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CHARACTERISTICS OF LAND REQUIRED FOR INCORPORATION OR EXPANSION OF A MUNICIPALITY

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Characteristics of Land Required For Incorporation or Expansion of a Municipality

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I. POST-WAR URBAN SPRAWL

One of the outstanding national phenomena of the thirteen years since the close of World War II has been the rapid and disorganized manner by which the population of metropolitan cities has spilled over into the surrounding countryside. The mass migration to the dreamed-of "green belt" in the suburbs has led in turn to the ever-accelerating conversion of once unspoiled farm land into large-scale residential subdivisions, dropped helter-skelter across the landscape, without adherence to any over-all planning as to the consequences for traffic, schools, water supply, or other important governmental services. This leapfrog growth has been appropriately called the "urban sprawl."[1] All of us are familiar with the trend and some of its less appealing aesthetic consequences, but the population statistics themselves are quite staggering: Between 1950 and 1955, 95% of all the population growth in the United States took place within the 150 metropolitan complexes consisting of central cities of 50,000 population or more and their suburbia.[2] In Wisconsin, the combined population of Milwaukee County and neighboring Waukesha rose from 960,000 in 1950 to 1,175,000 in 1956,[3]

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[1] For a detailed discussion of all phases of the post-war urbanization of the countryside near our larger cities, see seven feature articles in N. Y. Times, Jan. 27 through Feb. 3, 1957 all of which appear in § 1, p. 1. Between Boston and Washington in 1955 there remained only two areas which could be called rural. One was two miles long and the other seventeen. "Rural" is defined as having less than 25% farm population and less than 100 persons per square mile. *Interurbia, The Changing Face of America*, a speech delivered by W. C. McKeehan, Vice President, J. Walter Thompson Company, to Association of Commerce, Milwaukee, Oct. 15, 1957, pp. 2, 12.

[2] BOLLENS, STATE AND METROPOLITAN PROBLEMS II (Report submitted to 1956 Council of State Governments.)

[3] FEDERAL RESERVE BANK OF CHICAGO, ANNUAL REPORT 28, (1956).

an increase of 22%, and undoubtedly the population of some suburban areas more than doubled in six years.[4]

II. Effect of Urban Sprawl upon Units of Local Government

The population boom on the fringe of the central city has in turn led to the demand for greater governmental services than were previously supplied by the town form of government, and the new inhabitants have initiated a wave of annexations either to the existing central city or suburbs or have created new municipalities of their own. Until 1953, in Wisconsin the rash of annexations and incorporations of new municipalities followed the form of two previous historic waves of expansion around the central city. Small new villages were created or the central city annexed land. However, the post-war tempo of such municipal activity was greater than ever before and led frequently to a race of time between contending groups who wanted annexation to the central city, or its opposite, the creation of a new small suburb. In Milwaukee County, for example, the following geographically small units of government, averaging less than two square miles in area, were formed in rapid order: City of Glendale, 1950; City of St. Francis, 1951; Village of Hales Corners, 1952; Village of Bayside, 1952; Village of Brown Deer, 1954. The sudden creation of these new municipalities close by the existing City of Milwaukee limits and the continuing expansion of that city through several governmental "piecemeal" or "shoestring" annexations led to crazy-quilt common boundaries and constant bickering over the no-man's land lying between Milwaukee and its competing suburbs. Feuding between competing municipalities tied up no-man's land in protracted litigation under which land development and governmental services were severely hampered by uncertainty as to the location of municipal boundaries. Many reasons of self-interest, such as the sharing by the State of Wisconsin of approximately one-half of the Wisconsin income taxes with the municipality where the tax payer resided, impelled typical representatives of the central city and suburbs to continue their fight.[5]

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[4] The Town of Brookfield area in eastern Waukesha County grew from 7,425 in 1950 to over 17,000 in 1956 (estimated). In that period the major part of the area split off into the newly incorporated Village of Elm Grove and City of Brookfield.

[5] In addition to the fight to acquire or retain areas yielding substantial "painless" revenue from state shared taxes, town boards often resisted annexation in order to protect their jobs, and city employees often annexed bullheadedly just to acquire more land or to reward the subdividers for their continuing pro-

The legislature did nothing to remedy the situation, in part because the problem was too complex to yield to easy solutions and in part because contending forces were so evenly balanced that they nullified all attempts to make serious changes in the laws dealing with annexation,[6] incorporation, and sharing of state-collected taxes.

An increasing number of municipal officials deplored the uncertainty and expense associated with long drawn-out legal contests over the annexation or incorporation of small areas. Eventually some solution outside the legislature had to be found and thus there developed in 1953-1955 a strong demand for large-scale annexations or incorporations encompassing areas several times larger than ever previously accomplished[7] and larger than was thought by many attorneys to be legally possible under existing statutes and court decisions. The electors seemed to demand some "big" solution which would bring quick stability to a large area and avoid the uncertainty and bickering which had previously wrought governmental havoc all along the ever-moving suburban fringe area. For example,

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motion of annexations. For a long period Milwaukee had a policy of accepting all annexations without regard to the character or shape of the particular annexation and its specific effect upon the City of Milwaukee's financial position. For example, Milwaukee's Budget Director estimated that the City would have to spend $100,000,000 to provide full city services, such as sewer, water, and streets in a nine square mile area of the Town of Granville. Milwaukee Journal, Jan. 15, 1956, § 1, p. 28, col. 4 and Milwaukee Journal, Jan. 22, 1956, § 1, p. 14, col. 2. On April 4, 1956, the City voted to consolidate this area and thirteen additional miles to Milwaukee. Milwaukee officials report that between 1949 and 1957 the City spent $43,500,000 on sewer construction; and the cost of future sewer construction alone in "new residential districts" (which is not reimbursed by special assessments) will be $5,000,000 annually for at least four years. Milwaukee Journal, Oct. 28, 1957, p. 1. Most new residential areas were annexed recently.

[6] So many bills for tightening or loosening the annexation laws were introduced in the 1955 Legislature that in the end the Legislative Council was asked to study the matter and report a good bill to the 1957 session. Such a bill, 5 S, passed the Senate but was defeated by three votes in the Assembly on the closing day of the session. Cities favored and towns generally opposed 5 S. In the special session in the fall of 1957, the less controversial features of 5 S were passed. Wis. Laws 1957, c. 676.

[7] Large annexations were occurring elsewhere in the United States at this time. In 1953 Tampa, Florida, added 46 square miles to its 19 square miles and many other cities more than doubled in size. MUNICIPAL YEAR BOOK, published by International City Managers' Association, as cited in Milwaukee Journal, June 13, 1954, § 7, p. 10, col. 1. Between 1945 and 1949 Dallas annexed 54.8 square miles. WINTER, ANNEXATION AS A SOLUTION TO THE FRINGE PROBLEM, pp. 20-21 (Library of Congress microfilm # A.C. 1-1717). Nearby Grand Prairie, Texas, in 1948 had 15,000 residents living in five square miles. In reacting to the Dallas annexations, it laid claim by annexation to over 100 square miles by 1953. THE STATES AND THE METROPOLITAN PROBLEM 39 (1956). Los Angeles in growing to be the largest city in area in the country did so in part by massive annexations, one of 169.4 square miles and one of 48.4 square miles. JONES & WILCOX, METROPOLITAN LOS ANGELES, ITS GOVERNMENT 17 (1949).

the City of Wauwatosa trebled its size with an 8.3 square mile annexation in 1953,[8] the City of Brookfield was incorporated in 1954 with 17.5 square miles in Waukesha County, the 1.8 square mile Village of Brown Deer, incorporated in 1953, expanded in three years to be the largest village in the state with 21 square miles. In 1955-1957, the cities of Oak Creek, Franklin, and Mequon were incorporated, respectively embracing 29, 34 and 47.5 square miles, the latter being the second largest incorporated area in Wisconsin. Planning consultants whose opinions were seldom, if ever, sought prior to 1953 often were asked to advise on incorporation after 1953 and generally recommended that the local population would be more efficiently served by inclusion in one large municipality rather than by further fragmentation into many small villages, as seemed to be the trend prior to 1953.

Some municipal attorneys have publicly expressed their opinion that the large-scale annexations and incorporations violated existing decisions. It will be the purpose of this article to review the entire legislative and judicial history of Wisconsin in the light of the recent development of the urban sprawl and predict how the courts may apply that history to the changed conditions of the present.

III. Present Statutory Requirements

At present the Wisconsin statutes, as in most states, are largely silent as to the type of land which may be legally incorporated as a new municipality or be annexed to or consolidated with an existing municipality. There is no definition of the type of land which might lend itself to being a city or village. Areas may be incorporated as villages if they possess a population density of 400 persons to each square mile incorporated.[9] The village may be 1/10 of a square mile or 100 square miles so far as the statutes are concerned, and there is no reference whatsoever to land topography, the use to which the land is being put, its potential, its proximity to other municipalities, etc. Cities may be incorporated if the area possesses a minimum population of 1500 persons and includes within it either an existing village or an area which could be legally incorpo-

[8] This was thought to be the largest annexation in Wisconsin until that time, Milwaukee Journal, Feb. 26, 1954, § 2, p. 1, col. 8. The largest since then was the 10.5 square mile Corrigan annexation to the Village of Brown Deer in 1956 along with the companion Johnson annexation of 4.5 additional miles.

[9] Wis. Stat. § 61.01 (1955).

rated.[10] There is no requirement of population density, and this is a primary reason for the incorporation of so many large areas as cities rather than villages. Since 1955 a township contiguous to the City of Milwaukee can be incorporated by the simpler procedure of the "Oak Creek" Law,[11] provided the town contains 5,000 souls and an equalized assessed valuation in excess of $20,000,000. The annexation statutes likewise do not prescribe the type or shape of land which may be annexed to an adjoining village or city. No provision is made even as to the population of land to be annexed. It need only be adjacent to the annexing municipality.[12] And, again, the statutes provide that *any* township may be consolidated with *any* adjoining village or city.[13] No statutory mention is made of population density, land characteristics, etc. By some inexplicable coincidence the legislature has required since 1849 that the petition for the creation of any new village be approved by a court,[14] but the creation of new cities, and the annexation of new lands to old municipalities has never required court approval.

IV. Constitutional Limitation

In other states where the legislature has failed to describe the type of land which could be legally incorporated, several of the state courts of last resort have ruled that compliance with the procedural niceties for incorporation is sufficient to uphold the incorporation,[15] whereas Wisconsin and other states have interpreted the state constitution to require that the land have certain judicially determined characeristics before being legally susceptible to incorporation by the legislature. The leading case of *State ex rel. Holland v. Lammers,*[16] established that doctrine in sweeping language. In that case the

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[10] WIS. STAT. § 62.06(1) (1955).

[11] WIS. STAT. § 60.81 (1955).

[12] WIS. STAT. § 62.07 (1955) provided: "Territory adjacent to any city may be annexed to such city in the manner following . . . . " The section after a revision by the fall session of the 1957 legislature, now reads: "Territory contiguous to any city or village may be annexed thereto in the following ways . . . . " Wis. Laws 1957, c.676, repealing § 62.07 and creating § 66.021 (1).

[13] WIS. STAT. § 66.02 (1955), provides: "Any town, village, or city may be consolidated with a contiguous town, village, or city, by ordinance . . . ."

[14] WIS. STAT. § 61.08 (1955). See also WIS. REV. STAT. c. 52, § 8 (1849).

[15] People v. Town of Loyalton, 147 Cal. 774, 82 Pac. 620 (1905) (upholding the incorporation of 52 square miles containing 700 residents). *Contra,* Parnell v. State, 68 Ariz. 401, 206 P.2d 1047 (1949) (rejecting the incorporation of a 24 square mile desert strip averaging 46 persons per square mile).

[16] 113 Wis. 398, 86 N.W. 677, 89 N.W. 501 (1902).

court asked to determine the validity of the incorporation of the Village of Cedar Grove near Sheboygan. All statutory requirements had been complied with; but the opponent, noting that the 1898 statute authorizing village incorporation contained no limitation on the density or size of a village which could be incorporated within one county, argued on the rehearing that the statute was void because:

> . . . sec. 3, art. XI, of the constitution, declaring that "it shall be the duty of the legislature, and they are hereby empowered to provide for the organization of cities and incorporated villages," taken in connection with sec. 23, art. IV, which provides that "the legislature shall establish but one system of town and county government, which shall be as nearly uniform as possible," prohibits the legislature from enacting a law whereby, without any distinction based on density of population or other substantial basis of classification, the inhabitants of any area may at will remain under town government or come in under village government.[17]

The court conceded that the statute would not be valid if it in fact did permit "rural territory, possessing none of the attributes of villages, to change from town to village government at will,"[18] but the court then significantly noted that "many cities and villages" had been incorporated under "these laws" (in which no population density was required) and that the legality of the statute was of importance to them. Then the court concluded that both the incorporation and statute would be upheld if the statute could be inerpreted in a manner which would reconcile it with the Constitution. It did so by the following ingenious and now famous reasoning:

> The Constitution requires that a village or city exist in fact prior to incorporation because
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> 1. Art. XI, § 3, required the legislature to provide for the "organization of cities and incorporated villages."
>
> 2. Art. IV, § 23 of the Constitution required the legislature "to establish but one system of town and county government which shall be as nearly uniform as possible."
>
> 3. The framers of the Constitution must have impliedly defined cities and villages as those respective communities were understood in 1848.
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> 4. The two constitutional sections read together indicated a constitutional intention that

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[17] *Id.* at 411, 89 N.W. at 501.
[18] *Id.* at 412, 89 N.W. at 501.

(a) A village or city must exist in fact prior to *its* incorporation.

(b) There must be some factual basis for determining which areas in a township could incorporate and which could not, otherwise the system of towns and counties would be subject to change by the whim of whosoever sought incorporation.

5. The legislature is presumed to have incorporated the constitutional definition of a village and city in fact into its statute and the act, as thus limited, is constitutional.

Nine subsequent decisions of the supreme court since the *Lammers*[10] case have firmly imbedded the *Lammers* doctrine in Wisconsin law. However, as we shall see later, the reach of that doctrine has altered to meet changing conditions and is not nearly so inelastic as is often supposed.

V. Effect of the Lammers Doctrine on Post-War Incorporations

At first after World War II municipal attorneys were reluctant to dare to incorporate large areas of land even when the town's electors overwhelmingly favored such a move rather than the incorporation of the more heavily developed segment of the town. Sometimes advice was given that the city must have 400 persons to a square mile on the theory that the court would not find a city to have city characteristics unless it abided by the rigid statutory density requirement prescribed for villages.

As a result of the inhibiting effect of the *Lammers* doctrine three things happened. First, the early post-war incorporations embraced tiny areas having already 400 persons to a square mile and one to two square miles in total area. In Milwaukee County there were five such incorporations in 1950-1954. Second, when those newly created villages or cities were smaller than desired by the incorporators, they quickly expanded by annexation, often according to a plan or promise conceived prior to the incorporation. Thus, a sizeable new municipality was formed in two steps because the incorporating attorney felt it might be illegal under the *Lammers*

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[10] The six listed on pages 17 and 18 below plus the following which did not deal with the merits: *In re* Town of Preble, 261 Wis. 459, 53 N.W.2d 187 (1952); *In re* Village of Oconomowoc Lake, 264 Wis. 540, 59 N.W.2d 662 (1953), 270 Wis. 530, 72 N.W.2d 544 (1955); *In re* Village of Elm Grove, 267 Wis. 157, 64 N.W.2d 874 (1954). See *In re* Village of Brown Deer, 267 Wis. 481, 66 N.W.2d 333 (1954).

doctrine to accomplish his result in one step. Third, an attempt was made in 1955 to repeal the *Lammers* doctrine in the legislature by the enactment of the "Oak Creek" law. The theory of the proponents of that law was this: The Town of Oak Creek in Milwaukee County comprised 34 square miles, one built-up area surrounding a large electric power plant, and 6885 persons, for an average population density of 237 per square mile. The proponents sought in the Oak Creek Law to make a legislative finding by indirection that contiguity to Milwaukee, the possession of $20,000,000 in equalized tax valuation and a population exceeding 5000 constituted modern characteristics of a city, whatever the formal wording of the *Lammers* case. In fact, after the bill passed the Assembly by a 44-42 vote, its proponents led by Speaker Mark Catlin defeated an amendment by the opponents which would have expressly provided that a town in order to be incorporated as a city must possess the characteristics of a city in addition to possessing the foregoing characteristics.[20]

VI. How to Evaluate the Future Court Decisions on Present Incorporation and Annexation Practices

After 1953 many large sparsely settled areas have been incorporated, annexed, or consolidated, but the supreme court has only begun to review whether the traditionalists or modernists were correct in determining the limit to which the *Lammers* doctrine would go in curbing these mid-century developments. Perhaps three or four supreme court decisions will be required to determine all the issues. At present one can only search the existing portents to predict the shape of decisions to come. A major step in a forecast of tomorrow's law is naturally the correct selection of the factors which the court will consider in arriving at its decision. We believe them to be:

1. The full legislative history of the incorporation, annexation and consolidation laws.
2. A reanalysis of the *Lammers* doctrine as regards what it did and did not hold about size of the area proposed for incorporation, its characteristics and population density.
3. The evolution after World War II of the nationwide

[20] Milwaukee Journal, June 16, 1955, § 2, p. 4, col. 1. Amendment No. 3A to Bill 314S of the 1955 Session provided that after "in excess of $20,000,000" in what is now WIS. STAT. § 60.81(1) (1955), there should be added "and has the characteristics of a city of the fourth class."

trend toward large sparsely settled "dormitory city" or "bedroom village" quite different from the 1848 village of the *Lammers* decision or commuters' village of the 1920's.

4. Certain recent decisions by the supreme court which reflect the current thinking of the court on related incorporation, annexation, and consolidation questions.

We shall now review each of these factors.

VII. Legislative History

After the Constitution in 1848 gave the legislature the power to pass laws for the incorporation of cities and villages,[21] all cities and some villages were incorporated for many years by special private legislative act. Constitutional amendents later prohibited the direct incorporation by the legislature of villages (1872)[22] and cities (1892).[23] Thereafter the legislature left the further incorporation of all municipalities to the present method of local petition and referendum among electors in the area to be incorporated.[24] In two ways the creation of cities by local referendum has usually been easier than villages. First, villages, which since 1849 could be created by local petition and election, have always since that date required advance court approval.[25] Advance court approval has never been required for cities, and a proposal to that effect died in the 1957 legislature.[26] Second, throughout the entire history of the state there has never been any density requirement for new cities (only a minimum population of 2000 persons from 1892 until 1895[27] and 1500 from 1895 to 1957),[28] but there has been from 1849 to 1881[29] and 1939[30] to the present date a requirement varying from 300 to 400 persons for each square mile of territory to be incorporated as a village. By odd quirk, possibly a scrivener's error, between 1881 and 1939 villages incorporated from an area embracing land in two counties did have to possess a population density of 400 per-

[21] WIS. CONST. art. XI, § 3 (1848), then provided: "The legislature shall provide for the organization of cities and incorporated villages."

[22] WIS. CONST. art. IV, § 31, as amended by Wis. Laws 1871, c. 122.

[23] Wis. Laws 1891, c. 362, voted at referendum, 1892.

[24] See WIS. STAT. §§ 61.01, 62.06 (1955) for the present procedure which has not changed in this particular respect since its adoption for villages in 1949 and cities in 1889.

[25] WIS. REV. STAT. c. 52, § 8 (1849).

[26] See Wis. Laws 1889, c. 326 §§ 7, 8, (first city incorporation law) and Bill 5 S, 1957 Legislative Session, §§ 66.021(1)(b), (c).

[27] Wis. Laws 1895, c. 62.

[28] WIS. STAT. § 62.06(1) (1955).

[29] WIS. REV. STAT. c. 52, § 1 (1849); Wis. Laws 1881, c. 92, § 1.

[30] Wis. Laws 1939, c. 307; WIS. STAT. § 61.01 (1955).

sons to a square mile.[81] The more strict initial and present legislative population density requirement for the incorporation of a village has puzzled many. Possibly the legislature desired to restrict villages to small compact areas and to permit cities to be organized with sparsely settled areas necessary for future growth. If this was not the legislative intention, one must conclude that the legislature has been ignorant during the entire history of the state that there has been some requirement of density for the village, at least when it embraced two counties, and none whatsoever for the city. The Oak Creek Law, enacted in 1955,[82] shows the legislature permitting the incorporation of Oak Creek, which then had a population density of 237 per square mile against the requirement in 1955 of 400 persons to each and every square mile of a new village. In 1957, the Assembly killed a bill, 5 S, which would have, among many other things, required that both villages and cities (other than Oak Creek cities) include an average of 400 persons to each and every square mile.[83] Until 1889 all annexations were accomplished by private act of the legislature, which on at least two occasions were upheld against protests that the legislature could not annex farm land to a city.[84] Thereafter annexations have always required the signature of a varying per cent of the landowners and electors in the area to be annexed but have never mentioned any specific requirement with regard to the population, characteristics, or need of the annexer for such land.

The consolidation of one municipality with another has ever since 1873 been accomplished by a referendum of all the electors in each municipality, again without legislative limit on the size, population or characteristics of the merging communities.[85]

VIII. The Evolution of the Lammers Doctrine in Later Incorporation Cases

The court in the *Lammers* case seemed to freeze the definition of a "city" or "village" which must exist "in fact" prior to incorporation to the 1848 definition of each municipality. That is quite clear from the opinion.

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[81] See Wis. Laws 1881, c. 92, and State *ex rel.* Holland v. Lammers, 113 Wis. 398, 404, 417, 86 N.W. 677, 679, 89 N.W. 501, 503 (1902) (dissents).

[82] WIS. STAT. § 60.81 (1955).

[83] § 66.021 (1) (b), (c) of 5 S.

[84] Weeks v. Milwaukee, 10 Wis. *242 (1860); Bull v. Conroe, 13 Wis. *233 (1860).

[85] See Wis. Laws 1873, c. 234, §§ 1, 2.

> Undoubtedly, when the constitution was formed, its makers had in mind the three political subdivisions existing in the older sections of the country -- towns, cities, and villages . . . . It is a fact of common knowledge that very many of the members of our constitutional convention were from New England and New York. In those states the town was the political unit of territory into which the county was subdivided, and a mere inspection of the constitution demonstrates that where the word "town" is used therein it was used with reference to this idea. The word "city" undoubtedly refers to a municipal corporation of the larger class, somewhat densely populated, governed by its mayor and board of aldermen, with other officers having special functions. A "village" means an assemblage of houses les than a city, but nevertheless urban or semi-urban in its character, and having a density of population greater than can usually be found in rural districts. A very common definition of a village found in the books is as follows:
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> "Any small assemblage of houses, for dwelling or business, or both, in the country, whether situated upon regularly laid out streets and alleys or not." *Ill. Cent. R. Co. v. Williams*, 27 Ill. 48.[36]

Although the *Lammers* doctrine has been reaffirmed many times since its original promulgation in 1902, the sweeping language seemingly requiring that a city or village as defined in 1848 be literally 100 per cent in existence prior to incorporation has been modified in two important respects. First, the *Lammers* case itself indicated that the incorporation area might include in addition to the village in fact "such adjacent lands as are naturally connected with, and are reasonably appurtenant and necessary for future growth, in view of the surroundings and circumstances of location and prospects of future prosperity."[37] The *Lammers* case involved a small population of 317 persons and an area of two square miles. The factual question of what part of the two square miles was village in fact and what appurtenant land was never discussed. In subsequent cases, however, the court became very liberal and has upheld incorporations where the built-up area or existing community in fact occupied respectively 28,[38] 29[39] and "at the most" 50 per cent[40] of the area incorporated. The remainder consisted of largely vacant

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[36] State *ex rel.* Holland v. Lammers, 113 Wis. 398, 413, 414, 89 N.W. 501, 502 (1902).

[37] *Id.* at 414, 89 N.W. at 502.

[38] *In re* Village of Twin Lakes, 226 Wis. 505, 277 N.W. 373 (1938).

[39] *In re* Village of Chenequa, 197 Wis. 163, 221 N.W. 856 (1928).

[40] Incorporation of Village of Biron, 146 Wis. 444, 131 N.W. 829 (1911).

land or water and was collectively deemed appurtenant and necessary for the future growth of the village.

In fact the court has overruled incorporations on account of the lack of sufficient built-up area within the incorporated area in only two cases and both of them were freakish in the extreme. In *Fenton v. Ryan*,[41] the court affirmed a circuit court order denying the incorporation of 9/10 of a square mile only 6.6 per cent of which was settled, the remaining being sparsely settled agricultural lands or water.[42] In *In re Town of Hallie*,[43] the court rejected the incorporation of an entire township of 26.9 miles near Eau Claire where only 12 per cent was settled and the average population in the entire area was only 48.9 per square mile. On the other hand, the court in the third of its decisions denying incorporation rejected the proposed Village of St. Francis in Milwaukee where there were 537 persons per square mile.[44] There the court found that no village existed in fact in part because much of the land was undeveloped but in greater part because the odd-shaped area (approximately 2½ miles east to west and ½ mile north and south) lacked cohesiveness in that all main roads were north and south and the area was divided by a railroad embankment.

A tabular analysis of decisions and briefs in all the incorporation cases decided by the Wisconsin Supreme Court on the merits reveals that except possibly in the *St. Francis* case, the court has been very liberal in finding both that there was a village in fact and that the surrounding sparsely settled land was such as to be reasonably necessary for its future growth and development:

Name of Decision	Area in Square Miles	% of Area "Settled" or "Built-up"	Population	Population Density Per Square Mile	Incorporation Upheld
State ex rel. Holland v. Lammers[45]	2.0	Not stated	317	164.0	Yes
Fenton v. Ryan[46]	.9	6.6	Not stated	—	No

[41] 140 Wis. 353, 122 N.W. 756 (1909).
[42] *Id.* at 355, 122 N.W. at 756. The opinion states that the lower court held that the built-up area of 38.5 acres could have justified incorporating a total area of 320 acres but not the 680 acres proposed.
[43] 253 Wis. 35, 33 N.W.2d 185 (1948).
[44] *In re* Village of St. Francis, 209 Wis. 645, 245 N.W. 840 (1932).
[45] 113 Wis. 398, 86 N.W. 677, 89 N.W. 501 (1902).
[46] 140 Wis. 353, 122 N.W. 756 (1909).

Name of Decision	Area in Square Miles	% of Area "Settled" or "Built-up"	Population	Population Density Per Square Mile	Incorporation Upheld
Incorporation of Village of Biron[47]	1.54	at most 50.0	267	173.0	Yes
In re Village of Chenequa[48]	3.23	28.7	200 (excl. summer residents)	44.4	Yes
In re Village of St. Francis[49]	1.70	Not Clear	979	580.0	No
In re Incorporation of Village of Twin Lakes[50]	4.05	27.9	400 (excl. summer residents)	70.8	Yes
In re Town of Hallie[51]	26.9	12.0	1,313	48.9	No

The second liberalization of the *Lammers* doctrine occurred in the *Chenequa*[52] case and may have much bearing on the legality of the incorporation of large post-World War II dormitory cities. The proposed Village of Chenequa consisted of attractive woodland surrounding Pine Lake where slightly over 200 persons made their year-around residence. Most of these residents were wealthy persons who worked in Milwaukee some 30 miles away, and the opponents of the incorporation argued that Chenequa had none of the characteristics of the village as they existed in 1848 in the Eastern states where the framers of the Wisconsin Constitution had formerly resided. Apparently, the proposed village lacked stores, churches, and a village smithy. The supreme court in sweeping language determined that the existence of a village in fact would be determined in accordance with current conception of a village:

> The constitution was made for an expanding future. The framers of the constitution were optimistic men who had come

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[47] 146 Wis. 444, 131 N.W. 829 (1911).
[48] 197 Wis. 163, 221 N.W. 856 (1928).
[49] 209 Wis. 645, 245 N.W. 840 (1932).
[50] 226 Wis. 505, 277 N.W. 373 (1938).
[51] 253 Wis. 35, 33 N.W.2d 185 (1948).
[52] *In re* Village of Chenequa, 197 Wis. 163, 221 N.W. 856 (1928).

to the West with full faith in its future development. They could foresee and did foresee a wonderful growth and prosperity for this state. They had seen in their lifetime great changes in the means of transportation, such as steam railroads and steamboat navigation. They had witnessed the development of the telegraph and many modern inventions. In framing the constitution they used general and apt language to include not only the present but the future. The villages of today are unlike the villages of 1848 in many respects. Then a village consisted of a cluster of inhabitants centered around the village store, postoffice, blacksmith shop, and the town pump. Usually a postoffice, a church, and a school house were part of the village. In those days the village store and the blacksmith shop catered to the necessities of the time. Now, however, the automobile and the interurban trains have revolutionized the methods of securing such necessities and have changed the entire purposes of villages in many instances. The necessities of life may be procured by parcel post, express, or by the use of automobiles. Free delivery may bring the mail to the door. Many villages adjacent or near large cities are built up for the purpose of the convenience and comfort of the residents who are largely business men of a city, who wish to get away from the noise and rush of the city to the quietude of country life. Such in a large measure was the situation of the people who lived in Chenequa. They had built their houses around a charming lake and in a rugged territory that is ideally situated for their comfort and convenience and hardly valuable for any other than residential purposes. What they lacked was police protection. They had no fire protection and no protection for their property or persons. By organizing the village they could secure this protection and the other conveniences that they desired. There is nothing in the constitution nor in the statutes that prevents a construction thereof applicable to this kind of a village.[68]

The *Chenequa* decision recognized and accepted a substantial change between 1848 and 1928 in the manner by which new modes of transportation have caused the formation of villages some distance from the places where a majority of its residents work and shop. There is no reason to believe that the court would not recognize and accept further changes in the definition of villages and cities which have arisen recently as a result of the national trend toward living on much larger plots of ground farther away from the place of work than previously.

IX. The Post-War "Dormitory City"

In the *Chenequa* case the court held that the *Lammers* doctrine did not require as a prerequisite to incorporation that there exist

[68] *Id.* at 170-71, 221 N.W. at 859.

a village as defined by the framers of the Constitution in 1848. Instead, there need only be a village as the term was understood in our society at the time of incorporation. Accordingly, it is extremely relevant to determine whether there have been significant changes in society's concept of village or city since the *Chenequa* decision. In measuring such a change, if any there be, naturally even the opinion of the experts will differ; but a wealth of evidence exists in support of the conclusion that the urban sprawl has brought with it brand new cities all over the United States like Levittown, New York;[54] Levittown, Pennsylvania; and Park Ridge, Illinois. The common features are complete newness, rapid growth, a large ratio of green area to built-up area, and the fact that almost no one works within the city limits. "Bedroom cities" result from the desire of workers in the big central city to get out to "the country" where they can enjoy green grass, a backyard, and trees of their own. Sometimes an entire new city is founded overnight by the large-scale real estate builder answering the demand for homes; more often they just develop as a result of the combined energies of many builders.[55] Whatever the cause, they have brought or created staggering problems of traffic, fire protection, police, zoning, schooling, and utilities for the local governments. Where the impact is confined to a limited area the burden of absorbing the population explosion has often been excessive for the local schools or other features of local government. Often the builders in their zeal have created many more problems than they anticipated, or even cared about. Some hastily built subdivisions have ignored local sanitary conditions[56] or broken down existing patterns in such a way as to "blight" neighboring areas in other jurisdictions. Often the "rush" to build has swamped the local officials who were insufficient in number or training to control the development in the general public interest. As a result, planning officials have generally

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[54] This community on Long Island started in 1947 as an enormous low cost residential development. Today its 7.3 square miles contain 82,000 persons. Although it is not incorporated, Levittown has a distinct community atmosphere. N. Y. Times, Sept. 30, 1957, § 1, p. 1, col. 3.

[55] State *ex rel.* Northern Pump Co. v. Village of Fridley. 233 Minn. 442, 47 N.W.2d 204 (1951) (upholding the incorporation of a post-war city of 7.8 square miles and an average population of 295 persons per square mile).

[56] One prefabricated housing development in northern Racine County encountered serious sanitary problems and so overwhelmed the local school district that it lead directly to a Racine County zoning ordinance which, among other things, contained a provision requiring subdividers to obtain certificates from local school authorities that adequate school facilities exist before obtaining county approval of the proposed subdivision of land. (This provision is of doubtful validity and a court test case was compromised by the county.)

favored one or both of two courses to cope with the problem; creation of large new suburban units so as to permit planning over a large area where it could be effective[87] and also to cushion the impact of the building boom on the existing school system and local government by distributing the load over a broader geographic base; and second, creating regional or metropolitan area planning bodies with some power over the myriad local units.[88] In any event, for our purpose, the large bedroom city or village is favored both by all existing trends and a large segment of the professional planning consultants and thus can be said to have introduced a new concept of a city in fact just like the *Chenequa* case recognized an earlier evolution of a new type.

Examples of some sparsely settled cities and villages in the country and Wisconsin are:[89]

City	Last Available Population	1955 Area in Square Miles	Population Per Square Mile
Presque Isle, Maine	7,939	72.0	110.3
Berlin, N. H.	17,000	56.9	298.7
Hammondton, N. J.	8,400	42.5	197.6
Superior, Wis.	35,325	36.6	965.0
Oak Creek, Wis.	6,885	29.0	237.0
Franklin, Wis. (1950)	6,529	34.0	191.0
Brookfield, Wis.	14,000	20.0	700.0
Mequon, Wis.	7,000	47.25	150.0
Village of River Hills, Wis. (1957)	1,200	5.0	240.0
Village of River Hills, Wis. (1953)	576	4.0	144.0
Village of Brown Deer, Wis. (1957)	4,000	20.1	191.0
Loyalton, Cal.	700	25.0	13.6

[87] January 1957 report of Griffenhagen & Associates, consultants, recommending incorporation of 47.25 square mile Town of Mequon as a city before the area disintegrated under annexations from at least three municipalities having zoning policies less strict than those of Mequon.

[88] A bill was introduced in the 1957 Legislature transferring the power to zone from the 19 municipalities in Milwaukee County to the County Government. It failed to pass. A 1955 statute directed the Governor to appoint a regional planning commission, if so requested by areas affected. An attempt to persuade the county boards of the seven southeastern counties to request a regional planning statute has failed thus far. Milwaukee Journal, Aug. 21, 1957, § 1, p. 1, col. 1.

[89] All figures for cities outside Wisconsin, except Loyalton, California, were suggested by Griffenhagen & Associates in a letter to author, February 4, 1957. Loyalton figures appear in People v. Town of Loyalton 147 Cal. 774, 82 Pac. 620 (1905). Wisconsin figures were obtained from officials of each municipality, and the WISCONSIN BLUE BOOK.

X. Recent Decisions Relating to the Characteristics of Land Required for Incorporation or Annexation

Although several large sparsely settled cities and villages have been created in Wisconsin in the 1950's either through incorporation or incorporation plus extensive annexation, the supreme court has not yet passed directly on the validity of any of these new type municipalities. However, the court has had the occasion to pass upon several facets of the broader problem, namely: What characteristics must land have as a prerequisite to incorporation, annexation, or consolidation? Or, stated in another manner: What shape, size, and content may such land have prior to a change in municipal boundaries by any of the three statutory methods: incorporation, annexation, or consolidation?

The decisions by the Wisconsin supreme court since 1950 appear to have become progressively more liberal and therefore any prediction as to how the court will resolve related questions in the future ought to take into account the apparent steady shift in the court's approach to annexation and incorporation cases. For that reason, we shall review the decisions in chronological order.

In *In re Village of Oconomowoc Lake*,[60] the supreme court affirmed the *Lammers* doctrine in language which has been interpreted as possibly making that doctrine more restrictive. In the *Oconomowoc* case, certain residents of the Towns of Summit and Oconomowoc in Waukesha County petitioned to the court pursuant to section 61.01 of the statutes for an order setting a referendum to determine whether the Village of Oconomowoc Lake should be created. The Town of Summit demurred to the petition in a civil action on the ground that it failed to state a cause of action in that it did not allege that the proposed village had the "characteristics" of a village. The circuit court overruled the demurrer and was reversed by a 4 to 3 decision of the supreme court. The majority opinion of Chief Justice Fairchild assumed without discussion that the incorporation petition, because it was directed to the court pursuant to section 61.01 of the statutes (rather than to

[60] 270 Wis. 530, 72 N.W. 2d 544 (1955). The attempt to incorporate the Village of Oconomowoc Lake has encountered a most frustrating history. The first petition, commenced in 1952, was voided in 1953. 264 Wis. 540, 59 N.W. 2d 662 (1953). After the demurrer to the second petition was sustained by the Supreme Court in 1955, a third petition was presented to the circuit court of Waukesha County and a trial had on the merits in June 1956. The case is still under advisement and a decision is not expected in the near future. Letter of Circuit Judge Clarence E. Rinehard to author, November 2, 1957.

the town clerk, as would be the case for a petition to incorporate a city) was in the nature of a pleading in a "civil action" and therefore was subject to a demurrer.[61] Justice Currie, dissenting, concluded not only that a petition was nondemurrable, but, even if it were, it would be sufficient under the *Lammers* case for the petition to set forth the statutory requirements, it being understood that the incorporaion statute implied in the word "village" the idea that the territory sought to be incorporated already had the characteristics of a village. In my opinion, an incorporation petition for a village is more analogous to a petition for incorporating a city, which does not need to be addressed to a court, than it is to a normal court pleading and for this reason alone the dissent seems to have expressed the sounder view.

The really significant part of the *Oconomowoc* decision lies in the majority's treatment of an ingenious argument by the attorneys for the incorporators. They argued that the *Lammers* decision had grafted onto the 1898 incorporation statute the village characteristics requirement in order to save the statute at a time when it contained no express requirement as to the density of the population in the territory proposed for incorporation. The incorporators next contended that the 1939 amendment to the statute, adding the requirement that there be 400 persons to each square mile in any proposed village, supplied the village characteristics requirement referred to in the *Lammers* opinion and therefore there was no need to allege anything in addition. Both the majority and minority rejected this argument. The majority concluded that "village characteristics" embraced more than compliance with a population-to-area ratio, saying:

> A village must have a "reasonably compact center or nucleus of population," and its territory must be "distinctly urban in character, with such adjacent lands as are naturally connected with, and are reasonably appurtenant and necessary for future growth, in view of the surroundings and circumstances of location and prospects of future prosperity."[62]

The court's reasoning that the "broad aspects" of the constitutional "characteristics" doctrine "cannot be circumscribed within the narrow confines of a statute which does no more than set up minimum standards for villages by prescribing a modicum of inhabitants per

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[61] Possibly Madison v. Tiedeman, 1 Wis. 2d 136, 83 N.W. 2d 694 (1957), is inconsistent with the *Oconomowoc* case. It held a petition for condemnation under chap. 32 not to be a pleading in a "civil action" to which a demurrer would lie.

[62] *In re* Village of Oconomowoc Lake, 270 Wis. 530, 535, 72 N.W.2d 544, 547 (1955).

square mile" could, by the same logic, albeit with less force, be applied to the Oak Creek law of 1955 providing that any town contiguous to the City of Milwaukee having a population over 5000 and an equalized assessed valuation over $20 million could be incorporated.[63]

In *Village of Brown Deer v. City of Milwaukee*,[64] popularly known as the *Granville consolidation case*, the supreme court faced several major problems which have developed in the annexation wars surrounding central cities. Prior to that decision, the supreme court had established the so-called priority rule to the effect that where two competing annexation and/or incorporation petitions covering all or part of the same area were in process at the same time, then the proceeding in which the first legally required public step had been taken was the proceeding which had a legal priority.[65] Although the court had previously held that the petition having a second priority was not void and therefore could be validly consummated if the first petition were rejected or failed to obtain sufficient signatures within a reasonable time,[66] nevertheless it had been generally assumed that if the first petition covered ten acres and the second petition covered the same ten plus ninety more, the second petition would be void if the first proceeding were consummated.[67] Consequently, prior to the Granville consolidation case, the proponents of both large-scale annexations and incorporations were greatly handicapped by the ability of opponents to block or stall them by instituting a series of consecutive small annexations in their path and thereby preclude the incorporator or large-scale

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[63] The Oak Creek Statute, § 60.81, at least requires a substantial over-all population and property valuations and the fact of contiguity to a big city has a certain bearing upon the characteristics of the land. See recognition by the supreme court in the *Brookfield* case, pages 27-29 *infra*, that proximity to Milwaukee affects the value and prospective use of vacant land. However, the language of the *Oconomowoc* case on its face would support the conclusion of the Attorney General that the Oak Creek Statute does not on its face replace the *Lammers* doctrine and any incorporation under it would fail where the city characteristics could not be shown. 44 ATT'Y GEN. 151 (1955).

[64] 274 Wis. 50, 79 N.W.2d 340 (1956).

[65] *In re* Village of St. Francis, 208 Wis. 431, 243 N.W. 315 (1932); Greenfield v. Milwaukee, 259 Wis. 77, 47 N.W. 2d 292 (1951).

[66] *In re* Village of Brown Deer, 267 Wis. 481, 66 N.W. 2d 333 (1954). This theory that each succeeding priority will ultimately get first priority if those ahead of it fail for any reason is often called the "totem pole" theory.

[67] See Zweifel v. Milwaukee, 188 Wis. 358, 206 N.W. 215 (1925) voiding an annexation which overlapped part of an established city other than the annexing city. *Cf.* Town of Wilson v. Sheboygan, 230 Wis. 483, 283 N.W. 312 (1939) (disregarding as surplusage that part of an annexation which overlapped part of the annexing municipality.)

annexer from ever acquiring the right to campaign for a majority vote in the large area.[68]

In 1955, four petitions covering 16 square miles of the Town of Granville were commenced for annexation to the Village of Brown Deer. A few months thereafter the City of Milwaukee and Town of Granville commenced proceedings for the consolidation of the 16 square miles plus six additional square miles with the City of Milwaukee. The consolidation ordinance included a standard severability clause stating that if

> the provisions of this ordinance are invalid or unconstitutional, or if the application of this ordinance to any person or circumstances is invalid or unconstitutional, such invalidity . . . shall not affect the other provisions or applications of this ordinance . . . .

While the Granville consolidation decision is most noted for affirming the widely held view that consolidations are subject to the priority rule just like incorporations and annexations, the supreme court made an important decision in this case which will make large-scale changes of municipal boundaries through annexation, incorporation or consolidation easier than heretofore. It held that the severability clause made the consolidation ordinance into an "open end" ordinance which would include as much area as was not covered by any valid prior annexation proceedings. The court reasoned that the severability clause meant Milwaukee chose to get as much of Granville as it could legally get and therefore was both entitled to and compelled to take the six miles, even though the prior commencement of the annexation to Brown Deer meant that the 16 miles included in the Milwaukee consolidation attempt would go to Brown Deer. It is doubtful from the text of the severability clause and public statements of Milwaukee officials prior to the consolidation[69] that the City really intended to take anything

[68] The counter-weapon for large-scale annexers and incorporators was to blanket a large area with a petition even before being able to know if all of that area was desirable or favorably inclined and then, once the initial priority was obtained, follow up with a more carefully planned second petition. Then the first petition could be allowed to lapse and the second one move under the "totem pole" priority theory into a position of primary legal priority. In *In re* Village of Brown Deer, 267 Wis. 481, 66 N.W.2d 333 (1954), the City of Milwaukee blanketed 20 square miles of Granville with an annexation petition, probably in an effort to thwart the inevitable effort of some townspeople to create a new village or city and thereby be sheltered from annexation to Milwaukee. The scheme backfired because it was poorly executed, the court holding in effect that the annexation had died of old age because Milwaukee had not circulated the petition with sufficient diligence to be able to complete circulation within a reasonable time of commencement.

[69] Milwaukee officials proclaimed in campaigning for the consolidation vote that they wanted all or nothing of Granville, and this made good sense from their

less than the entire 22 miles, but the court's new rule is generally a very wise one because it permits the citizens of a large area to vote on a change of their boundaries even though some much smaller area is seeking to make a different change. No other rule could make as reasonable an adjustment of the conflicting interests of majorities in different areas unless the legislature[70] or the courts [71] were established as the ultimate arbiter of all boundary changes.

While holding that the severability provision of the Milwaukee consolidation clause saved it from being voided by the Brown Deer prior annexation proceedings, the court also declared that where two competing annexation petitions overlap each other, and both are otherwise valid, the second in priority validly annexes the non-overlapped area, even though the second annexation petition

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point of view. The potential industrial area lay primarily in the sparsely settled northern 16 square miles. The six southern square miles were much more developed along residential lines. Finally, within the six square mile area lay the populous Engelberg School District, 60% of whose electors and landowners had, according to frequent public statements in late 1955 by Milwaukee's annexation department, signed an annexation petition for Milwaukee. However, Milwaukee, as was not its custom, held back filing the Engelberg petition and annexing the land, presumably either because it did not covet this particular populous area, or, as is more likely, because it wanted those electors to remain in the town long enough to be able to cast their votes for the April 1956 consolidation of the entire Town of Granville and thereby outweigh the anti-Milwaukee sentiment in the 16 square mile area. In actual fact, the northern area did vote against Milwaukee by a slight margin and the southern area voted for Milwaukee by a strong margin.

[70] In the 19th century the legislature handled all annexations, all city incorporations, and some village incorporations. To revert to that system would require a constitutional amendment.

In the author's opinion it is desirable that either a statewide agency (See N.C.GEN. STAT. § 160-197 (1952) or the courts be authorized by the legislature to determine the reasonableness of any proposed incorporation and serious consideration should be given to the special problem of incorporation on the fringe of metropolitan cities. See *Municipal Incorporation on the Urban Fringe*, a speech by Professor Daniel Mandelker before Municipal Law Section, A.B.A., Aug 28, 1956. Excessive suburban incorporation often creates governmental duplication and rivalry which can increase the cost and lower the efficiency of municipal services in the area. Although suburban incorporation is historically respectable and literally carries out the principal of home rule, the fragmentation of a metropolitan area into too many tiny municipalities is against the public interest of the larger metropolitan area and indirectly impedes truly effective home rule in such metropolitan area. Absent such legislation, certainly the central city should be authorized to litigate the legality of any suburban incorporation within a reasonable distance of its boundaries. *Contra:* Schatzman v. Greenfield, 273 Wis. 277, 77 N.W.2d 511 (1956). Otherwise, a rural area assumedly not entitled to incorporation may illegally incorporate so long as no local citizen is willing to contest it in court. Often the only objecting party is the neighboring city whose probable expansion through annexation will be blocked by the assumedly illegal incorporation. In this manner the *Schatzman* decision permits the thwarting of state incorporation laws.

[71] ALASKA COMP. LAWS ANN. § 16-1-1 (1949); MISS. CODE ANN. § 3374.03(6) (Supp. 1954); VA. CODE, § 15-67 (Supp. 1954), Bennett v. Garrett, 132 Va. 397, 112 S.E. 772 (1922).

did not contain a severability clause. In this the court was inconsistent with its earlier holding that even though purportedly covering 22 square miles, the Milwaukee consolidation was valid as to six miles because the severability clause expressly indicated an intention that Milwaukee would take whatever area was not covered by any prior annexation proceeding. We think that both holdings may be unique to the peculiar facts of the Granville consolidation case. Certainly one would not predict that the court would hold a second annexation petition valid pro tanto where there was no evidence that the annexing municipality and persons signing the petition intended the annexation to be effective even though part of the area included in the petition were lost to some rival municipaliy.[72] However, the fact that the court in the Granville consolidation case went out of its way to uphold pro tanto both the Milwaukee consolidation and a 4½ square mile annexation to Brown Deer in the face of the logic of its previous decisions, shows that the court is little disposed to invalidate large-scale consolidations or annexations simply because part of the area was embraced in some prior petition. In fact, the City of Milwaukee had argued that the entire 22 square mile consolidation must be upheld lest all consolidations be easily defeated by small piecemeal annexations placed in their path, to which the court replied that interpreting the severability clause as it did:

> . . . will tend to minimize the risk that extensive consolidations may be defeated by prior institution of proceedings to annex a small part of the territory to another municipality.[73]

In *Town of Brookfield v. City of Brookfield*,[74] the court faced the inevitable challenge to the annexation of a large sparsely settled area by, of all things, a newly incorporated city. The City of Brookfield was incorporated in Waukesha County in 1954 with a population of 7,923 persons in a 17 square mile area. Nine months later the City annexed a three square mile rectangle which squared off city boundaries and contained 165 persons. The Town of Brookfield

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[72] The reasoning in Zweifel v. Milwaukee, 188 Wis. 358, 206 N.W. 215 (1925) where an annexation description included part of a neighboring city, seems persuasive. Of the territory described in the petition, the court said at 363-64, 206 N.W. at 217:

> It is one territory — one thing — to be annexed to the city of *Milwaukee*, and it cannot be said that the electors of the proposed territory would have signed if the boundaries of the proposed territory had not included the city of North Milwaukee, nor that the common council of the city of *Milwaukee* would have passed the ordinance if such territory lying within the city of North Milwaukee had not been included.

[73] Village of Brown Deer v. City of Milwaukee, 274 Wis. 50, 66, 79 N.W. 2d 340, 349 (1956).

challenged the annexation on the ground that the annexed area "ought to reasonably possess some natural connection with city purposes and seem reasonably necessary for its growth and development" or otherwise a city could be incorporated in one area and then promptly annex additional land which, if included in the original incorporation, would have invalidated it under the *Lammers* rule.[75] The Town argued in the alternative that the existing City of Brookfield was only 50% developed and therefore had no "need" for additional land which was largely agricultural in appearance.[76]

The lower court held that the characteristics of the land were irrelevant in an annexation proceeding, that if it were relevant, the City did not need the lands, and then voided the annexation on other grounds.

The supreme court rejected the contention that land must have the characteristics of a city in order to be annexed and in so doing impliedly affirmed the court's earlier express holding in *Zweifel v. Milwaukee*,[77] that the uniform town and county government requirement of the Wisconsin Constitution does not in any way limit the operations of the annexation statutes.[78] The court then stated for the first time that courts do have the authority to review the suitability of land for annexation under a Wisconsin "rule of

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[74] 274 Wis. 638, 80 N.W.2d 800 (1957).

[75] Brief for Plaintiff Respondent, p. 34, Town of Brookfield v. City of Brookfield, 274 Wis. 638, 80 N.W. 2d 800 (1957). The Town argued at p. 41:

> In other words, the area which could not be included by incorporation would be omitted until incorporation was completed, and then it could immediately be included by annexation — THIS WOULD BE AN OBVIOUS ATTEMPT TO CIRCUMVENT THE LAW. . . .

[76] The supreme court on review held that as a matter of fact the land was really no longer agricultural in nature even though much of it was still being farmed. The court said at 645:

> The record herein shows that all sales of lands within the area during recent years have been at prices that are three or four times their value for farming purposes. In other words, it would be economically impossible to make any return on an investment by paying present prices and then devoting the land to farming purposes except as a temporary operation while platting for residential purposes or until the land could be sold to another buyer who would do so. The lands under discussion command such high prices solely because they are within an area in which the population is rapidly expanding because of its proximity to a large metropolitan area. New homesites must be prepared upon which to locate the persons flocking into the area.

[77] 188 Wis. 358, 206 N.W. 215 (1925).

[78] In the *Zweifel* case the court had declared that the annexation statutes are concerned only with the change of city and town boundaries and therefore do not affect town government as such. It would seem technically possible for the court to have held otherwise.

reason."[79] It noted that statutes in some states prohibit annexation of unplatted lands. Presumably the court interpreted the rule of reason as representing legislative intent.[80] The rule of reason does not, however, permit the court to review de novo the question of the suitability of the land for annexation and the need of the annexer for it. The court will disturb annexation on these grounds only if the determination of the common council, which is implicit in the act of annexing, is "arbitrary and capricious." As the court stated:

> In annexation proceedings the city council in the first instance determines the suitability or adaptability of the area proposed to be annexed and the necessity of annexing the same for the proper growth and development of the city. Upon a review the courts cannot disturb the council's determination unless it appears that it is arbitrary and capricious or is an abuse of discretion.[81]

Not only is the newly expressed rule of reason liberal in giving to the annexing municipality a power comparable to that accorded to an administrative agency, namely, that they can be reversed only if there is no substantial evidence to support their conclusion,[82] but the court in its unanimous decision was even more forward looking in applying the rule of reason in the facts to the *Brookfield* case. The court said:

> The authorities in thickly settled areas are becoming more conscious of the necessity for reasonable plans for orderly suburban development. It is clear that the time has come to consider that as an element in reviewing annexation cases. In order to properly plan for the development of areas adjacent to a city it is now necessary to see that areas bordering the same are properly zoned and platted so that through streets may be provided for and so that slums will not develop along the borders of cities that will involve many problems and much expense in future development.

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[79] Previously the supreme court had appeared twice to uphold the annexation of agricultural lands but had never discussed the problem explicitly. Wilson v. Sheboygan, 230 Wis. 483, 283 N.W. 312 (1939); Greenfield v. Milwaukee, 273 Wis. 484, 78 N.W.2d 909 (1956).

[80] Earlier in the *Brookfield* opinion the court had said that the annexation "statute does not answer all questions that may arise thereunder, and this court has been required to supply some of the answers under the general outline therein." Town of Brookfield v. City of Brookfield, 274 Wis. 638, 641, 80 N.W.2d 800, 802 (1957).

[81] *Id.* at 646, 80 N.W. 2d at 804.

[82] The City of Brookfield argued in the supreme court that the "courts should sustain the common council's finding of need and adaptability [of the land] if there is any evidence to support it," Reply Brief of Appellants, p. 22, Town of Brookfield v. City of Brookfield, 274 Wis. 638, 80 N.W. 2d 800 (1957).

In *Fish Creek Park Company v. Village of Bayside*,[83] the supreme court upheld an annexation by a village in one county of land lying wholly within another county against technical arguments that such an annexation would violate Art. IV of the Wisconsin Constitution requiring assembly districts to be bounded by county, precinct, town or ward lines.

In *Town of Blooming Grove v. City of Madison*,[84] the court struck down a long-standing annexation rule which had tended to limit the size and shape of annexations. Prior to the *Blooming Grove* case it had been generally assumed by annexation attorneys including the principal annexation authority of the City of Milwaukee[85] that one could not annex or incorporate territory within a town in such a way as to split the town into two or more parts. It was therefore thought necessary that some corridor connecting such parts be carefully left in existence by the annexer or incorporators. The rapid and haphazard annexation attacks on dwindling town territory often led to long, winding narrow corridors which only in the most technical sense bound the remaining parts of the town together. Corridors in Milwaukee County towns sometimes were the ultimate in absurdity: two feet wide and a meandering mile long, or longer. In the *Blooming Grove* case, Justice Fairchild in a scholarly opinion, with a dissent by Justice Broadfoot and Justice Steinle, overruled the long-established doctrine and thereby greatly facilitated annexations and incorporations. For example, in the incorporation of the City of Brookfield in 1954, a 5½ mile corridor varying from 100 to 43 feet in width had been left by the incorporators in order to protect the incorporation of the city from the claim that it had split two areas of the town in two. Subsequently the corridor was annexed by the city, so that in two cumbersome steps incorporators accomplished what the *Blooming Grove* decision now permits to be done in one step.

While the *Blooming Grove* case has now established that an annexation or incorporation may cut a town in two, the supreme court has not yet passed directly on the important question as to whether there will be any judicial limitation on the shape that an annexation takes. In recent years, there has been an increasing trend toward so-called shoestring or "gerrymander" annexations where the annexer reaches out a considerable distance from his ex-

[83] 274 Wis. 533, 80 N.W.2d 437 (1957)
[84] 275 Wis. 328, 81 N.W.2d 713 (1957).
[85] Maruszewski, *Legal Aspects of Annexation*, 1952 WIS. L. REV. 622, 628.

isting boundaries to annex land desired for development and in the annexation petition "attaches" the desired land to the existing city limits by a long oddly shaped tentacle or shoestring which, in some cases, carefully skirts the residences of town residents known to be opposed to the annexation.[86] The supreme court has dealt indirectly with that question in three cases. In *Wauwatosa v. Milwaukee*,[87] the City of Milwaukee attempted to annex the marshalling yards of the Chicago & North Western Railroad located some 4½ miles west of the city limits by means of a strip 330 feet wide. Opponents of the annexation attacked it on several grounds including the argument that the marshalling yards were not "adjacent" to the City of Milwaukee within any reasonable interpretation of the word "adjacent" as used in the annexation statute. The supreme court voided the annexation on the other grounds and expressly stated that the question of the reasonableness of the shape of the annexation was an open legal issue in Wisconsin.[88]

In the *Brookfield* annexation case referred to above, the supreme court held that the suitability and adaptability of land for annexation was subject to a rule of reason. It would appear to be a clear implication of that decision that "adaptability" and "situability" could include the reasonableness of the shape of the territory sought to be annexed as well as its contents. However, in *State ex rel. Badtke v. School Board*,[89] the supreme court in a 4 to 3 decision held that the annexation by one school district of land lying in another school district which only touched the first school district at one corner did include "adjoining land" within the meaning of section 40.075 of the statutes, the school annexation statute. In the *Badtke* case one school district annexed an irregularly shaped area which touched the annexing district's boundaries only at two corners. The opponents argued that the annexation was a gerrymander because it annexed taxable property without taking a

[86] A notorious example is the "Burbey West" annexation by Milwaukee in 1955 where the annexation department helped a subdivider "connect" 297 acres of land containing two electors to Milwaukee's city limits by means of many "shoestrings," one being 1856 feet long and varying between 60 to 120 feet in width. The annexation carefully omitted 27 residences in the immediate vicinity, where land was not purchased by the subdivider. For map of Burbey West, see Appendix A, *Infra* p. 39. The circuit court of Milwaukee County invalidated the annexation on grounds of improper posting without passing on the question of whether the area was "adjacent" to Milwaukee. Town of Granville v. City of Milwaukee, Case No. 255-945, decided February 2, 1956.

[87] 259 Wis. 56, 47 N.W.2d 442 (1951).

[88] *Id.* at 61, 47 N.W.2d at 445. "Because of the conclusions arrived at we do not consider it necessary to consider the contention of the town that the attempted annexation is unreasonable because of the shape of the area . . . . "

[89] 1 Wis. 2d 208, 83 N.W.2d 724 (1957).

commensurate number of school children. Four of the justices concluded that the annexed area was "adjoining" because prior decisions had held that adjoining required only that the second area touch the first at any point, even a corner. The court explained in dicta which was unnecessary to the decision that "adjacent" was a broader word that "adjoining" and included nearby land which did not necessarily touch. The court agreed that the particular annexation might be an unfair gerrymander but noted that the State Superintendent of Schools had the authority to order the revision of school boundaries and had so done in one or more gerrymander cases.

As a matter of semantics, the dicta in the *Badtke* decision would seem to indicate that territory annexed under the municipal annexation statute's phrase "territory adjacent to any city may be annexed"[90] can be irregularly shaped and need not touch the annexer's city limits. I believe any such application of the *Badtke* dicta to the municipal annexation statute to be erroneous for three reasons. First, the *Badtke* dicta was based upon what the court considered to be the holding in *Hennessey v. Douglas County*[91] concerning the meaning of "adjacent." Actually the *Hennessey* case concerned the question of whether a lot which existed near but did not front on a street could be assessed for improvements made in the street. The assessment statute provided that property which was benefited by the improvement might be so assessed and the benefited area could include all land "abutting or adjacent" to the street. Actually the *Hennessey* statute is completely different in purpose from the annexation statute. "Adjacent" linked to "abutting" could only mean something additional, such as "nearby but not touching." The court in the *Hennessey* case, incidentally, noted near the end of its opinion: "The meaning of the word adjacent, . . . is a relative, and by no means a definite and absolute, term."[92]

Second, municipal annexations have for a long time been permitted under two statutes which, read together, clearly indicate that "adjacent" cannot include land which does not touch the annexing municipality's boundaries. Section 62.07 of the 1955 statutes provided that "territory adjacent to any city may be annexed . . . " whereas section 66.025 provides " . . . territory owned by and lying near but not necessarily contiguous to a village or

[90] WIS. STAT. § 62.01(1) (1955).
[91] 99 Wis. 129, 74 N.W. 983 (1898).
[92] *Id.* at 141-42, 74 N.W. at 987.

city may be annexed." Section 66.025 was originally added to the statutes after the predecessor of 62.07 was already on the books, undoubtedly in order to permit municipalities to annex non-touching lands if they owned such lands.[93] Furthermore, the revision of the annexation statute in October 1957, which was both a clarification and change in annexation procedures, substituted the word "contiguous" for "adjacent" in what had formerly been section 62.07.[94] Also the school annexation statute, which was used or abused according to one's individual opinion, in the *Badtke* case, was repealed by the 1957 legislature.[95]

Third, annexation decisions in other states have in some instances held that "adjacent" land must not only touch but must have such a shape as to permit communication and the extension of city services between the city and the newly annexed area.[96] Thus, shoestring or gerrymander annexations have been voided as not being "adjacent" to the annexing city.

The shoestring or gerrymander annexation is not a rare phenomenon. The tendency of subdividers to reach far out into the countryside for vacant land and then desire to attach it to the city for possibly subsidized services is natural but where the intervening residents are opposed to annexation, it leads to annexations which in reality are no more than isolated areas connected by means of a technical strip a few feet wide. Such a result seems to violate legislative intent and creates crazy-quilt boundaries which are difficult for both city and town to administer. An effort was made in 1957 to persuade the Legislative Council to include in its then

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[93] WIS. STAT. § 66.025 (1955) first became law in 1925, whereas the original version of WIS. STAT. § 62.07 (1955), was adopted in 1889. See also Smith v. Sherry, 50 Wis. 210, 6 N.W. 561 (1880), holding that a noncontiguous land cannot be incorporated as a village. In view of the *Smith* decision there is some doubt whether the legislature could validly authorize the annexation of nontouching land.

[94] § 3 of Bill 825A creating WIS. STAT. § 66.021(2).

[95] Wis. Laws 1957, c. 537, published August 17, 1957. State *ex rel.* Badtke v. School Board, 1 Wis. 2d 208, 83 N.W.2d 724 was decided June 4, 1957 so that one can infer that the legislature intended to put a stop to gerrymandering of school districts through the loose interpretation of the word "adjoining" in the school annexation statute, Section 40.075, as occurred in the *Badtke* case.

[96] Pyle v. City of Shreveport, 215 La. 257, 40 So.2d 235 (1949); Wild v. People, 227 Ill. 556, 81 N.E. 707 (1907) (holding corridor 50 feet wide and ½ mile long mere subterfuge); State *ex rel.* Danielson v. Village of Mound, 234 Minn. 531, 48 N.W.2d 855 (1951) (railroad right-of-way five-eighths mile long held invalid connection); Potvin v. Village of Chubbuck, 76 Idaho 453, 284 P.2d 414 (1955); Clark v. Holt, 218 Ark. 504, 237 SW.2d 483 (1951); and other cases cited in BYRNE, MUNICIPAL LAW, § 2-35 nn. 16 & 26. *Contra:* People v. Los Angeles, 154 Cal. 220, 97 P. 311 (1908) (strip 16 miles long and one-half mile wide upheld).

proposed massive revision of all annexation statutes a provision expressly outlawing shoestring and gerrymander annexations.[97] The subcommittee considering the bill, however, concluded that drafting such a provision in precise terms was too difficult or actually impossible and that the matter was better left to the courts.[98]

Prior to the *Badtke* decision, Judge Reis in the Circuit Court of Dane County had voided one shoestring annexation on the ground that it was not adjacent within the meaning of the statute[99] and subsequent to the *Badtke* decision Judge Fox in Rock County[100] held that the *Badtke* case was controlling in municipal annexations. The fact that the *Badtke* decision was a 4-to-3 decision on school annexations and the *Brookfield* decision, pointing in the opposite direction, was a unanimous decision on municipal annexations, means that this issue remains in some doubt.[101]

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[97] One draft submitted to the Urban Development Committee of the Legislative Council to introduce the subject for their consideration read:

> Territory shall not be deemed contiguous to any city or village, on all the facts where
>
> (a) The boundaries of the territory proposed for annexation are so shaped that the territory would be connected to the existing boundary of the annexing municipality by means of an unreasonably thin or long isthmus or bridge of land; or
>
> (b) the boundaries of the territory are drawn in a gerrymandering fashion so as to exclude, without any good reason in the public interest, the residences of a number of electors who are substantial in proportion to those residing within the said territory and who reside on parcels of land immediately adjacent to the said territory.

Letter of author to Charles Goldberg, a member of the committee, January 2, 1957.

[98] Explanation of Maxwell Herriott, a member of the committee, to author March 11, 1957. Mr. Herriott explained that some gerrymanders had gone to extremes that ought to be checked but was doubtful if any legislation could be drafted which could avoid the use of terms which were necessarily so general as to invite disputes as to their meaning. He thought that probably the matter could be better handled by the courts construing "adjacent" so as to outlaw extreme shoestring and gerrymander annexations. Thereupon the author sent a second possible bill to the committee, drafted to meet the committee's objections to the first draft. It read:

> Territory which is so located or shaped as to prevent the orderly extension to it of municipal services furnished by the annexing municipality shall not be deemed contiguous to such municipality. The action of any municipality in annexing any territory shall be deemed a finding that such territory is in fact contiguous to such municipality and no such finding shall be set aside until shown to be arbitrary and capricious.

Letter of author to Maxwell Herriott, March 11, 1957. The committee took no action on the suggestions, continuing to consider the matter to be one which could best be handled by the courts.

[99] The annexed area was "tied" to the city limits by a railroad track one-half mile long which the judge stated "is not all usable for municipal purposes." Town of Blooming Grove v. Madison, decided Oct. 20, 1953.

[100] Town of Beloit v. City of Beloit, decided July 26, 1957.

XI. Current Legal Problems and Possible Answers

As a result of the recent trends in annexation, incorporation and judicial decisions, there are many legal questions which will have to be decided by the supreme court in the next few years. They include the constitutionality of the Oak Creek Law, a decision as to whether town land sought to be consolidated with a neighboring municipality is subject to any constitutional or statutory limitation under the *Lammers* or *Brookfield* rules, and a clear decision as to whether there is statutory limitation on the reasonableness of shape in municipal annexation cases. Other more technical questions exist, all of which relate to the court's current concept of the power of the majority of local inhabitants to determine their boundaries.[102]

The answers to the foregoing questions depend in a large part on the manner by which the court reconciles the *Lammers* and *Brookfield* decisions. While the *Oconomowoc* decision of 1955 literally appeared to make the Oak Creek Law unconstitutional (see discussion *supra* pp. 23-24), it may now be less significant than the implications of the *Brookfield* decision. Two of the four-judge majority of the *Oconomowoc* decision have since left the court; the court decisions have become much more liberal since 1955, and the *Oconomowoc* decision arose on a demurrer and in large part concerned a technical pleading point. Where the court since 1955 has faced actual cases on the merits, it has been increasingly more favorable to upholding annexations.[103]

The *Brookfield* decision is an annexation decision but seems to mark a point of departure, at least in the annexation field, from the plain implication of the *Lammers* decision. The implication there was that a certain amount of de facto land development must

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[101] Note that an area in order to be incorporated may include "adjacent lands as are naturally connected with, and are reasonably appurtenant and necessary for future growth . . . . " State *ex rel.* Holland v. Lammers, 113 Wis. 398, 414, 89 N.W. 501, 502 (1902). It would seem plausible that a court would void annexations which are artificially connected with the city and where the city council's determination on that point is clearly arbitrary and capricious.

[102] Such questions include the highly technical one as to whether the requirement of § 62.06 that the proposed city contain an incorporated village or "unincorporated village . . . [having] the area and density of population required by Sec. 61.01 [the village incorporation statute]" means that the proposed city must under the *Lammers* rule have (i) the characteristics of a city and (ii) also have the characteristics of a village within the area having the population and density required for a village. Further, since § 62.06 was originally drafted when villages required a density of 300 persons for each square mile and then that density requirement was dropped for 48 years and then re-introduced and increased in 1939, a question arises as to whether § 62.06 refers to the pre-1882 density requirements for villages or the present density requirements.

precede the time when the local inhabitants become legally entitled to acquire the powers of an incorporated municipality so as to be able to deal with local problems, including the proper development of such land. Possibly the *Lammers* doctrine and *Brookfield* decision can be reconciled only on the strict legal grounds expressed by the court, namely, that the Constitution prevents the creation of an overly sparse new municipality but in no may limits the expansion of an existing municipality into sparsely settled areas. On the other hand, it is quite possible that the court is also aware, as indicated in the *Brookfield* decision, of the need for adequate planning of land use development *in advance* of the fantastically rapid developments in suburban areas which became so common after World War II. In 1902 when the *Lammers* decision was decided no zoning laws existed in the United States, whereas today one of the principal advantages of incorporation or annexation in suburban areas is the acquisition, before the subdividers apply their meat ax to the countryside, of the power to zone the land for the long-range public interest. To be sure, it is true that towns can acquire the power to zone either alone,[104] or in conjunction with a sometimes stifling requirement of approval by the county board of supervisors,[105] but frequently town boards are either ill-equipped or indisposed to exercise zoning powers with any vigor or foresight. Consequently, a large-scale annexation to a neighboring municipality with high zoning standards or the creation of a new municipality whose first officers will be dedicated to high zoning standards has often become the dominant motive behind such large-scale annexations or incorporations.[106] It is the author's opinion that the supreme court is well-aware of these current developments and therefore will be increasingly reluctant to limit, on constitutional or statutory grounds, the power of a majority of the local inhabitants to choose their form of government or municipal boundaries.

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[103] Blooming Grove v. Madison, 275 Wis. 342, 81 N.W. 2d 721 (1957); Town of Brookfield v. City of Brookfield, 274 Wis. 638, 80 N.W. 2d 800 (1957) (holding that some petitioners could sign petition for first time after petition was filed with annexing city); Greenfield v. Milwaukee, 272 Wis. 388, 75 N.W. 2d 434 (1956) and 273 Wis. 484, 78 N.W. 2d 909 (1956). *Compare*: Greenfield v. Milwaukee, 272 Wis. 610, 76 N.W. 2d 320 (1956).

[104] WIS. STAT. § 60.74 (1955).

[105] WIS. STAT. § 59.97 (2) (d) (1955).

[106] Zoning is commonly an important objective of incorporations and annexations elsewhere in the country. Crouch, *Government of Metropolitan Region*, U. PA. L. REV., 474, 483 (1957) (as to Los Angeles area); WINTER, ANNEXATION AS A SOLUTION TO THE FRINGE PROBLEM 20, 21, (Library of Congress Microfilm #A-C 1 - 1717) (Dallas' large annexations since 1948 covered undeveloped land which the city sought for zoning control and to block further expansion of two suburbs).

It is true that the creation of multiple hastily designed suburbs[107] can lead to a variation in zoning patterns within the metropolitan area which has some serious adverse effects. Some municipalities are smaller than they ought to be in both size and economic resources and sometimes the zoning policy of one or more suburbs will not make a proper adjustment to the needs of the over-all metropolitan area,[108] or, even worse, may be as arbitrarily overstrict as the town governments have often been arbitrarily lenient. However, it would seem that unless the legislature reverts to the mid-nineteenth century practice of creating new villages or cities itself (and thereby controlling the sensibleness of both the act of creation and their boundaries) or gives some guidance to local inhabitants in drawing municipal boundaries, the solution to the zoning problem which arises from multiple municipalities living side by side would clearly be for the creation of some metropolitan[109] or regional zoning authority[110] which could moderate inequities arising between them. Perhaps if such a regional authority now existed and were effective in actual practice, the urge for new incorporations and large-scale annexations would decline considerbly. At the root of all of the last decade's furious incorporation and annexation activity is the population explosion in our suburban areas and the underlying economic and social dispute of whether the subdividers or the older inhabitants will control the zoning, which, in turn, determines the future appearance and characteristics of suburban communities.

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[107] The boundaries of suburbs are often determined by the luck of an annexation war with the central city. A description of the incorporation-annexation melee near the Dallas-Fort Worth area would apply equally well to much that happened in the Milwaukee metropolitan area between 1950 and 1957.

> Annexations and incorporations may proceed in cyclical fashion under the broadly discretionary rules that are available. Suburban communities incorporate to avoid annexation. Cities annex in order to prevent incorporations and to preclude other incorporated areas from annexing particular territories. The cycle begins with either incorporation or annexation, and the first one used may lead to use of the second and further employment of the first. THE STATES AND THE METROPOLITAN PROBLEM, 39 (1956).

[108] Such as banning churches altogether at a time when there is no vacant land available in the older communities for the erection of new churches. Or, more often, the blanket prohibition of business even on roads where heavy traffic is depreciating residential values and would make local business prosper.

[109] This was proposed for Milwaukee County in the 1957 legislature.

[110] This idea has great favor among planning consultants. Legislative authority does exist for a seven-county regional planning commission, but no county board has yet exercised its right to adopt such a plan. See speech of Elmer Krieger, Executive Secretary to Milwaukee Land Commission, before Public Enterprise Committee, deploring the growth of "rural slums" in the Milwaukee metropolitan area. Milwaukee Sentinel, Sept. 27, 1957. Mr. Krieger stated that only a regional agency could protect the metropolitan area from further "haphazard" development.

XII. Prediction for the Future

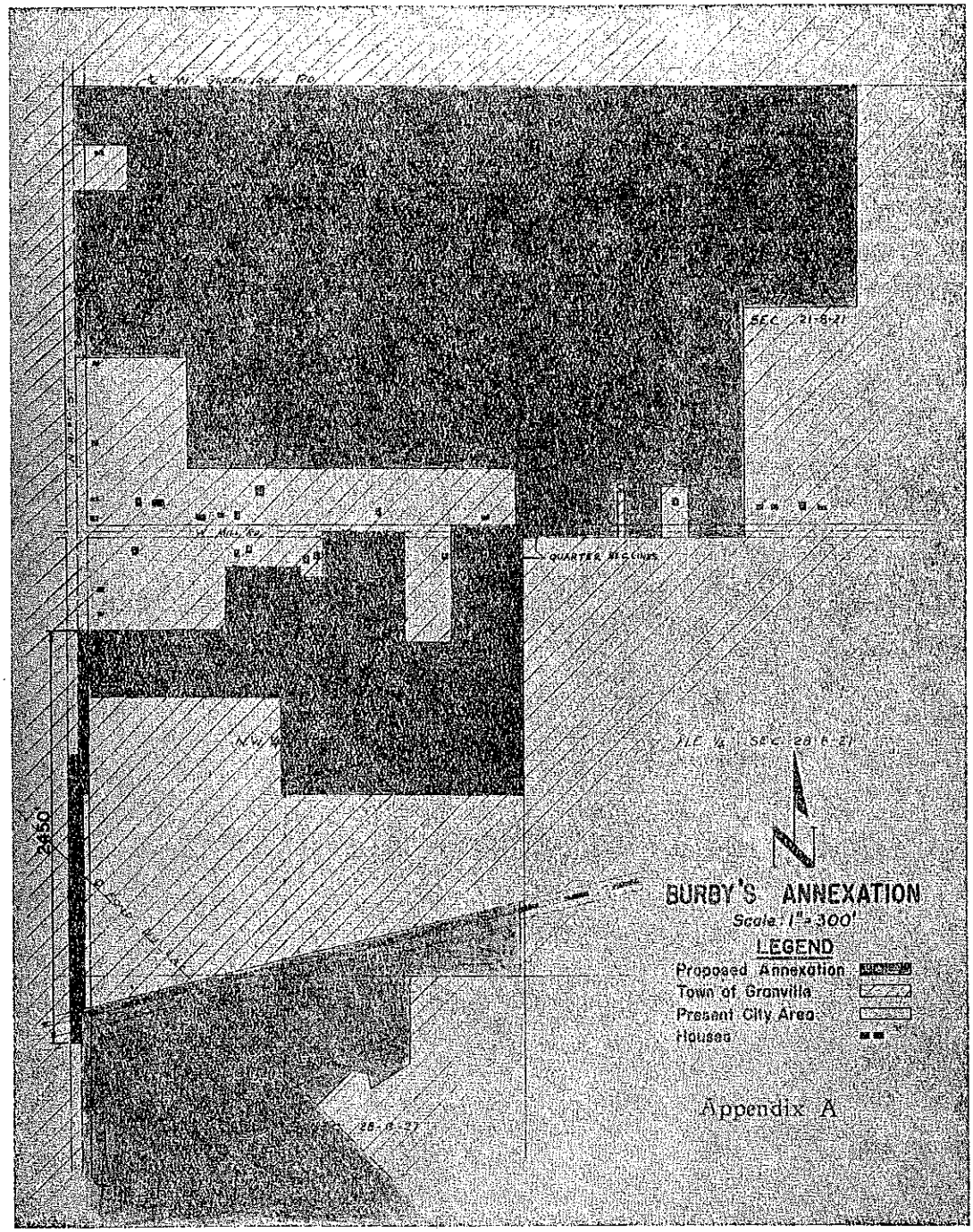
With the foregoing reconciliation of the *Lammers* and *Brookfield* decisions in mind we predict that the supreme court will decide as follows on the principal unresolved questions concerning the characteristics of land which can be incorporated, consolidated or annexed:

1. Update the *Lammers* doctrine definition of city characteristics to reflect modern conditions and thereby uphold most bedroom cities which have been incorporated.

2. Subject the application of the Oak Creek Law to the *Lammers* doctrine.

3. Hold that consolidations, like their first cousin — annexations — are not subject to any constitutional limitations but conceivably are subject to the same rule of reason as annexations.

4. Hold that the shape of an annexation is relevant in determining whether the annexer acted "arbitrarily and capriciously" in concluding that the annexed land was suitable for and needed for annexation. On the other hand, the shape of an annexation will have to be truly extreme before the court will hold it to be "capricious" and thereby void the annexation.


SEC. 21-6-2W
QUARTER SECTION
N.E. 1/4 SEC. 28 6-2W
2650'
BURBY'S ANNEXATION
Scale: 1"=300'
LEGEND
Proposed Annexation
Town of Granville
Present City Area
Houses
Appendix A