the first class of property which "would receive material benefit by its annexation to such city, or (where) justice and equity require such annexation of such territory of any part thereof . . ." This proceeding is initiated by a petition of the annexing city to the District Court of the county in which

the city is located. The court may decree annexation if it finds that the property is of the prescribed nature and an appeal may be taken from the decree.

With respect to annexation by cities of the second class (those with 1,000 to 5,000 population) and villages (100 to 2,000 population) the territory must be contiguous and the only way such annexation can be initiated is by a petition to the annexing municipality signed by a majority of the property owners and inhabitants in number and value of the territory proposed to be annexed. Once this petition is completed, the annexation is made final by an ordinance passed by an absolute majority of the governing body. Another statute provides for annexation by cities of the second class and villages wherein the proceeding is initiated by ordinance passed by the annexing municipality. However, the ordnance must be passed by an absolute two-thirds vote of the council. A hearing is held by the District Court for the county in which the municipality is located and the court decrees annexation if it finds that "the territory would receive material benefit by its annexation to such city, or that justice and equity require such annexation of such territory or any part thereof . . ."

Provision is made for the annexation and consolidation of two or more cities of the second class or villages. Three commissioners are appointed by each council to report the terms and conditions of the annexation. If each of the municipalities approves by ordinance the question is submitted to the electors of the respective municipalities. Upon the approval by separate majorities of each municipality the annexation becomes final.

With respect to detachment procedures are provided:

For cities of the first class and cities of the second class.

The type of property which may be detached is not clear but it appears to be sufficient if it is adjacent or unoccupied. The petition is initiated by any person or persons owning real property which is adjacent to the corporate limits or the owner or owners of any unoccupied territory if not less than 20 acres. The city may consent to the detachment by any absolute majority vote of the council and if it does the District Court must decree detachment. If the city contests the proposed detachment, the court then may decree detachment if it finds "that justice and equity require that such territory, or any part thereof, not less than 20 acres to be disconnected." Appeal is provided.

Appendix E

COMPARISON OF ANNEXATION LAWS

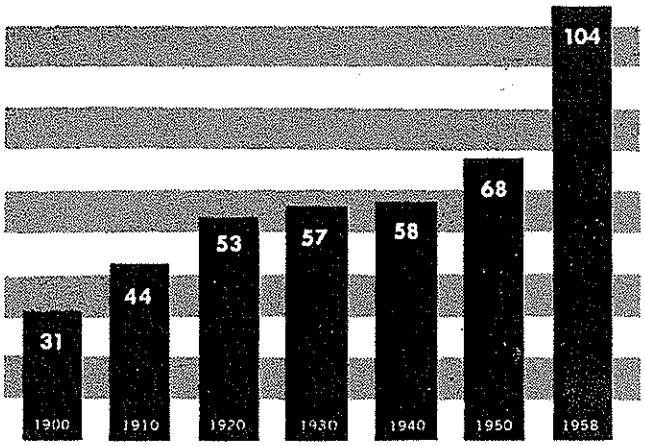
VILLAGES	4th CLASS	3rd CLASS	2nd CLASS	1st CLASS	BOROUGHS
1. Adjoining land owned by the village can be annexed by resolution — MSA 412.041(2)	1. Same — 413.13				1. Same — 413.13
2. Land completely surrounded by village territory can be annexed by resolution after hearing — MSA 412.041(3)	2. Same in part — 413.143—with added provision for ¾ by land to balance by water				
3. Platted land or unplatted land not in excess of 200 acres by resolution. Hearings where owners aren't unanimous — MSA 412.041(4)	3. Similar — 413.14	3. Similar — 413.19 by resolution	3. Similar — 413.22	3. Similar — 413.24 413.22	
4. Area with not less than 75 persons, no territory more than 1½ miles from village limit — MSA 412.041(5)	4. Same — 413.12	4. Similar — 413.18 by election			
5. Contiguous airports owned by village or city — MSA 413.35	5. Same — 413.35	5. Same — 413.35	5. Same — 413.35		
6.	6. Lands from adjoining counties — 413.15				
7.	7. Land of State Institutions — 413.16	7. Same — 413.16 413.21 413.211	7. Same — 413.16	7. Same — 413.16	

Appendix F

NUMBER OF INCORPORATED PLACES IN FIVE COUNTY AREA

It is interesting to note that the eight year period since 1950 has had 36 incorporations. This is only one less than the total number of incorporations that occurred during the entire first half century.

(From The Challenge of Metropolitan Growth, Twin Cities Metropolitan Planning Commission, Report No. One, December, 1958.)



Appendix G

Some Principal Sources Which Give Insight Into the Problems and Suggested Solutions

1. "The States and the Metropolitan Problem," **The Council of State Government** (1956).
2. "Annexation, Problems and Procedures," 39 **Minn. L. Rev.** 553, April, 1955.
3. "Village Incorporation: Practical Considerations and the 'Properly Conditioned' Test," 38 **Minn. L. Rev.** 646, May, 1954.
4. "Terms and Conditions of Annexation under the 1952 Statute," 41 **Virginia L. Rev.** 1129 (1955).
5. "Standards for Municipal Incorporation on the Urban Fringe," 36 **Texas L. Rev.** 271, February, 1958.
6. "Municipal Incorporation on the Urban Fringe: Procedure for Determination and Review," 18 **La. L. Rev.** 628, June, 1958.
7. "Municipal Incorporation and Annexation in California," 4 **U.C.L.A. L. Rev.** 419, April, 1957.
8. "Annexation," **Public Administration Review,** Vol. XV, p. 56, October, 1955.
9. "Townships on the Way Out," 46 **National Municipal Review,** Vol. XLVI, p. 456, October, 1957.
10. "Metropolitan Coordination in Los Angeles," **Public Administration Review,** Vol. XVII, No. 3, July, 1957.
11. "State and the Metropolitan Problems," **Report to the Governor's Conference,** John C. Bollens, Director, 1956.
12. "Problems of Urban Towns (Townships) in Minnesota," **Minnesota Legislative Research Committee,** Publication No. 58, November, 1953.
13. "Inter-Municipal Cooperation in Minnesota, 390g," **Municipal Reference Bureau,** League of Minnesota Municipalities, University of Minnesota.
14. "Challenge: Metro Puzzle," **National Municipal Review,** December, 1958.
15. "Decisions and Recommendations of the Board," **The Ontario Municipal Board,** January 20, 1953, (In the Matter of an Application of the City of Toronto Amalgamating the City of Toronto with Certain Municipalities, et al).
16. **The Municipality of Metropolitan Toronto Act,** 1953, printed and published by Baptist Johnston, Printer to the Queen's Most Excellent Majesty, Toronto.
17. **Metropolitan Toronto, 1958,** published by the Municipality of Metropolitan Toronto.
18. **A Submission by the Council of the Municipality of Metropolitan Toronto to the Commission Appointed by the Lieutenant - Governor - in - Council of the Province of Ontario to Inquire into the Affairs of the Metropolitan Corporation,** June 15, 1957, published by the Municipality of Metropolitan Toronto.
19. **Submission by Frederick G. Gardiner, Q.C. to the Commission Appointed by the Lieutenant-Governor-in-Council of the Province of Ontario to Inquire into the Affairs of the Municipality of Metropolitan Toronto,** June 15, 1957, published by the Municipality of Metropolitan Toronto.
20. "The First Annual Report on the Progress of Metropolitan Dade County-Florida," by O. W. Campbell, County Manager, as presented to the Board of County Commissioners, published by Dade County Government.
21. **The Government of Metropolitan Miami,** 1954, published by Public Administration Service.

Appendix H

The provision applicable to townships of over 2,000 population, exclusive of any municipality within the township, would effect some eleven townships. According to the 1950 Federal Decennial Census, there were twenty-one townships with 2,000 or more population. However, since 1950, ten of these have become incorporated. Those remaining are:

Albert Lea Township, Freeborn County 3-611
Austin Township, Mower County 2,221
Herman Township, St. Louis County 3,159
Knife Falls Township, Carlton County 2,415
Oakdale Township, Washington County 3,296
Rice Lake Township, St. Louis County 2,838
Rochester Township, Olmstead County 2,334
St. Cloud Township, Stearns County 3,209
Stuntz Township, St. Louis County 4,681
White Bear Township, Ramsey County 7,049
(Proceedings pending in the State Supreme Court)
Willmar Township, Kandiyohi County 2,606

The proposed legislation would cause these townships to become incorporated or annexed as the Commission may determine.

It is impossible to determine the number of other townships that have grown into this category since the 1950 Federal Census and the new statistics will not be available until after 1960.