AN ECONOMIC ANALYSIS OF THE 1971 ROANOKE, VIRGINIA ANNEXATION CASE

by

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CHAPTER I

INTRODUCTION

On 19 April 1971, six years after the Ivan R. Young vs. the City of Salem case was filed in Roanoke County court, it again came to trial. Now, however, instead of a simple annexation case involving a 3.91 square mile area which had petitioned for annexation to Salem, Virginia, it involved two areas to be annexed to Salem, two areas which had petitioned for annexation to Roanoke, and an annexation ordinance from Roanoke attempting to annex all of Roanoke County. The original Ivan R. Young case had been returned for retrial from the state Supreme Court of Appeals and thus complicated in the intervening years. Now the consolidated case, deeply affecting the governmental structure of the Roanoke area, was to be determined.

The purpose of this thesis is to provide an economic analysis of this unique case as the situation exists, and as presented by the parties involved. Since many of the activities and problems of local governments are economic, and since one of the chief reasons for the existence of government is economic stability and growth, such an analysis is essential to effective decision-making in such a case. While the analysis deals with a court case, it should be clear that there is no attempt to criticize the proceedings on a legal basis. Rather, the validity of various arguments and the significance of certain facts will be assessed from an economic and logical standpoint.

Virginia Annexation Law

The unique annexation process in Virginia is based on the judicial system rather than political system. During the state constitutional revision of 1902, it was felt that the local situation could better be decided upon by the courts than by the General Assembly with its state-wide orientation.[1] The General Assembly has, however, provided a small amount of guidance for such annexation courts in order to help maintain consistency from case to case.

Initiation of proceedings

Within the state there are four methods of initiating an annexation case. The first is for the municipality to adopt an ordinance describing (1) the metes and bounds of the area sought, (2) the "necessity for or expediency of" annexation, and (3) the conditions upon which the annexation will be made. A second method of initiation is by a petition of 51 percent or more of the registered voters of the area requesting that they be annexed to the city. The third method is for the government of the county to initiate the proceedings, asking for all or part of the county to be annexed. The last method is for the governing body of an incorporated town to petition the court to have the town annexed to a specific city. The last two methods were added in 1952 and have been used only once since then, while both of the first two are being employed in this case. In any case, the three above requirements must be satisfied by the petition to the court and the decision is made by the court following a hearing.

Basis for the decision

As a basis for making such a decision, the General Assembly laid down the following ground rules for the courts. Primary among the criteria to be used was the broad directive that,

> the court should determine the necessity for and expediency of annexation, considering the best interests of the county and the city or town, the best interests, 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]

This wording of the law is obviously very vague. In effect it placed the entire decision of an annexation case on the courts and case law. In addition, the Code of Virginia also provides that the lines of annexation should be drawn so as to have a "reasonably compact body of land." Also, "no land shall be taken into said city which is not adapted to city improvements unless necessarily embraced in said compact body of land or which the city shall not need in the reasonably near future for development." These are the basic factors which must be considered by the court which otherwise has a wide leeway in making the decision.

The true leeway of the courts is shown by the fact that the court may determine that either more or less land should be annexed than requested in the petition and thus grant what they feel is necessary and expedient. The court also determines what payments the gaining city is required to make to the county for the public improvements in the annexed area and for the taxes lost.

It can be seen, therefore, that the General Assembly of Virginia has set only a very general pattern for annexation within the state.

The real pattern has been formed by the courts in the series of annexations that it has adjudicated since the judicial method of annexation was initiated in 1904.

An analysis of the past judicial decisions and opinions shows that there are several arguments which are particularly effective. As a result of the effectiveness of these arguments and of the various precedents which have been set, most annexation cases follow a basic pattern and attempt to prove the same points. In the analysis of this case, it should be remembered that Roanoke City depends heavily on arguments which have, in other cases, been deemed sufficient. From a practical standpoint, this frequently explains why Roanoke uses specific arguments but should not be the reason for exclusion from the case of more sound arguments which are not familiar to the courts.

Background

The Roanoke area

Within the boundaries of Roanoke County there are four political subdivisions. These are: Roanoke County, the Town of Vinton, the City of Salem, and the City of Roanoke. The annexation situation has played an important part in the life of the Roanoke area. Roanoke has consistently grown in area since it was incorporated in 1882, primarily because it was established as the home of the Norfolk and Western Railroad. Salem, which is much older, has not experienced rapid growth similar to that of Roanoke. As Roanoke became a stronger economic and political force in the Valley, containing over half the population in 1960, the Town of Vinton, the City of Salem, and Roanoke County began to

fear annexation attempts by Roanoke. The two towns had, at times, acquired small amounts of land from the county with little opposition, but Roanoke seemed to demand more and more land for growth. During the last twenty years, there has developed a significant amount of animosity between the government of Roanoke and its neighbors.

Past annexations

In general, the following are the significant annexation cases in the Roanoke area in the last twenty-five years:

In 1948, Roanoke sued for and was granted 11.83 square miles of what is now the Williamson Road, Peter's Creek and Garden City areas of the city. Annexation added about 16,000 people to the already 75,000 population and almost doubled the land area of the city.[3]

In 1961 the city's request to annex 31.9 square miles was turned down on the grounds that the city failed to prove the necessity of such annexation. The opinion of 1 May 1961 indicated that the city failed to show that a significant increase in services for the area would result, that the area acquired in 1948 had been developed to its fullest, or that the city was in a financial position to acquire the new area.[4] In addition, 89 percent of the registered voters of the area had petitioned against the annexation. The decision was upheld by the State Supreme Court of Appeals.[5]

In 1965 the original Ivan R. Young case was filed in which a group of petitioners from the corridor area between Roanoke and Salem requested annexation by Salem, chiefly to avoid annexation by Roanoke. The annexation was granted in the lower court but returned for retrial

by the Appeals court because the area petitioned for overlapped with the Windsor Hills area of the county which preferred Roanoke. The case presently in question is actually the retrial of this earlier case, consolidated with three other petitioner cases, and Roanoke City's all-county case.

According to Virginia's annexation laws, independent cities cannot be annexed by any other governmental subdivision. However, any part of a county, including a town, may be annexed by a city. As urban growth crept into and around it, Salem became aware that it could be annexed by Roanoke without its consent. To avoid this eventuality, the "town" of Salem quickly became a "city" on 1 January 1968. The battle lines were drawn and Salem was taking a stronger position against union with Roanoke. Salem's transformation into a city was only one manifestation of the attitude which has prevailed in the Valley for years. A lack of sincere cooperation has led to many expensive delays and duplications of the provision of services. One of the most prominent is that of the two multi-million dollar Civic Centers, completed within four years of each other and resulting from a lack of agreement between Roanoke and the remainder of the Valley. Other such examples are the current lack of agreement on a sewage treatment contract and the ever-present problem of solid waste disposal sites.

The hearing

In the current case being tried, Ivan R. Young, et al. vs. City of Salem, et al., a unique situation exists in that the court has consolidated four petition suits with the case of Roanoke, which is

attempting to annex the entire county. The annexation ordinance, as prescribed by law, was passed by Roanoke City Council in June 1969, calling on the court to grant all of Roanoke county to the city. Since this portion of the consolidated suit encompassed the four other areas and more, the court decided that it should be heard before the four other areas. As it happened, the court found in favor of the county in the all-county case, and moved on the case for the petitioners.

Two of the four cases involving petitioners were requests to be annexed to Salem. These two areas, the Corridor and Glenvar, apparently requested annexation solely to avoid union with Roanoke. This is borne out by the fact that as soon as the all-county case was denied by the court, and there was little possibility of annexation by Roanoke at that time, these two cases were withdrawn. This left two areas directly involved in the case, both seeking annexation to Roanoke. These two areas are commonly known as the Airport and the Windsor Hills areas. The second portion of the trial consisted of the City of Roanoke presenting a combined case for these two areas, followed by the defense case. Final arguments were heard on 25 June 1971 and the case went to the court.

CHAPTER II

ROANOKE CITY'S "NEED" ARGUMENTS

The Need for Land

Roanoke city formally filed petition for annexation in June, 1969. This petition requested that the city be granted the entire area of Roanoke County consisting of 262.53 square miles. The main contention of the city concerning the suit was that the city of Roanoke was in dire need of land for continued future growth. In the 1906 case of Henrico County vs. City of Richmond, the Court of Appeals said the following:

> The necessity for or expediency of enlargement is determined by the health of the community, its crowded conditions, its past growth, and the need in the reasonably near future for development and expansion.[6]

This often-quoted citation was used by Roanoke as a basis of its argument that its need for land constituted a need for annexation.

The evidence

To substantiate this need-for-land contention, much testimony was entered. An urban consultant, William M. Zollman, began the testimony stating that there were only 2,761 acres of vacant land suitable for development within Roanoke. This was backed by slightly higher figures in later testimony by the city manager, Julian Hirst, by economic consultant, Raymond Zuchelli, and by Roanoke City exhibit A-14. This figure involves approximately 15.8 percent of the city. However,

according to the city, this figure is only meaningful when one realizes that it consists chiefly of individual vacant lots and small tracts not available for large scale industrial or residential development. Zollman pointed out that there has been a distinct lack of suitable home sites within the city for about ten years and a lack of land for sub-developments for at least twenty years. Zollman then introduced several sets of figures, such as that the subdivision lots sold in Roanoke during 1970 amounted to twenty-two, while a total of 806 were sold throughout the Valley. These figures are intended to show that the area within the city is crowded to the extent that it is necessary for industry and individuals to locate outside the city limits.

To corroborate the contentions of the consultants, the city called two real estate agents and developers to testify. Richard B. Quick indicated that for approximately ten years he has had to show county property to residential buyers due to the lack of supply of homes and home sites within the city. As a developer, he also testified that he consistently had to sub-develop county sites because there were no more areas available within the city. The same situation was presented concerning industrial sites by James L. Trinkle. This testimony concerning the need for land and the lack of sites within the city is to show the "necessity for and expediency of" annexation due to its "crowded condition, its past growth, and the need in the reasonably near future for development and expansion."

The argument put forth by Roanoke city concerning a need for land was based on the previously successful arguments of other cases. In addition to the Henrico County vs. City of Richmond case in 1906,

this argument was borne out by the decision of the Virginia Supreme Court of Appeals for the City of Alexandria vs. Alexandria County decision in 1915.[7] This decision was clearly influenced by the argument concerning crowded conditions since the opinion states: "The contention that Alexandria is the most compactly built up city in the state is clearly sustained by the evidence in the record." The opinion further cited the fact that there were comparatively few vacant lots in the city suitable even for modest or inexpensive dwellings, little land available for manufacturing or other business enterprises, and no available ground for parks and schools which were needed. The precedent, set early in the century and reinforced throughout Virginia's history of judicial annexation, amply explains Roanoke's use of the argument, but the validity of the argument deserves a much closer examination.

Possible economic counter-case

Let us now try to restate the argument of the city in order to permit closer analysis. The city of Roanoke stated that it is "full" and rather developed, having a low percentage of vacant land with little development potential. To continue development and growth as a city, Roanoke needs more land, according to the proponents of annexation.

As impressive as the evidence behind this argument may sound to the courts, this argument alone does not support an annexation proposal. The figure 15.8 percent vacant land is low compared to other cases. However, this figure is based on current land use patterns within the city. Similarly, such a figure could be tabulated for the farming areas of the county with a similar low result, for very little farm land would

actually be considered "vacant." The point here is that the statistic concerning the amount of vacant land is meaningless without knowledge of the intensity-of-use of the occupied land.

As a rural farm area is developed into an urban or suburban residential area, it is not a case of developing vacant areas, rather a change from a land-extensive agricultural usage to a more intensive use of the area. A suburban residential area could be further developed by the construction of multi-family dwellings and apartments, which is again a more intensive use of the land. Again, land can turn to uses such as industrial, commercial, and high-rise apartments which, of course, is the most intensive urban use of land. Development in this case, therefore, is not only the initial utilization of previously vacant land, but any increase in the intensity-of-use of the land.

We can now apply some widely held theories of urban organization, and the specifics of the Roanoke case to the concept of development as a change to more intensive land use. From this, it can be seen that the city of Roanoke does not necessarily need more land to continue its growth and development. Hoover, Dunn, Isard, von Thunen, and others have referred to the increased density of population and commercial activity at the center of a metropolitan or urban area.[8] Such theoretical constructs as the Thunen "ring" or the Hoover "rent surface" are used to explain the high demand for space, the rents charged for land, and the high intensity-of-use of land at the center of the economic area. Such concepts are applicable to the Roanoke area which has a well defined central business district. In a three-dimensional interpretation of

Hoover's "rent surface," a pyramid or cone is formed showing higher intensity-of-use or higher rents demanded at the center of the economic area. A corollary to such thinking is the idea that as the base of the cone expands outward, the entire cone is elevated. In other words, as the urban or metropolitan area expands in size, there is increased demand for the downtown space also.

Actually what is being said is that as the demand for land gets high enough to convert land from agricultural to more urban uses, it also exerts pressure toward more intensive use of land which is already urban. In general, an increase in demand for an area increases its intensity of use. Such change in intensity can distinctly be considered urban development and such development does not require additional area to be included in the city, and does not require vacant land.

Some people contend that such an analysis of a city is not accurate due to the rapid growth of suburban shopping centers and use of automobiles. This distinctly has taken away from the retail sales in the downtown areas and has been a problem in Roanoke in the last decade; however, the facts show that the agglomeration effects of the downtown will continue to draw services, light industry, and retail and wholesale trade. Such a position as the central business district of a growing urban and economic area offers a distinct potential for future development at least on the periphery of the downtown area.

This latter hypothesis is borne out by the location of two recent structures in Roanoke, The Roanoke Valley Community Hospital and the Roanoke Civic Center. Both structures, which have been built in the

last ten years, are distinctly in the downtown area. The Civic Center was constructed in a former redevelopment area and is clearly an example of increasing the intensity-of-use of an area adjacent to the downtown. The construction of the Community Hospital required the removal of a middle-class neighborhood in order to obtain land adjacent to the downtown area, and like the Civic Center, would be considered an expansion of the downtown. Both of these recent, major projects represent an extension of the central business district, an increase in the intensity of land use in the center of the economic area, and significant development of the area without need for vacant or additional land.

Thus, it can be seen that the argument that the city needs land for continued development is based upon a misconception of what factors are necessary for urban development. The real intent of such an argument, aside from the effectiveness in previous annexation cases, is that the city recognizes the present growth and the growth potential of the neighboring areas and, therefore, wants to take advantage of such growth. The city feels that in order to keep up with the county, it needs readily developable land; that is, area which is expected to become more intensely utilized in the near future by construction of shopping centers, housing developments and industrial developments.[9]

Need for Services

Following the city's plea for more land on which to develop, Roanoke presented its second main contention of the case. According to Roanoke, the major part of Roanoke County is at least suburban in

nature, and therefore needs the services which the city can provide. Although alluded to early in the case by Zollman, this point was clearly espoused by the city manager of Roanoke, Julian Hirst. Hirst discussed a planned $81 million capital improvements program to be carried out in the event of the annexation. Generally, the services which Roanoke felt it offered the county were sewage treatment, water, increased police and fire protection, storm drainage, improved streets and roads, and improved area-wide planning and zoning. The capital improvements program was designed to implement the provision of services to the annexed area. After a review of the services provided in the proposed annexation area, the increases in services offered by the city and the capital improvements program will be described, followed by an evaluation of the "need for services" argument.

Present sewage treatment situation

Roanoke City provides the major sewage treatment facilities within the Roanoke Valley. The City of Salem has its own sewage transmission system, but the sewage is treated under contract with the City of Roanoke. There are areas of the county which are adjacent to the city which are connected with the city sewage system on a fee basis. The Town of Vinton has its own treatment plant which frequently operates at capacity. In order to comply with health regulations, Ronoake has agreed to handle any overflows from the Vinton plant when the city's plant is not overtaxed. Also, the Roanoke County Public Service Authority provides sewage service to several areas of the county which happen to be adjacent to Roanoke. The sewage from this Authority is also

treated by the city. In addition, there are three significant private sewage treatment plants which are in developed areas of the county, each serving a population of 200 to 500 people. The remainder of the county utilizes individual septic tanks for sewage.[10]

The sewage treatment plant of the city has been operating near capacity for some years, and Roanoke is studying plans for the construction of an addition. After realizing the actual lack of excess capacity of the Roanoke system, the State Water Control Board banned any new connections for nearly three months in the early part of 1971. This condition jeopardized both residential and commercial construction within the county areas connected to the city system. On several occasions, commercial and industrial firms have had to fight during strenuous negotiations in order to get adequate sewage service provided to locations which are in the county. In addition, by the terms of a 1952 contract, the county is presently paying the city $35.50 per million gallons for sewage treatment while the city insists that the sewage treatment now costs them approximately $65.00 per million gallongs. Attempts are being made to renegotiate a more equitable contract, but a block still exists. This emphasizes the current problems of the present system.

Present water provision situation

The pattern of provision of water to the area is similar to that of the sewage system since Roanoke provides water to many of the adjacent areas of the county, including the entire town of Vinton. The city of Salem provides its own water system, and the Roanoke County Public

Serivce Authority furnishes water to some areas of the county. In addition to the three major industrial water systems for private firms, there eleven large water companies which serve communities and developments along with approximately fifty smaller public systems serving subdivisions and small industries. Privately or jointly owned wells supply the remainder of the county. The provision of water is much more stable and more widespread than that of sewage service.[11]

Police and fire protection

The Roanoke City Police Department provides complete police services within the city with a ratio of 2.1 officers per 1,000 population, while the county with much larger area per capita, operates an effective force with 0.58 officers per 1,000 population. There was never any evidence introduced to indicate that the County Sheriff's office was less effective than the larger city force; however, the city contended that the political boundaries had no effect upon crime rates so that the developed and developing areas of the county should need the police protection commensurate with the type of area.

While the cities of Salem and Roanoke both have paid fire departments, Vinton and the county have volunteer fire departments with limited paid personnel manning eight stations throughout the county. Although the comparison of the protection offered by the two types of service could be considered subjective, the area within the city is rated Class 3 by the National Board of Fire Underwriters, but the county is rated Class 10, the worst on the scale. This has a significant effect on the fire insurance rates, giving those served by the city fire department a lower rate scale.

Street and road construction

Road and street construction within the city is carried out by the City Department of Public Works. The city, likewise, is responsible for storm drainage within the city limits. Road and street construction along with storm drainage projects, however, are frequently eligible for partial or total state or federal funding under several programs which give partial financial relief to the city. In general, road and street work within the county is carried out by the Virginia Department of Highways. This means that the county and Vinton have responsibility only for minor road work, such as alleys and minor changes. Similarly, the county indicated that it was not involved in any storm drainage projects and had not been for five years.

Other services

Consultants for the city indicated that development will be "pushing the mountains" in twenty years. To allow for this growth, there is a need for orderly planning. The city has a full time planning staff which studies zoning regulations, and evaluates suggested changes within the city. Roanoke County also has a planning commission which evaluates proposed changes. The recommendations of the planning commission, however, are subject to action by the County Board of Supervisors. Both the city and the county use the services of consulting firms when the need arises. In addition to the planning activities of the city and county, the State of Virginia has established a regional planning commission, called the Fifth Planning District Commission. The area covered within the Fifth Planning District includes Roanoke County

and Roanoke City, as well as three other nearby counties and their towns and cities. At this time, the Commission acts chiefly as a clearinghouse for certain state and federally funded projects and is in no position to perform or enforce any detailed zoning and planning functions within the county or city.

The City of Roanoke, City of Salem, and the Town of Vinton have regular trash and rubbish collection throughout their areas. The county also provides trash collections, but on a more limited scale and at a fee of $2.00 per month for an average of one pickup per week. The municipalities have no charge for trash collection and usually have two pickups per week. The city also referred to other services that it provides, such as the city library system, the city school system, and the city public health service, but it made no assertion that these services would increase significantly in the annexed areas.[12]

What is "need"?

This brings us to a point where several important questions must be answered. These are, "How do you determine if an area needs additional services?" and, "Does the need for services indicate a need for annexation?" In some specific cases it is easy for an impartial judge to determine that an area needs specific services. If, as in the Windsor Hills and Airport areas, a majority of the registered voters actively indicate a desire for the services and willingness to pay for them, it could be interpreted as a need for the services. The minority which opposed the service could be in a position of sharing a cost which they do not want because such services as sewage and water are provided on

an area-wide basis, and the availability of service adds to the value of their property as well as to that of other property.[13]

Another specific case of need would be the existence of strong negative externalities which inflict a cost upon neighboring areas. If an area which lacks an adequate sewage system significantly influences a neighbor's water supply, the courts could, within reason, require the area to utilize available sewage facilities or to construct new ones. Thus, the presence of negative externalities from an area could indicate a need for specific services or facilities. In the Roanoke case, however, there is the additional problem of determining the extent of the need and who should bear the costs.

Other than these situations, it seems unlikely that an impartial judge could objectively determine that certain areas need specific services. Thus, the City of Roanoke should introduce evidence indicating that the people in the area need the services (a) because the majority support it, or (b) because the lack of services in the areas exerts an externality upon the city, which the city needs to internalize.

Does "need" indicate annexation?

Once it is determined that an area needs specific services, it should be determined whether this means annexation is needed. Can the City of Roanoke provide sewage service any better than the county, or a private firm? Is there any reason why better fire protection cannot be offered by the county rather than reverting to annexation?

In order to answer these questions, it is necessary to examine the difference between counties and cities in Virginia. Everyone has

at least a vague concept of what a county is, but neither the Constitution nor Code of the State of Virginia completely specify the difference. The courts have continually tried to differentiate between city functions and county functions. In trying to enable urban counties to provide for their residents, the General Assembly clarified the situation somewhat in 1966. According to the Code of Virginia, "The boards of supervisors of counties are hereby vested with the same powers and authority as the councils of the cities and towns by virtue of the Constitution of the State of Virginia."[14] Although this has been strictly interpreted by the courts in several instances, counties are distinctly in a position to provide all the services which Roanoke City insists are needed in the county. Again, who is to provide the services needed by areas within the county?

We have indicated that certain areas need or desire services of the local government, while others have no need for such services. A basic dividing line has often been the density of population, with the less dense areas desiring and requiring fewer services than the more densely populated areas. This can be explained by the fact that the greater the density of population in an area, the greater the need for streets and roads, for fire protection, and the greater the density of schools, etc. Although the General Assembly has seen fit to allow counties to exercise the powers of cities, it--along with the courts--has long recognized the different demands of rural and non-rural residents. In general, it was intended that the difference between cities and counties would provide each group--urban and rural respectively--

with the needed services. However, as areas of the county become more dense, they develop needs which the rural populace does not want to support with taxes. Thus, counties such as Roanoke are torn between pleasing the urban or rural population. It is not simply a matter of what a county can do, but what it will do.

The consolidation vote and petitions

Having discussed these questions of "What constitutes need?" and "Does need dictate annexation?", it is now possible to discuss the city's argument that the county needs the city's services. Early in the proceedings, two items were introduced which indicated the attitudes and thus possibly the need of the county residents. The first items of evidence accepted during the pre-trial conferences were the petitions of those in the Windsor Hills and Airport areas which included the signatures of 62 percent of the registered voters in the Windsor Hills area and 51 percent of the voters in the Airport area. These petitioners indicated that they wanted to be annexed to the city of Roanoke, and that they felt such annexation was necessary and expedient. According to criteria discussed above, this could well be interpreted as a need by these two areas for the facilities offered by the city. In addition, the results of the 1969 vote for consolidation of the city and county were introduced early in the hearing. This vote of the people of the City of Roanoke, Roanoke County, and the Town of Vinton was on a proposal to unite these three governments into one city, under a completely new charter and government. For the proposal to be accepted, it was required that each governmental unit accept it, or it would be completely

TABLE 1

RESULTS OF THE NOVEMBER 1969 CONSOLIDATION
VOTE BY ROANOKE CITY, ROANOKE COUNTY,
AND THE TOWN OF VINTON

Area	For	Against
A. Political Units		
Roanoke City	17,343	3,370
Roanoke County (- Vinton)	8,091	8,591
Vinton	651	1,123
TOTAL	26,085	13,084
B. Selected Precincts		
Airport Area		
Medley	398	338
Burlington	800	623
Windsor Hills Area		
Windsor Hills #1	654	197
Windsor Hills #2	904	306
Oak Grove	954	445
Ogden	755	495
Typical Rural Precincts		
Catawba	22	244
Bent Mountain	37	153

Source: Roanoke Exhibit A-9 and A-10, Ivan R. Young vs. City of Salem, Public Record by Clerk of the Court, Roanoke County, Virginia.

rejected. Even though the plan was originally planned and passed by the Vinton Town Council and the County Board of Supervisors, these two areas defeated the plan while the City of Roanoke passed it overwhelmingly.[15]

An analysis of the consolidation vote, as Roanoke presented it, shows that those areas of the county which are developed, such as the Airport, Windsor Hills, and other areas adjacent to the city, voted for the proposal, while it was defeated by those from the rural areas, such as the Catawba district which voted 14-222 against the measure. Again, the significant support from the areas adjacent to the city indicated to Roanoke that the areas wanted and needed to be part of the city. In actuality, the real value of the results of this vote are very questionable. The events which preceded election day were very emotional and high-pitched. This, combined with the long standing intergovernmental rivalry, strongly influenced the outcome. The vote, therefore, can perhaps be interpreted more as an indication of whom the people wanted to govern them, rather than services they needed.

Witnesses want services

In addition to the petitions and the consolidation vote results, the city called witnesses from the county to indicate their need for the services of the city. The witnesses called, however, were from the Windsor Hills area, which had petitioned to enter the city. These witnesses testified to their desire for sewage and water lines within their neighborhood. At the time, they were using septic tanks for sewage and were served by the Roanoke County Public Service Authority

for water. With respect to the water service, theyindicated that they were skeptical of the reliance upon wells by the Authority and pointed out that the pressure was insufficient for fire hydrants.

One witness related the story of a local night spot which had burned to the ground due to a lack of an accessible source of water for the fire fighters. Other minor service inadequacies were mentioned, such as insufficiently lit streets, lack of traffic lights at specific intersections, and the lack of curbs and gutters in developed neighborhoods. This testimony distinctly indicated a need for services in the area mentioned; however, all such evidence concerning a need for services by the residents came from the Windsor Hills and Airport areas which comprise only 3 percent of the population of the county. Thus, such evidence is relatively insignificant for the all-county case, except that it shows that the county, for some reason, is not providing some of the services which are desired in the developed areas.

Externalities

To this point, the city had attempted to show a need for services within the area by showing it was the desire of the people to have the services. The city also attempted to show need by the other line of reasoning mentioned above, the externalities inflicted upon the city by the lack of county services. Among these, is the effect of separate sewage systems upon the area water supply, the effect of insufficient area-wide planning and zoning, and the deterrent to industry caused by the separate governments which must be dealt with.

The sewage problem is multifaceted, including that of septic tanks and a regular treatment system. The Town of Vinton has a sewage treatment plant which was constructed in the early 1950s and designed to serve a population of 6,000,[16] while from 1960 to 1970, Vinton's population jumped from 3,432 to 6,289. Although the city has agreed to assist in the case of overload of the Vinton plant, the State Water Control Board had recently leveled attacks against Vinton for allowing overflows to enter into local streams. Not only does the sewage treatment pose a continual threat to local streams in the eastern part of the county, but the inadequacy of the system puts pressure on the Roanoke system which is operating dangerously close to capacity already. The city also indicated that there was a possibility of the ground water being polluted by an abundance of septic tanks and private or community sewage treatment plants, but did not introduce any evidence which was technically competent to corroborate such an assertion. Although Roanoke did not attempt to prove that any significant pollution existed as a result of these other sewage treatment facilities, and did not assign any dollar cost to the pressure to absorb overflows from the Vinton system, it did clearly insinuate that the possibility of both of these caused the city to incur costs of additional planning, coordinating, and uncertainty as a minimum.

Although not strongly emphasized by the city, Roanoke introduced evidence to the effect that the present municipal service provision arrangements within the area were detrimental to industrial development. Walter Dalhouse, a local bank executive and the president of the Roanoke

Valley Chamber of Commerce, testified that within the last several years, at least one prospective new industry in the area had not located within the Valley because the government could not agree on the provision of services. The firm had picked out the site in the county and was making arrangements when it inquired about the provision of water and sewage service. Neither the county nor the city provided an answer, and the firm dropped plans to locate in the Roanoke area. The fact that coordination is necessary for such industrial services in the county, and the fact that it is frequently difficult to get cooperation between the City of Roanoke and the county is a distinct deterrent to new industry. The contention of Dalhouse, the Roanoke Valley Chamber of Commerce, and the city, was that the all-county annexation would eliminate such deficiencies and encourage more new industry to locate within the Roanoke Valley.

The third area where Roanoke indicated that lack of all-county unity was costly to them was the effect of the absence of coordinated planning and zoning. Such lack of planning does now, and will in the future, contribute to poor land use patterns within the Valley. If, however, the entire area were under a single planning agency or urban planning department, such would be available. As an example, Roanoke recalled the continual problem of traffic congestion along Hershberger Road, which is a large segment of the northwest city limits and a main route to Crossroads Mall shopping center. The city insists the road would be a four-lane road if the city had control of the route, while the State Highway Department has only recently classified the route as

a primary urban route. The lack of coordinated and extensive planning and zoning is also detrimental to both residential and industrial development.

The above mentioned externalities imposed upon the city were brought into the case to show that the city was being hurt by the governmental divisions which existed, while the externalities could be eliminated if the all-county suit were granted. It is felt that the problem which the city emphasized the most--the pollution from inadequate sewage disposal methods--is actually the weakest of the arguments. On the other hand, the lack of industrial services by the county, and the absence of coordinated planning on an area-wide basis appears to be more significant than the city contended. An industry which is contemplating location within the Roanoke Valley has a distinct interest in the intergovernmental relationships which exist and plans for future growth in the area. Any large industrial facilities entering the Valley would require city water and sewage service or would have to provide its own. Likewise, it would desire police and fire protection which would be ample for its particular needs, and would like services--such as road maintenance and drainage along access roads--to be provided. If the firm must go through extensive negotiations with both the city and county and still face a brick wall as Dalhouse's example illustrated, then the entire area loses. Reducing the number of governments which must be dealt with to one, and the maintenance of progressive and accurate land use plans for agricultural, residential and industrial uses, would eliminate many of the problems and much of the uncertainty concerning industrial and residential development.

Roanoke's argument: need for services = need for annexation

Considering the expressed desire of the petitioners in the case and the need of the area to eliminate the costly externalities of multi-governmental organization, in this case there is a distinct need for the services of the city within much of the county. This brings us to a point where we will ask the following questions: "How much of the county needs these services?" and "Does this necessarily indicate a need for annexation to Roanoke?" The latter question will be answered now while the former will be put off until an overall analysis of the city's all-county case.

The second aspect of Roanoke's "need for services" argument was based on the contention that since the county needs the services, the city should provide them. The city presented three arguments which were to convince the court of this. The first of these was the statement primarily by the City Manager, Julian Hirst, that the city is already providing many services on an area-wide basis. Hirst mentioned the operation of the Roanoke Municipal Airport, the Roanoke Juvenile Detention Home, the provision of water to some areas, and the sewage treatment service provided to the county and Salem. Roanoke presented this as evidence that they had the ability and willingness to provide such services over the entire development portions of the county.

Several of the city's witnesses went into detail concerning the $81 million capital improvement program which the city manager had proposed to the City Council. This not only fulfilled a requirement in the Virginia Code requiring a list of planned improvements for the annexed

area, but also showed the court that the city planned to extend its services well into the county, as applicable. Included in the improvements were five parks, four fire stations, improved police facilities, extended sewage and water transmission lines, additional street lighting, and additional curb and guttering. Although such a program had not actually been approved by the council, it indicated the manager's office was planning for the improvements required to bring the newly acquired area up to a par with the present city. The city indicated, however, that it intended to request that the State Highway Department continue maintenance of the roads which it maintains presently.

Included in the large capital outlay program was the construction of a new jail and enlargement of the sewage treatment plant which are planned regardless of the outcome of the annexation. In addition, it was discovered in cross-examination that two of four planned fire stations are located in the present city limits. Thus, while the city has an ambitious capital improvements program, its presentation of the program as an indication of what it will do for the annexed area was misleading. In fact, a sizable portion of the $81 million, at least $25.5 million, could clearly be said to be cost which the city will face regardless of the annexation, and the annexation would be only a means of spreading out this $25 million bill.[17] Again, capital improvements and additional services will accrue to any area annexed by Roanoke, but the $81 million figure is highly inflated when considered as applying to the annexed area.

Possibly the best argument which Roanoke had to show that they should provide the needed services to the county was the existence of

economies of scale in the provision of urban services. This economy is evident in most of the services which Roanoke provides, such as the sewage treatment service. Roanoke estimates that its costs of operating the sewage treatment plant with a capacity of 22 million gallons daily is $65.00 per million gallons, while the estimate given for Vinton's system with an average daily flow of 500,000 gallons was $98.00 per million gallons. Similar situations exist for provision of such services as water, where a larger capacity can take advantage of more technically efficient processes and eliminate the inefficient units operating within the shadow of the city. Departments such as the Public Works, Police, and Fire Departments can reduce a significant amount of organizational duplication and can reorganize service areas more efficiently without the present arbitrary internal political boundaries reducing the organizational flexibility. Likewise, activities such as city attorney, public health, tax assessors, clerk of the courts, and general administrative activities could be carried out more efficiently with a combined government.

It appears obvious that Roanoke City should provide the needed services in the county because (1) they are experienced and are organized to provide such services, (2) they are planning an ambitious capital improvements program for the area if annexed, (3) there are significant economies of scale to limiting the number of units providing such services. There are, however, significant reasons why such an argument is not completely convincing in this case. Concerning the capital improvements program, much of this is for basic improvements within the

present city as mentioned previously. Also, the program is only a creation of the city manager's office and may never become a reality since the City Council must approve it. In addition, several witnesses in the original Ivan R. Young case heard in 1966, and in the present hearing, indicated a reluctance to be under the government of Roanoke City, indicating the administration of services such as street repairs and schools were below that of the county. Thus, the city's argument assumes the quality of services is the same for both the city and county while this may not be the case.

Likewise, the city's argument concerning the economies of scale is diminished by the City Manager's testimony concerning the cost of operating the enlarged city. At present, the per capita cost of the county government is $99.64, while the per capita cost of the city government is presently $128.00. The cost of operating the combined government as one city would cost $160.97 per capita, according to the City Manager. This increase in cost for both the city and county residents was unexplained by the city, but can be explained only as a method of financing the capital improvements which the city is now facing. Thus, annexation would burden the county residents with the forthcoming bills of the city.

It could be argued that the need for services and the fact that Roanoke should provide them does not necessitate annexation. One area may only need sewage and water service and thus be within a sewage and water authority, while another area could be within a fire and police protection authority service area. Such could be the case where there

is evidence of a significant difference in the need from one area to another. In the all-county case, this could well be best. However, if only the developed or to-be-developed areas are concerned, annexation would eliminate certain cost of organization and inefficiencies of operation involved with such authorities.

Summary

In summary, the city's argument concerning a need for annexation because of a need for services on the part of the county is based on two points. First, the area needs the services since the people are demanding them, and the lack of services exerts externalities on the city. Secondly, the city is in the best position to provide the needed services. Although the entire argument of the city is not accepted, it is felt that the argument has merit as a key part of the annexation case. It should be realized that the purpose of a city or local government is to promote growth and stability and to provide for services needed by the citizens.

The Roanoke Valley is clearly divided into two groups with regard to the needs for services: the rural agricultural areas and the developed areas. With regard to the efficiency of provision of the services and the avoidance of significant conflicts and inequalities within the county, the city should include the developed areas of the county. In other words, the city's argument on a need for services is applicable only to the developed areas of the county. However, the need for services in the area to be annexed is only one aspect of the case and does not alone prove the necessity for an expediency of annexation.

CHAPTER III

OTHER CITY ARGUMENTS

Community of Interests

Urban life style

The third primary argument in the annexation case used by Roanoke was the contention that a community of interest exists between the people of the city and those of the county. Using this phrase as used in the Code of Virginia, the city indicated that the political boundaries had long ceased to have any real meaning except for tax purposes, and that the area was basically one economic entity. The residents of the county take advantage of the commercial, social, cultural and recreational facilities located within the city just as do the city residents. The city argued on the basis that there are two basic life styles, urban and rural, and that the majority of the county is urban. After indicating the existence of differeing life styles, the city asserted that the group which had a community of interests with the city residents (i.e. those with an urban life style), but was paying the lower county or town taxes, was absorbing positive externalities from the city. Thus, the city was partially supporting the non-residents and non-taxpayers. The city did not dwell on this subject, partially neglecting one of the strongest arguments in favor of the annexation.

The city indicated that the population of Roanoke County was 67,339 according to the 1970 census. Zuchelli indicated that of these

67,339 people, approximately 11,000, living on approximately 190 square miles of the county, are not in developed areas or areas which will be significantly developed within twenty years. Thus, approximately five-sixth of the people in the county are considered to be living in an urban style. As proof of the deep ties between the county residents and those of the city, the city introduced traffic flow data along all major streets and roads entering the city. In the morning, the overage traffic figure indicates the 10,673 cars enter the city, while only 6,445 leave the city. In the afternoon, the reverse is observed with 12,705 cars leaving the city, while 8,560 cars were counted entering it. This was interpreted as indicating that a large number of the people of the county are dependent upon the city as a commercial and employment center even though they do not contribute to its support through taxes.

The city again discussed the consolidation vote, analyzing it on the basis of rural versus urban areas, pointing out that the close vote was determined by the rural areas. The apparent support for the measure in many of the developed areas, in spite of the significant intergovernmental rivalry, was proof enough to the city that the people in the county recognized their relationship to the city. As mentioned earlier, the Code of Virginia prohibits the decision of an annexation case to call for an area or population remaining in the county which would be too small for an efficient county government. The city, therefore, asked for the rural area rather than risk losing part of the developed area. Thus, the city contended that the true significance of the consolidation vote was proof that the developed areas have much in

common with the city. This conclusion was corroborated by the petitions from the Windsor Hills and Airport areas and by the need for urban services within the county, according to the city.

City provides services

In conjunction with the argument that the life styles and needs of most of the county residents were very similar to those of the city residents, the city contended that these non-taxpayers were placing an economic burden upon the city taxpayers. In other words, the county residents were absorbing positive externalities from the city in the form of service overflows. Among the several examples that the city cited was the city's support of the municipal airport. An adequate size airport is a necessary factor in the commercial and industrial development of not only the city but of the entire area. It would, therefore, be in the interest of all in the service area to contribute to the support of the airport. This is not the case, however. The City of Roanoke operates the airport at its own expense, and thus the surrounding areas are benefited by the air service at no expense.

Another service mentioned was the presence of the Roanoke Juvenile Detention Home, the service of which is available to the other area localities when needed. Also mentioned was the over $14 million Civic Center which the city is committed to paying for, but which serves city and county residents alike. These two services are direct expenses and obligations of the city which give positive benefit to the county residents. In addition to these externalities flowing to the county, the city mentioned in passing the benefit to the area of several other

standard services. The city referred to the fact that the county residents constantly use and depend upon city streets and city police protection. In effect, they were saying these services significantly depend upon the density of people in the downtown area during the day, but are paid for only by those who live in the city at night, i.e. residents. Since many non-city residents shop and are employed in the city, they are putting a burden upon the streets and police services which the county residents do not have to bear.

The city also mentioned such services as sewage treatment and water which the city provides to some areas of the county on a fee basis. They primarily referred to these services in regard to the obligation which the city incurred from providing these services. An example was the planned sewage treatment plant expansion. The city likewise referred to the fact that the county's present fee for sewage treatment does not cover the cost of treatment.

Although a reasonable expansion of the city's argument that a community of interest exists and that the county residents absorb services at the cost of the city resident would be very strong in such an annexation case, the city failed to adequately construct such a case for the court. The community of interest and the externalities are very indicative of the existence of an economic area. The administration of such a unified economic area requires the utmost in cooperation and coordination in order to avail conflicting developmental, commercial, and recreational policies and in order to provide the services of local government to the residents efficiently.

A critique of the argument which the city used shows that, as in the city's case concerning need for services and annexation, the city ignored the fact that the court in the pretrial conferences accepted petitions from "16,419 qualified voters, free holders or taxpayers," stating that they wanted to remain in the county and be annexed by neither Roanoke nor Salem. This was more than half of the slightly more than 26,000 qualified voters in the county, approximately double the number of voters who supported the consolidation effort in 1969 and by far more than those who signed petitions in favor of annexation.

Concerning the argument that Roanoke is providing sewage treatment and water to the county, it should be recognized that there is no reason, except for term contract situations, that Roanoke cannot cover all cost or even make a profit from the provision of these services. In fact, the county contended without opposition from the city that the city does make a profit on the provision of water to the county. The current loss on sewage treatment which the city is bearing comes about by an overly rigid contract, lack of foresight or lack of cooperation in renegotiation of the contract. If there are economies of scale to the provision of such services and if the county residents do in fact want the service, then the city could make a slight profit on the service while also giving the county residents their cheapest means of sewage treatment. Thus, the county could be at an optimal position, while the city would be making at least a small profit as a sewage treatment firm. Any other services provided on a fee basis to the county, such as the use of the Juvenile Detention Home, fall into this category.

It is felt, therefore, that the "community of interest" portion of the case lacks the depth which it reasonably should have. It follows the pattern of other Virginia annexation cases and skims the surface of possibly the most significant aspect of the case. This point will be further discussed in a later section of this thesis.

All-County Case Dismissed

With the completion of the initial presentation of the city's case, on 29 April Roanoke County's attorney made a motion to dismiss the all-county portion of the case due to lack of evidence on the part of the city, and the court sustained the motion. The case was to continue with the four petition areas to present their cases. The attorney for Glenvar indicated that the people he represented no longer wanted any annexation to Salem, while the attorney for the corridor area called a total of four residents to indicate that they also were now against annexation. Residents and attorneys from both areas indicated that they originally sought annexation to Salem only to avoid union with Roanoke. The Airport and Windsor Hills areas presented their cases.

Windsor Hills and Airport cases

The case for Windsor Hills was presented to the court on 31 May and 1 June. In addition to a bus tour of the area, the testimony consisted of residents of the area calling for annexation because they desired the urban services, such as police and fire protection and water service. The primary statistical facts of the case for the area had been entered in the all-county case. In addition to residents of the

Windsor Hills area, once of the developers of the Blue Ridge Park for Industry was called to testify concerning the assistance of the city when the Park was being developed. He indicated that the city had been helpful in providing sewage and water service to the area and that its cooperation was vital to the success of the development. The evidence entered actually added no real content to what had been presented earlier, but merely reinforced the emotional aspect of the argument that the area needs the urban services of the city.

The case presented by the petitioners for the Airport case was similar to that of the Windsor Hills case with several minor differences. Several property owners and residents of the Airport indicated that they were getting services such as water and sewage from the city and therefore felt that they should be in the city. It was not clear why, when they admitted that they needed no additional services, they felt they should pay the higher taxes just because Roanoke was providing their services. Among this group of witnesses was the owner of Arrow Wood Country Club, who told of the city's cooperation when the club was being built in 1965 and who now supports annexation. In addition, the manager of the Roanoke Municipal Airport testified that the operation of the airport was complicated by its location in the county. The manager indicated that Roanoke County building permits had to be issued for all construction and that county inspectors had to inspect all work.

The Roanoke City Superintendant of Schools pointed out the additional problems involved with the location of William Fleming High School and Ruffner Junior High School on fifty acres in the Airport area.

Among the problems was traffic control where the access road connects to the county roads. The city indicated that it had located the two schools in the county due to the absence of suitable land in the city. Under cross-examination, however, the school official admitted that a large farm which is within the city and within the service area of both schools would have been as suitable as the county site and that it could have been acquired by the right of eminent domain.

City's attempt to enter new evidence

At this time the city requested that it be allowed to present evidence concerning annexation of a total of twenty-five square miles of Roanoke County, including the Reed Mountain and Hunting Hills areas in addition to the Airport and Windsor Hills areas. The request was an effort on the part of the city to obtain more than the two petition areas of the county. The court, however, ruled that such a presentation was not proper because the city council had not gone through the proper channels to enter such evidence into court. Thus, it appeared that the outcome of the Windsor Hills and Airport cases would be the final outcome of the hearing. It will be recalled, however, that the court may award more or less area to the city than that involved in the petition areas; therefore, the overruling of the city's last attempt to enter evidence does not absolutely restrict the amount of area which may be awarded.

The additional evidence entered for the Windsor Hills and Airport cases added little or nothing without knowledge of the size of the segment. Presumably, the petition from the area and the witnesses in

the all-county portion of the hearing provided the court with all this evidence. The evidence by the residents provided only an additional emotional expression of their case. The inconvenience caused by the location of the airport within the county is basically very minor and of relatively little expense to the city. Likewise, the problems surrounding the two schools located in the county are of little significance and apparently the result of a poor decision on the part of the city to locate the schools in the county.

The cases of the two petition areas were markedly incomplete because this was to be considered with the evidence entered by the city in the all-county portion of the hearing. Thus, the case at this stage would presumably be judged upon Roanoke's evidence as applicable to these areas. With the completion of the Airport and Windsor Hills cases and with the court's refusal to allow Roanoke to seek an additional package, the cases for annexation were finished.

CHAPTER IV

ROANOKE COUNTY'S CASE

The Code of Virginia indicates that the court is to decide the annexation case on the evidence introduced and that the burden of proof in the case is on the city. Following the city's presentation of its case, the county began introducing evidence contrary to that of the city. In addition, the county cited several past cases in Virginia annexation history and compared them with the case before the court. The county also introduced evidence indicating the adverse effects upon the county which the annexation of Windsor Hills and the Airport areas would have. In connection with this, the county introduced, as provided by law, the figure of $6 million as a projected figure which the county sought in reparation for the taxes to be lost over the following five years if annexation of the Windsor Hills and Airport areas was granted. The county at this time asked the court to rule against any annexation since Roanoke had not proven its case and the annexation was not "necessary and expedient."

Countering the Roanoke City Case

Services

The Roanoke County defense case began by countering the specifics of the city's case. It started with an attack on the city's claim that the county needed services and consisted chiefly of non-theoretical

arguments. The initial defense witness was Paul Mathews, the chief executive officer for the county, who testified concerning the services which the county offers. In addition to the services referred to earlier, Mathews indicated that the county had adopted electrical, plumbing, and building codes and provides for regular inspections to insure compliance with these codes. The witness also detailed improvements which the county had made since 1960 regarding the provision of services. The progress mentioned consisted of an enlargement of the County Sheriff's department, the recent opening of new branch libraries, the expansion of the County Volunteer Fire Department, and the creation of the Roanoke County Public Service Authority. Such improvements, primarily the establishment of the Public Service Authority, have added greatly to the services which the county provides to the residents, the defense contended.

The defense then referred to the opinion in the 1961 annexation case in which the city was refused annexation of a large section of the county because the city failed to prove the necessity for or expediency of the annexation. In that opinion, the court considered the services provided by the county to be adequate. The county showed that the provision of the services had improved since that cited case, and thus contended that Roanoke still has no basis for saying that more services are needed. The 1961 opinion stated that the dependence upon wells and septic tanks for water and sewage respectively was of no adverse consequence then, and the city offered no evidence to the contrary at this hearing. The same applies to the fire and Sheriff's departments, which were commended in the 1961 opinion and which have improved since then.

To add strength to the county's argument that no additional services are needed, the county called upon residents to testify to that effect. In addition to property owners and residents within both areas, the developer of Crossroads Mall and the president of Roanoke Electric Steel Incorporated testified that the county provided all the needed services.

To counter the city's argument that the city was burdened with providing water to areas in the county, the county showed that the city was doing so at a profit while utilizing its excess capacity. The county also indicated that it provides school bus service to the areas, while similar service within the city would cost approximately $64 per pupil annually.

The county thus concluded that there is not need for additional services by county residents. Its contention was relatively easy to substantiate since the city counted so heavily upon residents as witnesses and the county produced witnesses to the contrary. As discussed earlier in this thesis, the use of several witnesses who are trying to protect their own self-interest by supporting one side or the other has little value when trying to determine rationally a decision for the good of the area. The cost to the area in lack of new development caused by the absence of developed services, such as water and sewer systems, can outweigh individual groups' self-interest. Or, as mentioned earlier, the lack of adequate services in the county creates an externality on the city by retarding area development. Thus, while the conflicting witnesses of the city and county may leave the status of the wishes of the

area residents in question, the need for services above that provided in many developable areas of the county can cause externalities which warrant acceptance of the city's argument.

Land

The county attacked the city's argument concerning a need for land on a case by case basis, pointing out the availability of land where the city claimed it is scarce. Although the county did indicate that the city had a lack of high-rise apartment buildings and a lack of high density living, it failed to develop the concept that, with an increase in intensity of land use, the city could develop without more land.

The City of Roanoke claimed that little or no land was available near the downtown which could be developed as commercial or light industrial. The county pointed to the redevelopment areas near the city center, primarily the Commonwealth Redevelopment Project, as a source of land for industry which went untapped. The project was started in 1956 and completed in the early 1960s with the anticipation of locating approximately $8 million worth of commercial or industrial plants on the property, adding approximately $110,000 to the gross real estate tax revenues of the city. This redevelopment land was used instead for the $14 million Roanoke Civic Center which produces no real estate taxes. It was also pointed out that the land remained vacant for almost five years before the city finally approved a bond issue proposal for the Civic Center. This prolonged vacancy is not characteristic of an area which needs land. A similar situation was pointed out in which an eleven

acre site in the Kimbel Avenue Redevelopment Project is being used for a new Post Office rather than tax bearing private firms.

The courts in the 1961 case cited the fact that from 1950 to 1960 the population had increased by only about 5,000 people and that this increase was not a sufficient basis for a large annexation at that time. The county was quick to point out this opinion of the court and to show also that the city had not only failed to grow faster, but actually decreased to the vicinity of the 1950 level of population. The decrease in population should have relieved population pressures upon the city, the county pointed out. While the commercial areas are larger now than twenty years ago, it is true that with a relatively stable population, the need for new land would not be significant.

Finally, the county contended that since the case now involved only the Airport and Windsor Hills areas, "the need for land" argument was void. This was based on the fact that both of these areas are well-developed at the present time and afford little area for future development if annexed. Thus, the county said the argument that the city needed land for future development was applicable to the all-county case but clearly not pertinent to the case at hand.

Roanoke County brought out several significant points which countered parts of the city's claim of need for more land. However, as discussed in Chapter II, the need for land for future development on the part of the city has little validity since such development can involve an increase in land use of the present city. The use of such arguments in Virginia cases shows a tendency toward emotionalism and the lack of concrete background for annexation cases.

Damage to the County

Tax loss

The Code of Virginia states that the court in an annexation case must consider the best interests of the city, county, residents of the areas being contested, and the area to be left within the county. The county, therefore, pleaded that they would be significantly damaged by the annexation of two of the most developed areas within the county. Among those damaging factors mentioned were disruption of school attendance areas, severe reduction in the real estate and sales tax base, and reduction in efficiency of the services to be provided.

Daniel A. Robinson, a financial consultant for the county, conveyed to the court the projected tax loss of the annexation. According to the present rates and sales figures, the loss of Crossroads Mall alone would mean an annual loss of $301,708 in sales tax revenues. In addition to the county figures, the city indicated that the total lost revenues from the Airport would be $485,000, while loss to the county from the Windsor Hills area would be about $224,000 a year. Thus, the city itself admitted that it would decrease the county's tax income by about $710,000 annually.

The county indicated the city's estimate was low and that the actual figure was closer to $900,000. Since the annexation laws indicate that the city, if it received the land, would have to compensate the county for tax revenues lost for the following five years, the figures which the court accepts is of importance. Not only is the figure for the current tax loss applicable, the county contended, but the projected

loss of revenue based the future development of the areas five years hence. In other words, since the areas will continue to develop both commercially and residentially over the next five years, the total tax revenue lost will not be five times that of the present annual loss but will be the sum of the five annual losses which will be larger each succeeding year. While the city contested this sliding scale, the county placed an estimate of $6 million on the total tax loss over the five year period.

Effect on services

The tax loss to the county would have a distinct effect on the operation of the county. Besides the loss of tax revenues, however, the annexation of these two developed areas would significantly decrease the demand for services within the county. Among these, according to the Superintendant of Roanoke County Schools, is the school system which is presently constructing a new junior high school, while the annexation would take 456 school children from the county system. This would temporarily leave five classrooms vacant at one particular county school unless the attendance lines were shifted, a proposal which has caused opposition of annexation in several areas of the county. Although the annexation would cause certain inefficiencies in the system in the short run, such as an excess of teachers and a need for reallocation of space, the superintendant did not indicate that any long term difficulties would be created. In fact, it would assist in reducing population pressures which face most school systems.

The county also contended that the annexation would adversely affect other services of the county, such as garbage disposal and water service. Discussing the case of garbage disposal, the county pointed out the fact that such a service was originally warranted by the existence of commercial areas such as Crossroads Mall and by large residential areas such as Windsor Hills. A sharp reduction in the demand for such services would put the county in a position of operating an inefficient department and thus could jeopardize the future of such services. The county also pointed out that the construction of trunk lines for sewer and water is expensive and economical only where there is a large demand. The loss of the two developed areas would reduce the demand and again jeopardize service.

Roanoke's attempt to obtain high value land

One of the county's strongest arguments was that the annexation by Roanoke is nothing more than an attempt to obtain land which produces a great amount of tax revenues. In order to prove this contention, the county indicated that it has $9,792 worth of assessed real estate per school child in the county. This figure compares to $10,636 for the City of Roanoke. Such statistics are important since a primary source of income is the real estate tax, and a primary expenditure for local governments is for support of the schools. These figures are shown along with similar statistics for the Windsor Hills and Airport areas. It can be seen by the comparison of the city and county figures to the Airport and Windsor Hills figures that both these areas are very desirable when comparing the income derivable against predictable school

costs. The other statistics show that while the percentage of population and school children for which the city would be gaining responsibility is small, the income producing factors, such as commercial and industrial development, sales tax revenue, and assessed real estate are disproportionately large. It is easy to see why the city would desire to have such areas within its boundaries and apparent that such revenue considerations were instrumental in the city's attempt to annex.

In their final argument, the county argued that rather than being for the good of the area, the annexation would be detrimental to the entire county. It would jeopardize many county services and significantly reduce the tax revenues of the county. In addition, the county contended that there was no evidence which had been entered which showed why Roanoke should be allowed to periodically chip away at the developed areas of the county, while the county had to continually lose its most valuable areas.

In general, the defense raised significant questions of doubt about the city's most relied upon arguments: the need for land by the city and the need for services by the residents of the area. The county did not, however, contradict the city's claim that positive externalities were being absorbed by the people in the county at the expense of the city, nor did they contradict the contention that a strong community of interests exists between the developed portions of the county and the city. Hence, the county appeared to come out well with the most time consuming aspects of the case but, like the city, ignored almost completely the theoretically most significant aspects. Although it is true that the annexation without payments on the part of the city could be

injurious to the county, as the county contended, this should not be an argument against the annexation itself. A Pareto move can be made if an appropriate payment is made by the city.

CHAPTER V

CONCLUSION

In this thesis, the annexation arguments of Roanoke City and Roanoke County have been recalled and analyzed. An attempt has been made to compare these arguments with those which would be meaningful to the economist and thus evaluate the arguments on an economic basis. It should be realized at this point that as this thesis is being written, there has been no decision rendered by the court in this case; therefore, the analysis is directed toward the arguments used in this case, and those which the courts considered meaningful in previous cases.

Precedents and Roanoke's Case

Background for Roanoke

As indicated earlier, the annexation proceedings in this case were strongly influenced by the laws enacted by the Virginia General Assembly and by the case law as developed by the courts. The cases referred to in Chapter I, Henrico County vs. City of Richmond (1906) and Alexandria vs. Alexandria County (1915), established a pattern of successful arguments which has been generally followed in most annexation cases to this time. While the discussion to this point was directed to the arguments of the Roanoke case, they are also generally applicable to most annexation proceedings within Virginia. Likewise, the analysis below can be directed toward the annexation process within Virginia.

The past success of such arguments makes Roanoke's use of them readily explainable.

The Roanoke case

In general, Roanoke City utilized three main arguments in their case:

1. Roanoke City needs land to continue to develop economically. There is little vacant or undeveloped land within the city, so the city must be enlarged to include such developable land.

2. The county residents need the services of the city. Some areas of the county are developed and need sewage and water service and other services provided by the city.

3. A community of interests exists between the city residents and county residents. County residents take advantage of city facilities, and have similar employment, commercial and recreational patterns as do city residents.

The city relied very heavily upon the first argument, that the city needed land. The testimony of the two consultants dealt primarily with this need for land, as did much of the other evidence. In contrast, the second and third arguments--the need for services and the community of interests--were not considered by the city to be as important as the need for land argument. Of these three primary arguments used by the city, the community of interests argument was the least well developed, and while distinctly developed as a separate contention, it was not extensively developed on a practical or theoretical basis.

Analytical Conclusion

As pointed out in Chapter II, the need for land argument, which the city put forward as an economic and developmental argument, is of little substance from an economic standpoint. The development of the area, whether inside or outside the present city, consists of an increase in intensity of land use which by no means is restricted to the "vacant" or rural land.

The second argument, while accurate and convincing for certain portions of the county, was not applicable to the all-county case as presented. The community of interests argument coupled with the analysis of externalities, while having the potential of being the most convincing argument based on economic criteria, was advanced poorly by Roanoke. It is thus felt that an analysis based upon economic criteria of the Roanoke annexation case of 1971 shows that the arguments relied upon heavily by the city, and arguments accepted in the past by the courts, are not those which are deemed significant by general economic theory.

FOOTNOTES

1. Chester W. Bain, Annexation in Virginia (Charlottesville, 1966), p. 1.

2. Code of the State of Virginia (Richmond, 1964), Title 15.1-1041 b.

3. Roanoke Times, 1 January 1949, p. 1.

4. Bain, Annexation in Virginia, p. 102.

5. Roanoke Times, 2 May 1961, p. C-1.

6. Henrico County vs. City of Richmond, 55 S.E. 683, 687 (1906).

7. In 84 S.E. 630 (1915); Alexandria County was renamed Arlington County in 1920. See Virginia Acts (1920), ch. 241, p. 343.

8. E. N. Hoover, Location of Economic Activity (New York, 1948). Hoover describes a "rent surface" which graphically shows a higher rent at the center of the city which is generally convex to the origin. Edgar S. Dunn, The Location of Agricultural Production (Gainesville, Fla., 1954). In Chapters 3-5, Dunn speaks of his "industry rent function" as correlated with the distance from the economic center of the area. Walter Isard, Location and Space Economy (Cambridge, Mass., 1956), ch. 8; and Methods of Regional Analysis (Cambridge, Mass., 1960). Chapter 8 of Location and Space Economy discusses gravity models indicating the higher population and market masses located at the center of the city. J. H. von Thunen, Der isolierte Staat in Beziehung auf Landswertschaft und Nationolakanomie, as discussed in Walter Isard, Methods of Regional Analysis, p. 233, and Location and Space Economy, p. 277 ff.

9. The Code of Virginia specifically states that any annexation decision may not leave a county with less than 60 square miles or a population too small to efficiently perform the required services. In such a case, the annexation must be denied or the city shall be required to annex the entire county. Zuchelli, economic consultant for the city, indicated that all the county would be developed with twenty years except three isolated areas which contain approximately 11,000 people. In order to get the areas which would develop within twenty years, the city was willing to admit that the remainder could not sustain itself efficiently and the city, therefore, sought the entire county.

10. Division of Planning, Governor's Office, State of Virginia, Economic Data Summary: Roanoke County and Roanoke City (1967), p. 13.

11. Ibid., p. 12.

12. After the all-county suit was dismissed, the city centered its argument on the Airport and Windsor Hills regions but continued to indicate that all developed areas of the county needed their services.

13. This refers to the capital investment of installing main sewage lines or establishing a trash collection department, etc., and not the individual trash collections or water supplied.

14. Code of Virginia, 15.1-522 (1966).

15. To indicate the confusion which surrounded the consolidation vote, a recapitulation of the history surrounding it will be helpful. At the 5 May 1969 meeting of the intergovernmental Committee on Consolidation, composed of members of all four valley governments, Vinton again indicated the possibility of becoming a city as Salem had done the previous

year. The committee stated that such an unresolved possibility had led to eleven months of wasted negotiations and the committee requested to know Vinton's real intentions by the 19 May meeting. On 15 May, Vinton and the county petitioned the court for and announced to the public, an intended referendum in November 1969 on consolidation and subsequent incorporation of the county and Vinton as a third city in the Valley. Their "impromptu" plans included the completed sixty-eight page draft of a new city charter. They then invited Roanoke and Salem to join them in the vote and the new city; however, only Roanoke accepted the invitation. The chairman of the Roanoke County Board of Supervisors and the Mayor of Vinton strongly opposed the measure in May as a stumbling block toward consolidation but strongly supported it in November because at least Roanoke had joined the proposal. Likewise several county supervisors and Vinton councilmen, who pushed it through in May, opposed the consolidation plan in November primarily due to Roanoke's acceptance of the invitation to join with the county and city. Hence, the people of the county and Vinton turned down the proposal while Roanoke overwhelmingly supported it.

16. Economic Data Summary, p. 14.

17. The proposed capital improvements program included:

$13.2 million - presently planned sewage treatment facilities
$ 7.0 million - new courthouse and jail
$ 3.3 million - airport improvements
$ 2.0 million - solid waste disposal

These expenditures as are portions of the other $55 million are not dependent upon annexation.

BIBLIOGRAPHY

Bain, Chester W. Annexation in Virginia. Charlottesville, Virginia, 1966.

Division of Planning and Community Affairs, State of Virginia. Economic Data Summary: Roanoke County and Roanoke City. Richmond, 1967.

Dunn, Edgar S. The Location of Agricultural Production. Gainesville, Florida, 1954.

Hoover, Edgar M. Location of Economic Activity. New York, 1948.

Isard, Walter. Location and Space Economy. Cambridge, Massachusetts, 1956.

_____. Methods of Regional Analysis. Cambridge, Massachusetts, 1960.

Ivan R. Young vs. City of Salem. Trial transcripts by the Clerk of the Court. Roanoke County Court, Salem, Virginia.

The Roanoke Times. Times-World Corporation, Roanoke, Virginia.

Virginia Association of Counties and the Institute of Government, University of Virginia. Virginia County Supervisors Manual. Charlottesville, Virginia, 1968.

von Thunen, J. H. Der isolierte Staat in Beziehung auf Landwertschaft und Nationolakanomie. Hamburg, 1826.

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AN ECONOMIC ANALYSIS OF THE 1971 ROANOKE, VIRGINIA ANNEXATION CASE

Andrew Crockett Givens

Abstract

The legal cases presented in the Ivan R. Young vs. City of Salem annexation hearing which began on 19 April 1971 is analyzed on the basis of economic criteria. The hearing was for a consolidated case consisting of five separate annexation cases in Roanoke County, Virginia. Two cases involved areas which had petitioned to be annexed to Salem, two cases involved areas which had petitioned to be annexed to Roanoke, and the other case involved the petition of the City of Roanoke to annex the entire area of Roanoke County. The greater part of the hearing was involved with the city's all-county case.

A review of the arguments used by the city show three primary arguments used. First, Roanoke contended they needed additional land to continue to develop. Second, Roanoke felt that the county residents needed city services. Third, the city claimed there existed a community of interests between the city and county residents which dictated a unity of government.

The analysis shows that the arguments used in this annexation case, which are standard arguments in Virginia annexation cases, are not firmly grounded on economic theory even though they are frequently presented as economic arguments.