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NEW DIRECTIONS  
IN ANNEXATION POLICYMAKING

by

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AN ANALYSIS OF ANNEXATION PROCESSES IN CANADA

BY

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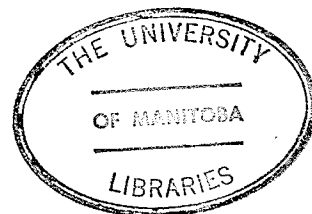
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*In the old west, blood feuds developed over the location of fence lines. One hundred years later, most civilized people have agreed to put down their guns and stop shooting at each other over boundary disputes. Instead, our modern mapmakers have taken their fights to the courts, spending millions of dollars on legal fees and risking the destruction of longstanding friendships. Clearly, a new process to resolve boundary disputes is needed.*

The Brantford Expositor, March 29, 1980.

ABSTRACT

Annexation has been a process which has been misunderstood by many people because of the uncertainty of what annexation really implies.

The purpose of this thesis is to conduct an extensive study of the annexation process in Canada, to gain a better understanding on the subject of annexation policy and how all the provinces in Canada resolve their municipal boundary disputes.

Chapter 1 presents the reader with general information on what annexation is, and how it affects municipalities who engage in its practice. It also gives a detailed description of the principal methods of annexation which have been used thus far.

Chapter 2 is an analysis of existing provincial annexation processes which are used in Canada. These provinces are grouped by their type of annexation determination.

Chapter 3 contains the results of a cross-Canada survey which was conducted by a mailed questionnaire to the municipalities which had recently undergone an annexation in their respective provinces.

Chapter 4 is a presentation of a case study in Brantford, Ontario, where an alternative annexation process was developed for the province of Ontario.

Chapter 5 is the model of an annexation process which was



developed from the results of the survey. This model process was compared to the alternative annexation process developed in Ontario.

It was clear from the survey results, that there was a high correlation between the costs and time taken to complete an annexation, by the type of annexation method used. The amount of land acquired in a boundary extension, was probably more a variable of the growth factor of a province such as Alberta, and the reasons for needing additional land outside of the municipal boundary, rather than the type of annexation determination used.

The summary of survey results indicated that a model annexation process would be one where disputes were settled by elected local people, with the assistance and guidance of provincial factfinders. Elected provincial politicians would not be involved in the annexation process through the legislature or cabinet, but some type of impartial arbitration would be needed.

The major desire of the municipalities surveyed across Canada, was to have a provincial annexation policy which would guide the municipalities in decision-making, and reduce the chance of intermunicipal-boundary disputes in the future.

The policies requested by the municipalities surveyed, are outlined in the thesis.

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PREFACE

The author's interest in this topic resulted from his employment with the City of Brantford Planning Board, where he had first-hand observation of a new experimental annexation process developed by the Ministry of Intergovernmental Affairs for the Province of Ontario.

The City of Brantford, the Township of Brantford and the County of Brant were selected by the provincial government of Ontario as the pilot project to test the feasibility of this new annexation method. For years, the City of Brantford and its neighbours could not settle their longstanding disputes over boundaries, servicing of land, fringe development and assessments. The old annexation method using the quasi-judicial OMB method, had a way of causing bitterness, mistrust and animosity between previously harmonious communities. The new annexation process was designed to be more efficient, less expensive and less time-consuming.

The provincial government of Ontario saw that their old method of resolving boundary disputes was outdated, and they attempted to remedy the situation with a new process. However, an in-depth study was not carried out by the Ontario provincial government in their selection of a new annexation process. Specifically, no comparative analysis of the structure and practices in other Canadian provinces, or other countries, was carried out to examine different annexation processes.



A review of the literature revealed that no study has been undertaken during this decade, to examine and analyze the annexation policies developed and used by the Provinces of Canada. This thesis will be the first attempt to do so. Its ultimate goal is to come up with a model of an annexation process which will combine the good points of existing annexation processes, and still be less expensive, more efficient and less time consuming than other processes being used today.

Exposure, by the author, to the development of a new annexation process in the province of Ontario, revealed that this job is a long and complicated process in itself. It requires a large amount of public input and expert analysis. One thing is evident however. Each provincial government has a responsibility to update its policies or develop new policies which will assist local governments in resolving their inter-municipal boundary disputes.

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I am also indebted to the civil servants of the provincial and municipal governments who so generously responded to my survey requests for information.

Finally, I would like to express my appreciation to my parents and to Elizabeth, who have encouraged me with their financial and moral support during my work on this project.

# **CHAPTER ONE :**

## **WHAT IS**

## **ANNEXATION**

CHAPTER I :                    WHAT IS ANNEXATION?

A. Introduction

Resolving jurisdictional disputes at the municipal level can take a variety of forms. The establishment of regional and metropolitan governments, joint planning areas, and county restructuring are but a few methods available for dealing with issues in an area extending over more than one municipality. Another method which is widely used, is annexation.

The 1940's, 1950's and early 1960's were a period when many annexations took place in Canada. However, with the spread of local government restructuring programs in the late 1960's and 1970's, annexation policies, methods, and procedures were neglected. A restructured government had no need to engage in annexation because potential boundary problems were resolved as part of the restructuring.

However, restructured governments did not perform as well in practice as they did in the plans. Boundary conflicts were resolved, but a multitude of other problems took their place. Therefore, in the 1980's, one sees regional governments, such as Hamilton-Wentworth in the province of Ontario, asking their provincial government to amalgamate the region into a single-tier government. Suspicion and acrimony between City and non-City municipalities were given as several

major reasons to dissolve that regional government.<sup>1</sup>

It was also during this period that Ontario's provincial government realized that restructuring local governments could no longer serve as the sole means of solving the problems of growth in the future. The Minister responsible for Intergovernmental Affairs announced that: "The provincial government has gone as far as it intends to go with regional government."<sup>2</sup>

Since that time the government has moved toward amalgamating adjoining municipalities or annexing parts of adjacent municipalities, rather than creating second-tier regional governments.

Therefore, annexation processes are, and probably will continue to be, the most important means of dealing with urban expansion and changes in demands for urban government in formerly rural areas.

Two major themes about annexation are explored in this thesis: the analysis of provincial annexation processes and the development of a model annexation process.

Several sub-themes are also reflected in the review of each chapter's contents. They include the study of what

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<sup>1</sup> Hamilton-Wentworth Regional Government. Report of the Hamilton-Wentworth Review Commission. Hamilton, Ontario 1980.

<sup>2</sup> The Hon. Thomas Wells, Minister of Intergovernmental Affairs. Province of Ontario, Hansard, No. 111. Nov. 6, 1978, Page 4595.

annexation really is and how it works, as well as the analysis of an alternative annexation process developed in Ontario. The results of the survey as it pertains to the contents of an annexation policy, are also reviewed.

Chapter 1 presents the reader with general information on what annexation is, and how it affects municipalities who engage in its practice. It also gives a detailed description of the principal methods of annexation which have been used thus far.

Chapter 2 is an analysis of existing provincial annexation processes which are used in Canada. These provinces are grouped by their type of annexation determination.

Chapter 3 contains the results of a cross-Canada survey which was conducted by a mailed questionnaire to the municipalities which had recently undergone an annexation in their respective provinces.

Chapter 4 is a presentation of a case study in Brantford, Ontario, where an alternative annexation process was developed from the results of the survey. This model process was compared to the alternative annexation process developed in Ontario.

#### B. Definitions

Annexation has been a process which has been misunderstood by many people because of the uncertainty of what annexation really implies.

Although many people object to having their land annexed, the point of the matter is that;

the quality of urban living which the city provides in the form of health, educational and recreational institutions, as well as the opportunity for highly rewarding employment, is enjoyed by many persons who may wish to avoid sharing the burden of the city's financial obligations by living outside of its boundaries.<sup>1</sup>

This problem is further aggravated by the lack of provincial legislation to control land use planning around urban municipalities. Consequently, annexation has become the most commonly employed technique in Canada to promote more orderly growth of urban fringes and providing a balanced assessment to maintain a proper level of urban services. For this reason, the annexation process must be better understood. The following definitions are provided for the sake of convenience and clarity.

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<sup>1</sup> Adler, M. Gerald - Land Use Planning by Administrative Regulation. University of Toronto Press, Toronto, Ontario, 1971. pg. 146.

Annexation: Annexation is the joining of territory to a city or other governmental instrumentality and placing it under its jurisdiction. The legitimate purposes of annexation is to enable a region to develop as a political and economic unit, to simplify the mechanism of local government, and rationalize the provision of governmental services on an efficient basis.<sup>1</sup>

Annexation Policy: An annexation policy is a policy of guidelines developed by the provincial government and controlled by enabling legislation for use by municipalities engaged in the annexation process. These policies differ from province to province.

Annexation Method: Annexation methods are designed to seek out the legal authority of an annexation application. There are several methods presently in use and most provinces in Canada use a combination of annexation methods.

Annexation Procedure: The annexation procedure is a step by step process through which an annexation method or number of annexation methods must pass in order to reach the final goal of having the annexation proposal accepted or rejected. An annexation procedure ensures that the policies of the province are adhered to and all the requirements are met as prescribed by the legislature.

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<sup>1</sup> Department of Urban Studies, Adjusting Municipal Boundaries  
National League of Cities, Washington, D.C. 1966, p. 20.



### C. The Purpose of Annexation

The major purpose of annexation is to promote orderly urban growth. This is achieved by preventing fragmented and overlapping local governments, through the process of annexation. Land lying in the fringe area is most often annexed first by the city. The urban fringe is frequently defined as the,

area lying immediately beyond a city's boundary and consisting of a zone of transition between the contiguously built-up area of the city and the surrounding country side.<sup>1</sup>

The urban fringe has always been a source of trouble to the city because of land use incompatibilities, servicing, transportation and other types of fragmented and decentralized land use planning issues.<sup>2</sup>

A more unified planning approach and closer consultation and co-ordination of development activity between the city and the neighbouring municipalities, would be the ideal way to resolve future urban fringe problems. However, the desire of rural municipalities to acquire commercial, industrial and residential assessment tax money, prevents any type of adequate joint planning efforts between the city and rural municipalities.

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<sup>1</sup>James F. Maclaren Limited, London-Middlesex Planning Appraisal. London, Ontario, 1979, p. 24.

<sup>2</sup>Peripheral suburban growth, linear highway development and unserviced pockets of development are just a few problems associated with the urban fringe.

Therefore, to make the planning process more efficient, annexation takes place and it gives a sounder base for area-wide action, orderly growth and essential governmental services.

Annexation of areas in the urban fringe are advocated for more specific reasons. They include:

1. Fringe lands are needed so that public service facilities such as water and sewer systems, street extensions, and recreational facilities may be planned and provided on a rational and economic basis.
2. The fringe area may be brought within and developed under city land use controls.
3. The fringe regions may be subject to city protective regulations and receive city police and fire services.
4. The fringe area may be subjected to city health and sanitation regulations and receive these services.
5. Residents of the fringe area actually benefit from many of the services and facilities provided by city government and should bear their full share of the costs.<sup>1</sup>

However, it should also be stated that many times, the city has contributed to land speculation, development pressures and uncertainty in the fringe by its approval of plans of subdivision designed in a manner which anticipates annexation of adjacent lands, by the oversizing of servicing mains, and by its policy to annex land any time for the

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<sup>1</sup>Department of Urban Studies, op. cit., p. 2.

purposes of completing logical drainage areas and planning districts without at the same time, specifying the extent of these areas or districts.<sup>1</sup>

#### D. The Question of Boundaries

Without boundaries, there would be no need for an annexation process. However, historical precedent has allowed arbitrary boundaries to create a problem by making political decisions on land use.

Bossons studied the problem in depth, and commented that:

A related set of problems concerns the resolution of conflicts between majorities and significant minorities within a single political jurisdiction ...The minority rights problem is related to the boundary problem. In many instances, minorities could become majorities if political boundaries were redrawn.<sup>2</sup>

In fact, changing boundaries may create more problems than solutions.

One interesting phenomena of boundaries, are the spillover effects it has on land use decisions. Although land use restrictions on or near municipal boundaries should

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<sup>1</sup> London-Middlesex Planning Appraisal. op. cit., p. 2-5.

<sup>2</sup> Bossons, J., "Reforming Planning in Ontario - Strengthening the Municipal Role," Ontario Economic Council, Toronto 1978, p. 41.

be implemented to prevent the urban fringe, the use of competitive zoning practices by rural adjoining municipalities to acquire high assessment land uses like industry, are always present.

Bossons, saw that:

The likelihood of local spillover effects is increased in urban areas (where externalities are enhanced by the greater proximity and number of neighbours) and further increased where such boundaries are not coterminous with natural topographic features.<sup>1</sup>

#### E. A Historical View of Annexations

A study by Bromley,<sup>2</sup> revealed that the relative lack of understanding of the role of annexation in the growth of cities is attributable in large part to the unavailability of systematic, reliable records of the sizes and populations of annexed parcels of land.

However, several observations can be made. In the United States, the last half of the nineteenth century was the beginning of annexation activity. When urban populations settled outside the corporate limits of the central cities, boundaries were typically expanded to capture or recapture the growth.<sup>3</sup>

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<sup>1</sup>Bossons, J., op. cit., p. 42.

<sup>2</sup>Bromley, David, "The Historical Significance of Annexation as a Social Process," Land Economics Vol. 49 - University of Wisconsin Press, Madison, Wisconsin, 1973.

<sup>3</sup>Ibid., p. 294.

In Canada, the first half of the twentieth century saw the advent of annexation activity. It was observed that;

original annexations were granted to provide inhabitants of fringe areas with certain specific benefits such as utilities, streetlights, sidewalks. In almost every case the services to be supplied were available by the annexing municipalities and could not be provided by the area which was being annexed.<sup>1</sup>

Several conditions were originally hypothesized to be relevant to the pattern of annexation activity. Bromley observed that "most cities have annexed several times, prior to and after reaching a population of 50,000, with the largest single increase coming after this population was reached."<sup>2</sup>

Bromley also calculated that the "average city annexed only once every 10 years,"<sup>3</sup> and that the largest rate of annexation would occur relatively early in a city's history. This statement was substantiated by T.R. Dye who observed that "the boundaries of older cities were thought to be less subject to pressures for change than the boundaries of newer and growing cities."<sup>4</sup>

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<sup>1</sup>The Brantford Expositor. April 26, 1977.

<sup>2</sup>Bromley, op. cit., p. 307.

<sup>3</sup>Ibid., p. 307.

<sup>4</sup>Dye, T.R., "Urban Political Integration: Conditions Associated with Annexation in American Cities," Midwest Journal of Political Science, Wayne State University Press, Detroit Michigan 1963. p. 432.

Dye's research also revealed the following interesting points:

- 1) Suburban resistance to annexation was expected to be more intense and more effective in larger metropolitan areas.
- 2) Annexation was less likely to occur in urban areas where the city and its surrounding suburbs were socially differentiated from one another.
- 3) The success of annexation is a function of social distance between city and suburb.
- 4) The age of settlement and form of government appeared to be independently related to incidence of annexation.<sup>1</sup>

#### F. The Advantages and Disadvantages of Annexations

Frequent arguments develop when resident proponents and local councils of rural municipalities are confronted by an annexation referendum. Inevitably, the city lists the advantages of annexation and the rural municipality lists the disadvantages. From there, the animosity begins and will continue unless a comprehensive annexation policy is established to resolve future inter-municipal boundary problems.

#### The Advantages of Annexation

Scott provided the following arguments favoring annexation;

1. After annexation the new territory will obtain its necessary services from city department which are going concerns. There will be no need to organize a new city government or to create and maintain separate district agencies. The annexing city can simply extend its services to the new area. Costly duplication of facilities can thus be avoided.

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<sup>1</sup>Dye, T.R., op. cit., p. 435.

2. Annexation gives suburban residents a voice in the government of the larger community in which they live. Suburban dwellers are affected by actions of the central city, but they have no say in its affairs unless they annex to it.
3. Annexation is a tool for building integrated and unified urban local governments, and if used effectively it can help prevent the dispersion of local governmental authority among a large number of independent units.
4. By means of annexation a city's zoning and building ordinances can be extended to the adjacent area in a logical manner, thus helping to insure orderly future growth. When the interrelationships between the city and the neighboring community are close, there is need for unified planning and zoning. Coordinated action is much easier to achieve if the fringe community becomes a part of the city.
5. Annexation allows the central city to extend its legal boundaries as the urban area develops, thereby providing room for expansion.
6. Annexation increases a city's size, and thus raises its level of political influence, its prestige, and its ability to attract new commercial development.<sup>1</sup>

#### G. The Disadvantages of Annexation

The arguments opposing annexation were also discussed by Scott. They included:

1. Annexation may be considered unnecessary if the community's needs are limited.
2. The annexed community may tend to lose some of its former individuality and identity.
3. Residents may desire a higher degree of self-government than they believe they will enjoy as part of a larger city.

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<sup>1</sup> Scott Stanley, "Annexation? Incorporation? A Guide for Community Action." Bureau of Public Administration, University of California, Berkeley, 1954, p. 21.

4. The community may be distrustful of the government and politics of the city to which annexation is proposed.
5. Residents may wish to retain the community's 'rural' character, and for this reason may oppose annexation as a step toward greater urbanization.
6. Annexation may be considered unwise if the community is not physically, economically, or socially related to the annexing city.<sup>1</sup>

#### H. Restructuring vs. Annexation

An analysis of restructuring municipal governments vs. annexation, is a very complicated matter to undertake. For many years, these two methods of resolving inter-municipal conflicts have battled against each other to become the major method used in the province to restore proper planning and the orderly growth of a municipality. In some provinces, the annexation method was used while in other provinces the restructuring method was preferred. In still other provinces, a combination of both methods were used.

The various methods of restructuring local governments have been well documented in the literature.<sup>2</sup> Therefore, this thesis will not go into detail on the subject of different restructuring methods. However, the similarities between the purpose of restructuring and the purpose of annexation will

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<sup>1</sup> Scott Stanley, op. cit., p. 22.

<sup>2</sup> Ontario in the past adopted a one tier or two tier form of regional government while Manitoba adopted the unicity form of government for Winnipeg. However, these are but two examples. The other provinces have developed their own style of regional governments.



be discussed. Both try to resolve the growing number of inter-municipal problems such as development decisions and service requirements by the use of a larger government to resolve area-wide problems.

A restructured government such as a regional government, incorporates smaller municipalities under a larger municipal administration where the provision of municipal services can be provided to all municipalities included within the regional boundaries, because of an equalized tax base.

Under the annexation process, a city's boundaries are expanded to achieve the same results. However, the problem with regional government, which was quite evident in Ontario, was the fact that it comprised both rural and urban municipalities, and included extensive areas of land within their jurisdiction.

In essence, however, they provided the same type of political solution to inter-municipal problems as did the metropolitan governments in as much as they too divided responsibilities and powers into two main categories - the regional being assigned to the regional government and the latter being assigned to the constituent municipalities.<sup>1</sup>

However, when urban and rural land are combined in a region, under one government, either the principle of representation by population tends to be sacrificed in order to over-represent the rural voters, or else the latter find

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<sup>1</sup> Hanson, E.J., The Potential Unification of the Edmonton Metropolitan Area - A Fiscal Study, University of Alberta, Edmonton, Alberta, March 1968, Appendix 0, p. 3.

themselves in a minority position where rural interests are either ignored or given only second priority to urban affairs.

There is frequently little in common between urban/rural problems and outlook, so that by forcing both together into one region, the community of interest within the region tends to be destroyed.<sup>1</sup>

A report done on regional government in Ontario, cited major problems associated with this type of restructured government. They included increased costs associated with duplication of function and the attempt to standardize services within the region, which was not justified in terms of cost/benefits.<sup>2</sup>

Under-representation of the urban areas, and the loss of representation for some small rural municipalities was also a source of dissatisfaction among municipalities within a regional government.<sup>3</sup>

Another frequent complaint was the remoteness and loss of accountability under a regional government. The Task Force which studied this problem in Ontario recommended several alternatives for structuring local government.

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<sup>1</sup>Oshawa Area Planning and Development Study, Whitby, Ontario. 1970, p.vi.5.

<sup>2</sup>The Globe and Mail has looked at the problems of regional government in Ontario. See Matas, Robert, "Regional Structure hasn't met promise," Globe and Mail, March 9/81, pg. 8-9.

<sup>3</sup>Report of the Liberal Party Task Force on Local and Regional Government, Liberal Party Committee, Queen's Park, Toronto, Ontario. October, 1977.

They included:

- a) consolidation into several single-tier municipalities, with each having increased or full local authority,
- b) enlargement of the major municipalities to include the urbanized area, by the traditional method of annexation of adjacent towns; the rest of the region could be formed into a new rural county; this option could well involve some special purpose bodies and inter-municipal contractual arrangements.<sup>1</sup>

The advantages and disadvantages of annexation have already been discussed. However, it can be stated that under annexation and the creation of a single municipality, inter-jurisdictional problems and other flaws associated with regional government, which were mentioned previously, would be eliminated.

It is up to the reader to determine whether restructuring government or the use of annexation is the best method to resolve inter-municipal conflicts. They both have their good points and their bad points. Therefore, the contention of this thesis, is that if we must have an annexation process in this country, let us have one which is fair, efficient, inexpensive and administered as quickly as possible.

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<sup>1</sup>Liberal Party Task Force Report of the Liberal Party Task Force on Local and Regional Government, Queen's Park, Toronto, Ontario, 1977, page 216.

## I. PRINCIPLE METHODS OF ANNEXATION

Having considered what annexation is and how it attempts to resolve inter-municipal disputes through boundary expansion, we now turn to the identification of different types of annexation procedures.

### 1. Types of Annexation Procedures

There are several types of annexation procedures. Usually, an actual process is a combination of different annexation procedures.

Dixon and Kerstetter<sup>1</sup> identified six annexation methods.

- 1) bilateral annexation; e.g., after consent of both fringe and city has been expressed by some combination of petition and referenda.
- 2) unilateral annexation by the city; e.g., full power in the city to effect an annexation usually by ordinance or charter amendment.
- 3) unilateral annexation by the city subject to judicial remonstrance; e.g., opportunity for the fringe area to appeal to a court before annexation becomes final.
- 4) annexation by court order after initiation of proceedings by either the city or fringe area.
- 5) annexation by approval of an outside body other than a court.
- 6) annexation by a special act of the legislature.

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<sup>1</sup>Dixon, R.G. and Kerstetter, J., Adjusting Municipal Boundaries: The Law and Practice in 48 States. American Municipal Association, Washington, D.C., 1959.

For the purposes of this thesis, the classification scheme developed by Sengstock,<sup>1</sup> will be used to illustrate each principal method of annexation. These methods are:

- 1) Legislative determination,
- 2) Popular determination,
- 3) Municipal determination,
- 4) Judicial determination,
- 5) Quasi-legislative determination.

## 2. LEGISLATIVE DETERMINATION AS A METHOD OF ANNEXATION

Under legislative determination, municipal boundary changes are made by special acts of the legislature, and these special acts do not take the same form in all areas. It can be used as the sole means of annexation or as an alternate means.

### Advantages of Legislative Determination

Legislative determination is desirable if other law procedures are unworkable because they are overly complicated or contain burdensome or unreasonable prerequisites.

### Disadvantages of Legislative Determination

Any special acts passed by the legislature are subject to abuse by local governments as they can argue that the new legislation is too political and not fully aware of the ramifications of such an act at the local government level.

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<sup>1</sup>Sengstock, F.S., Annexation: A Solution to the Metropolitan Area Problem, Legislative Research Center, University of Michigan Law School, Ann Arbor, Michigan, 1960.

### 3. POPULAR DETERMINATION AS A METHOD OF ANNEXATION

Under popular determination, the people can determine if a proposed annexation will take place, by the use of political power.

#### Advantages of Popular Determination.

The use of popular determination allows the residents of an area to have the authority to approve boundary changes that determine the local government which will have jurisdiction over them and their property.

Placing the initiative of annexation in the hands of the fringe area resident, prevents the city from indiscriminate annexation attempts for the wrong reasons, such as land grabbing.

#### Disadvantages of Popular Determination

Under popular determination, a group of property owners, or residents can resist annexation because their taxes may increase or because they are unwilling to accept change and prefer the status quo. Therefore a minority group can hurt the needs of the larger community and the wishes of a majority interest by objecting to an annexation which may be in the best interests of the area.

Popular determination has also been accused, by people such as Sengstock, of preventing the elimination of unnecessary multiplication of governmental units in the metropolitan area as well as allowing political irresponsibility to flourish

in the fringe under its protection. It also ties the hands of the city to effect key annexations if there are significant differentials between fringe and city residents.<sup>1</sup>

#### 4. MUNICIPAL DETERMINATION AS AN ANNEXATION METHOD

By the use of municipal determination, a unit of local government can use its authority to extend the city boundaries by the unilateral action of the city council.

##### Advantages of Municipal Determination

Under municipal determination, a local government can decide the growth of its own city and it encourages local responsibility by allowing a local government to respond to the wants and needs of its municipality by expanding its corporate limits.

Past evidence has shown<sup>2</sup> that where municipal determination has prevailed, a large number of annexations involving significant tracts of territory have been accomplished.

##### Disadvantages of Municipal Determination

Under municipal determination, the core city may follow a narrow policy of annexing only highly developed areas that contain the taxable wealth necessary to carry their share of the costs of providing city services. Consequently, less well developed, deteriorated and dilapidated areas may be

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<sup>1</sup> Sengstock, op. cit.

<sup>2</sup> Department of Urban Studies, National League of Cities, op. cit.

excluded selectively because they constitute a potential net liability for the city. Also, certain cities may indulge in land grabbing for the sole purpose of acquiring additional tax revenues, or for increasing the area or population of the city.

#### 5. JUDICIAL DETERMINATION AS AN ANNEXATION METHOD

By the method of judicial determination, a court decides by the legal process, whether an annexation will take place.

##### Advantages of Judicial Determination

Through the legal process, the degree of political influence on the court is less than that which might be brought to bear on the decision of other methods. Also, facts and figures will be determined judiciously rather than politically.

The court will decide the case for resolution on the basis of the standards or criteria established by the legislature and not by constituencies voting on the question with their own self-interests the primary determinant.<sup>1</sup>

The biggest advantage of judicial determination is the fact that everyone will have a fair hearing on both sides of the issue.

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<sup>1</sup>Department of Urban Studies, National League of Cities, op. cit., pg. 18.



### Disadvantages of Judicial Determination

Under the judicial method, it can be argued that the courts may not be qualified to determine and weight the political and economic factors inherent in all annexation activities. Also, court procedures by nature, are frequently lengthy, laborious and expensive to undertake. Therefore, a good lawyer can resort to every possible kind of delaying tactic to get a boundary issue resolved.

One perfect example of this problem in using courts, is the situation in Barrie, Ontario. "As of March 1, 1979, the Barrie annexation had produced close to three million dollars in costs. Moreover, the issues were far from being settled."<sup>1</sup>

### 6. QUASI-LEGISLATIVE DETERMINATION AS AN ANNEXATION METHOD

Under quasi-legislative determination, an independent non-judicial tribunal or board is empowered to determine if a proposed annexation shall take place. Through legislation, the goals, objectives, criteria and general policies are set and the delegates of the board apply these standards through hearings, the examination of evidence and the making of a final decision.

### Advantages of Quasi-Legislative Determination

By the use of Quasi-Legislative Determination, a

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<sup>1</sup>The Association of Municipalities of Ontario, A Proposal For The Settlement of Annexation and Amalgamation Disputes, May 26, 1979, p. 1.

special agency is created to aid local governments in the resolution of boundary disputes. This method has the advantage of giving all concerned parties the chance to present their case for or against the annexation proposal.

#### Disadvantages of Quasi-Legislative Determination

Unless the authority of the commission is clearly defined by the legislature, the courts may find that there has been an unlawful delegation of legislative power. Also, if the commission's decision on an annexation, is unpopular with the people, pressure on the politicians by these people can in turn, cause legislative pressure on the commission to curb their negative activities. In other words, a quasi-legislative commission can become a puppet of the provincial government because of purely partisan political reasons.

#### G. SUMMARY

In Chapter 1, we saw that the major purpose of annexation is to promote orderly urban growth through the use of municipal boundary extensions. Usually the urban fringes of a municipality are annexed first because of land use incompatibilities, servicing, transportation and other types of fragmented and decentralized land use planning issues, with the adjoining municipality.

In the past, an attempt was made to solve these problems by some form of regional government. However, the plan proved

to be unsuccessful. The regional government solved the boundary problem, but developed other problems such as increased costs associated with the duplication of functions and under-representation of urban and rural areas.

Several methods of annexation were identified and it was observed that the annexation process was usually made up of a combination of different annexation methods.

**CHAPTER TWO:**

**AN ANALYSIS OF**

**EXISTING PROVINCIAL**

**ANNEXATION PROCESSES**

**USED IN CANADA**

CHAPTER 2 : AN ANALYSIS OF EXISTING PROVINCIAL ANNEXATION  
PROCESSES IN CANADA.

In the last chapter, the advantages and disadvantages of annexation and the various annexation methods were described to serve as a basic introduction to the topic.

A review of the different annexation processes used in Canada, is an interesting study in itself. An analysis of these processes is even more intriguing because different methods are employed in different provinces to solve the same annexation problems. The Appendix of this thesis contains the actual relevant sections of each province's legislative act which governs annexations and boundary alterations.

This chapter examines the annexation process from each province. The analysis in this chapter summarizes the procedures required in each province in terms of;

- 1) the categories (types) of annexation methods identified in the previous chapter.
- 2) the categories developed in the following section.

A. Annexation Methods Used in Canada

Province	Popular	Municipal	Judicial	Quasi-Judicial	Legislative
B.C.	X				X
Alberta			X appeal	X	X
Sask.					X
Man.				X	
Ont. (O.M.B. process)			X appeal	X	
Quebec	X				X
Nova Scotia				X	X appeal
New Brunswick					X
P.E.I.	X		X appeal	X	X
Newfoundland					X

Source:

Author

Note: A judicial or legislative system makes quasi-judicial determination serve only as an administrative/advisory group and not as a decision-maker.

A. Types of Annexation Procedures Used in Canada

The following definitions apply to the annexation methods used in Canada.

- Popular Determination - Under popular determination, the electors within an area subject to annexation, can vote to determine whether the annexation proposal will be accepted or rejected.
- Municipal Determination - Under municipal determination, a municipality by a majority vote of council on an annexation by-law, can extend the boundaries of the municipality without getting approval from another body.
- Judicial Determination - Under judicial determination, a court of law is used to judiciously review the issues of the annexation application, and make a decision as to the approval or disapproval of the annexation.
- Quasi-Judicial Determination - Under quasi-judicial determination an independent autonomous body of experts sit on a Board and review the annexation application. In most cases their mandate and powers of authority are delegated by provincial legislative law. The decision of the board can be binding or serve as a recommendation to the provincial government, for final approval.
- Legislative Determination - Under legislative determination, the cabinet, by special act or a majority vote of the legislature can approve or disapprove an annexation proposal. Usually, the legislature is the last step in the annexation process.

The common categories of annexation methods used in Canada, include a combination of:

- Popular/Legislative Determination
- Quasi-Judicial/Legislative Determination
- Quasi-Judicial Determination
- Legislative Determination

Judicial determination is used by 3 provinces, in the appeal form only. Therefore, it is not represented in this chapter. Likewise, no province in Canada uses municipal determination. However, the new alternative annexation process developed in Ontario can be considered to be a modified form of municipal determination.

The most common annexation method used in Canada, is the combination of Quasi-Judicial and Legislative Determination. Although the survey results showed that most provinces would like to maintain some type of Quasi-Judicial/Impartial Board, 65% of the provinces did not want the legislature or cabinet of their province to be the decision-makers on annexation.

They would have preferred to have the provinces develop an annexation policy to govern the process and procedure, and let the individual municipalities and their elected local politicians settle the annexation disputes through negotiation or collective bargaining.

In this chapter, the provinces are grouped by their type of annexation determination, to help in the analysis of the different processes.



B. PROVINCES WHICH USE POPULAR/LEGISLATIVE DETERMINATION  
AS AN ANNEXATION METHOD

1. Province of Prince Edward Island

The annexation process in the Province of Prince Edward Island is governed by the Municipalities Extensions Act.

The procedure generally involves three stages.

Stage I : A public hearing on the proposal is held by the Land Use Commission. This body, comprised of appointed laymen, advises the Province on land-use policy. The L.U.C. must determine if the extension proposal is justified for municipal purposes. The L.U.C. has authority to approve, reject or alter the proposal based upon the evidence presented by residents and the municipal councils.

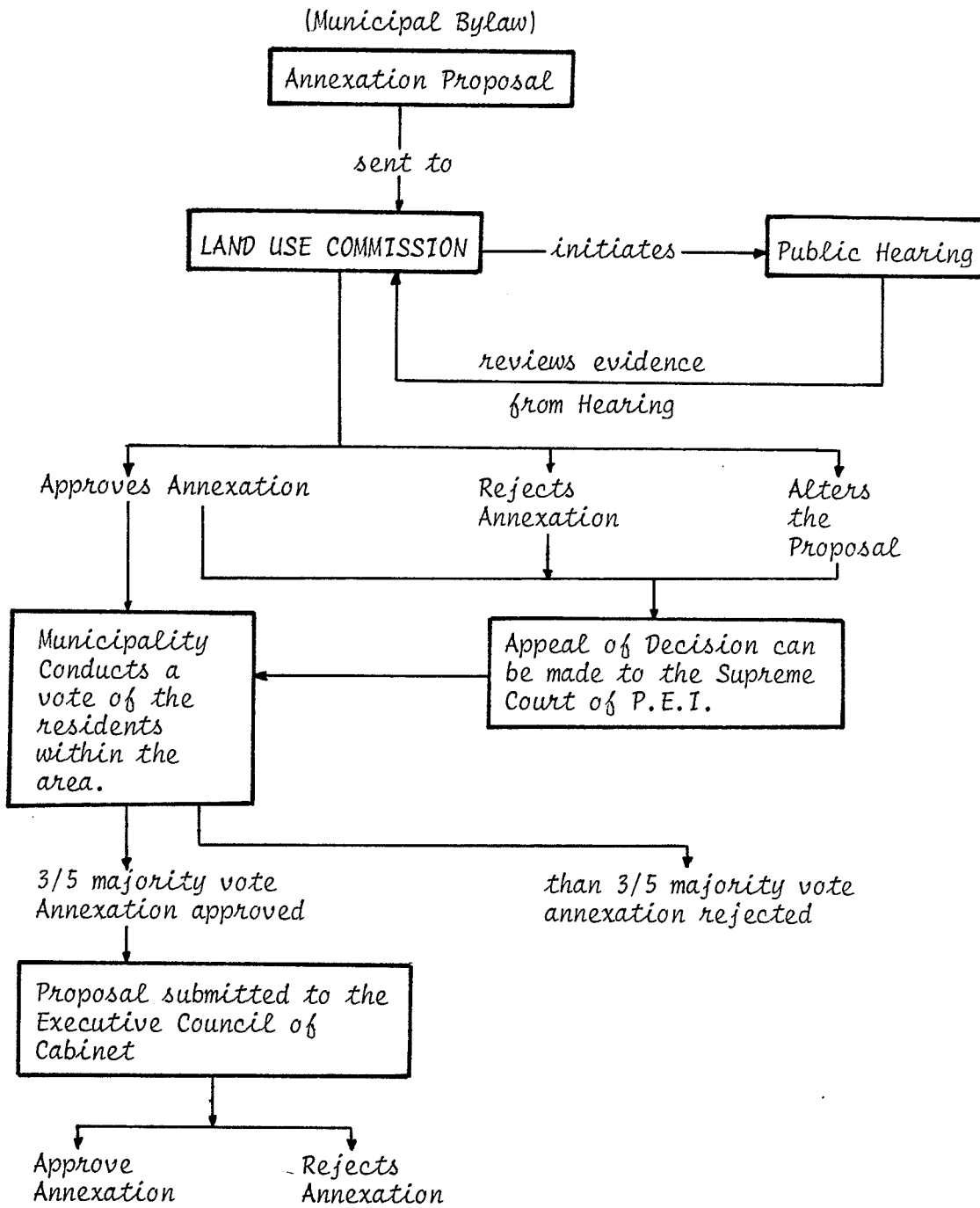
Stage 2 : If the L.U.C. approves of the proposal, the municipality must conduct a plebiscite of residents in the area to be annexed. Three-fifths (3/5) majority is required for approval.

Stage 3 : Assuming that these matters have progressed, the proposal is submitted to Executive Council for consideration. Cabinet may either approve or decline the proposal.

Generally, this process would take 2-3 months. The annexation procedure in Prince Edward Island is started by a municipal

annexation by-law filed with the Land Use Commission. An appeal from the decision of the Land Use Commission lies with Supreme Court of Prince Edward Island.

Flow Chart 1 shows the step-by-step procedure of this process.



<p>Chart 1 A.</p>	<p>The Annexation Procedure Used in the Province of Prince Edward Island</p>	<p>Source: The Dept. of Community Affairs. Municipalities Extensions Act.</p>
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## 2. The Province of British Columbia

In British Columbia, the majority of the Province is unincorporated. Except for the large urban centres such as the Greater Vancouver area and the Greater Victoria area, municipalities in the Province are generally surrounded by unincorporated areas. As a result, the great majority of annexations taking place involves a single municipality, and not a situation of one municipality annexing land from another. While this can happen, it is not a common occurrence in British Columbia.

Much of the action, therefore, involves a municipality extending its boundaries to include unincorporated territory, either at the request of residents within the extension area or as a direct action by the Municipal Council to include land needed for development.

The authority for this action is contained in Section 22 of the Municipal Act.

The procedure recommended by the Ministry of Municipal Affairs is for a municipality to submit a preliminary request for consideration. The Ministry of Municipal Affairs reviews the proposal and obtains input from the Ministry of Highways regarding any particular concerns that the Ministry may have regarding road patterns in the area. This review can take anywhere from two to three weeks. If all appears in order, the municipality is advised to start the necessary advertising, twice in a local paper and once in the British Columbia Gazette.

Following the date of the second notice in the local paper, the municipality must wait for 30 days before submitting a formal request to the Ministry of Municipal Affairs that boundaries be extended. During this 30 day waiting period, anyone within the municipality can submit objections to the Municipal Council and if the Council receives objections of 1/10th or more of the electors, the question must be taken to the electors in a referendum.

During this same 30 day period, the residents in the extension area have the opportunity to object to the Minister of Municipal Affairs and in considering the formal request from the Council for the extension, the Minister will be aware of the views of the residents in the extension area. The Minister can then take one of three steps. He can recommend approval as is, to the Provincial Cabinet, he can refuse the request, or he can direct that a referendum be held in the extension area.

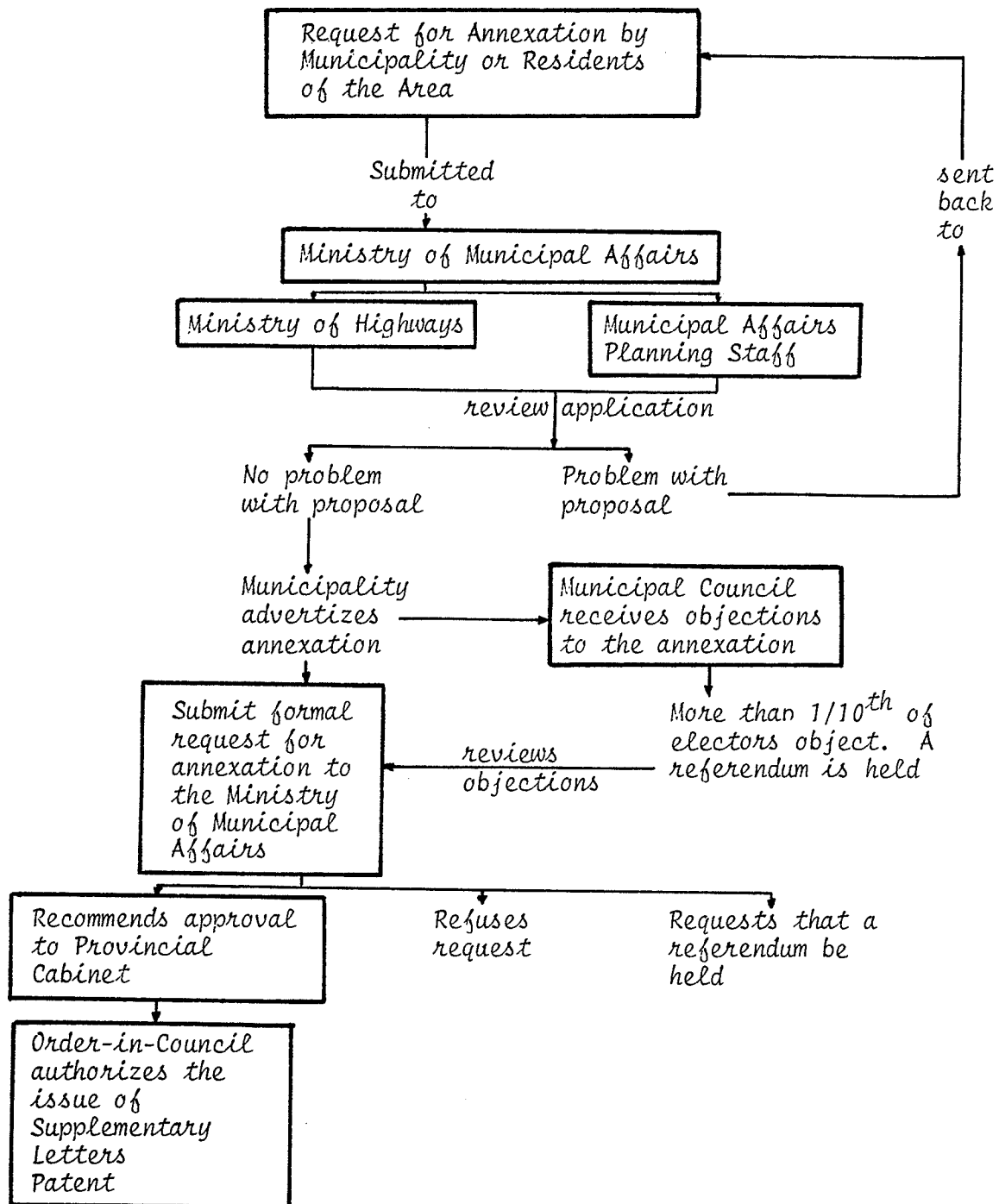
If the Minister recommends approval, that action is taken by the Cabinet in the form of an Order-in-Council authorizing the issue of supplementary Letters Patent approving the extension of boundaries. The time frame for this last procedure is approximately five weeks. The time frame for the overall process would take about four months to one year.

As a matter of clarification, it should be stated that supplementary Letters Patent are in fact guidelines issued by the Lieutenant Governor-in-Council which outlines the

following criteria that lawfully establishes a boundary extension of a municipality. They include;

- 1) A municipality's name, legal boundaries, area and class.
- 2) The provision for the transfer to the municipality of any asset, right, claim, obligation or liability of a municipality involved in an annexation.

Flow Chart 2 shows the step-by-step procedure of this process.



<p>Chart 2 B</p>	<p>Annexation Procedure Used in the Province of British Columbia</p>	<p>Source: The Ministry of Municipal Affairs Section 22. The Municipal Act of B.C.</p>
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### 3. The Province of Quebec

In the Province of Quebec, a municipality by a majority vote of council can pass a bylaw to extend the limits of the municipality by annexation. After a last reading and final passing of the bylaw, a copy of the bylaw is published in the French and English newspaper.

Twenty days after the posting of the bylaw, a meeting of property owners in the area affected by the bylaw, is held. The Mayor or a member of council will chair the meeting and the electors will be asked if they approve or disapprove of the bylaw. The Chairman will make his decision as to the majority opinion of the vote. If there is uncertainty in the majority vote, then everyone will be asked to vote again on an individual basis.

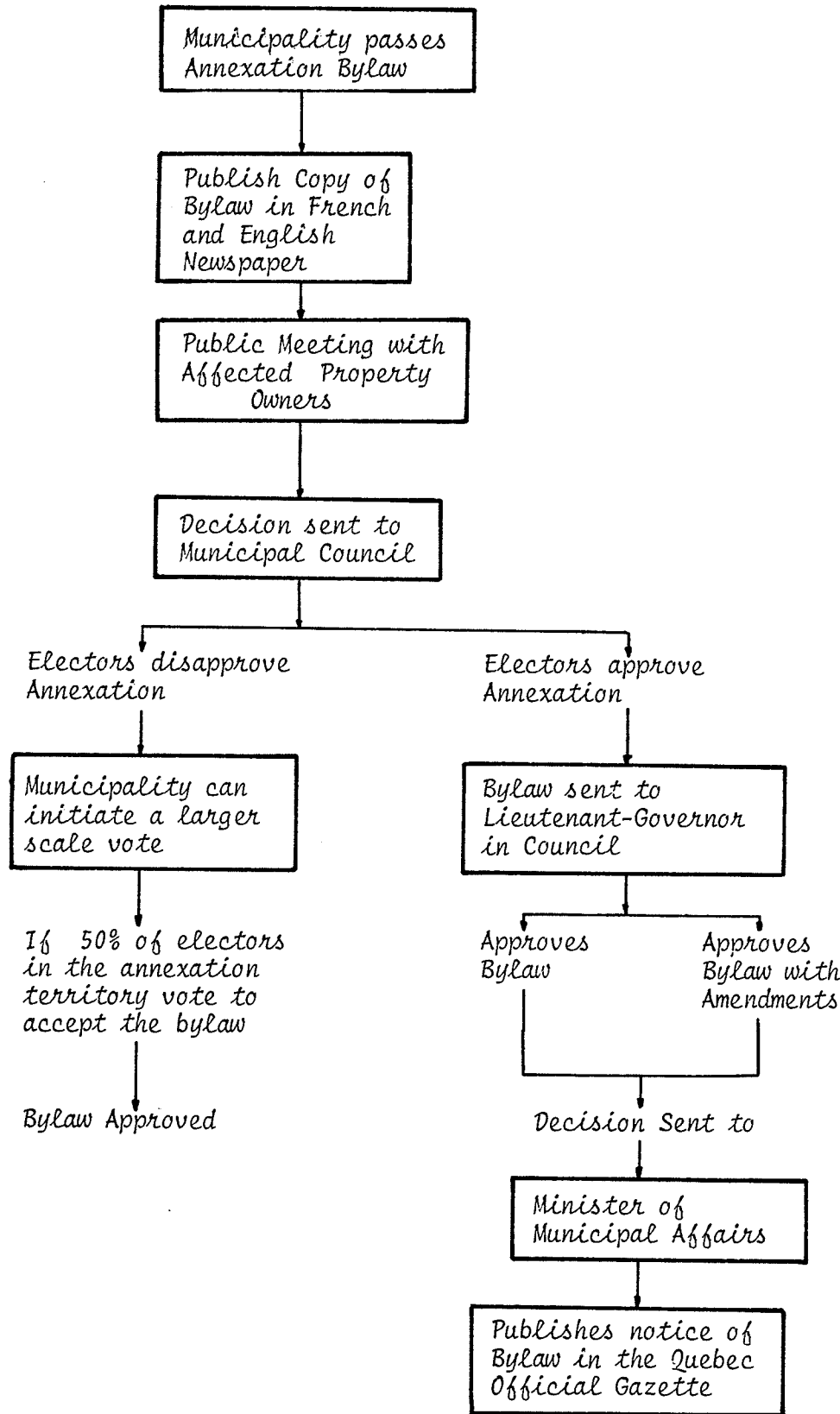
The decision of this meeting is communicated to the council of the municipality desiring to effect the annexation, by a certificate signed by the secretary of the meeting. If the electors at the public meeting disapprove of the annexation bylaw, the municipality can undertake a larger vote on the issue. If over 50% of the electors in the annexation territory, vote to approve the bylaw, then it is passed and accepted by the municipal council.

If the bylaw is accepted at the first public meeting, then the bylaw is sent to the Lieutenant Governor-in-Council for approval. The Lieutenant Governor-in-Council may approve the



bylaw without amendments or with amendments which he deems suitable as to the conditions for annexation. When the bylaw is approved, the Minister of Municipal Affairs is notified and he publishes a notice of the bylaw approval in the Quebec Official Gazette.

Flow Chart 3 shows the step-by-step procedure of this process.



<p>Chart 3 C</p>	<p>The Annexation Procedure Used in the Province of Quebec</p>	<p>Source: The Dept. of Municipal Affairs. Cities and Towns Act of Quebec 1975</p>
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C. PROVINCES WHICH USE QUASI-JUDICIAL/LEGISLATIVE DETERMINATION AS AN ANNEXATION METHOD

1. The Province of Alberta

In the Province of Alberta, under the laws of the Municipal Government Act, the majority of owners of any territory in or immediately adjoining a municipality; the council of a municipality with respect to any territory in or immediately adjoining the municipality; or the Local Authorities Board (a quasi-judicial, autonomous body) can initiate an annexation application.

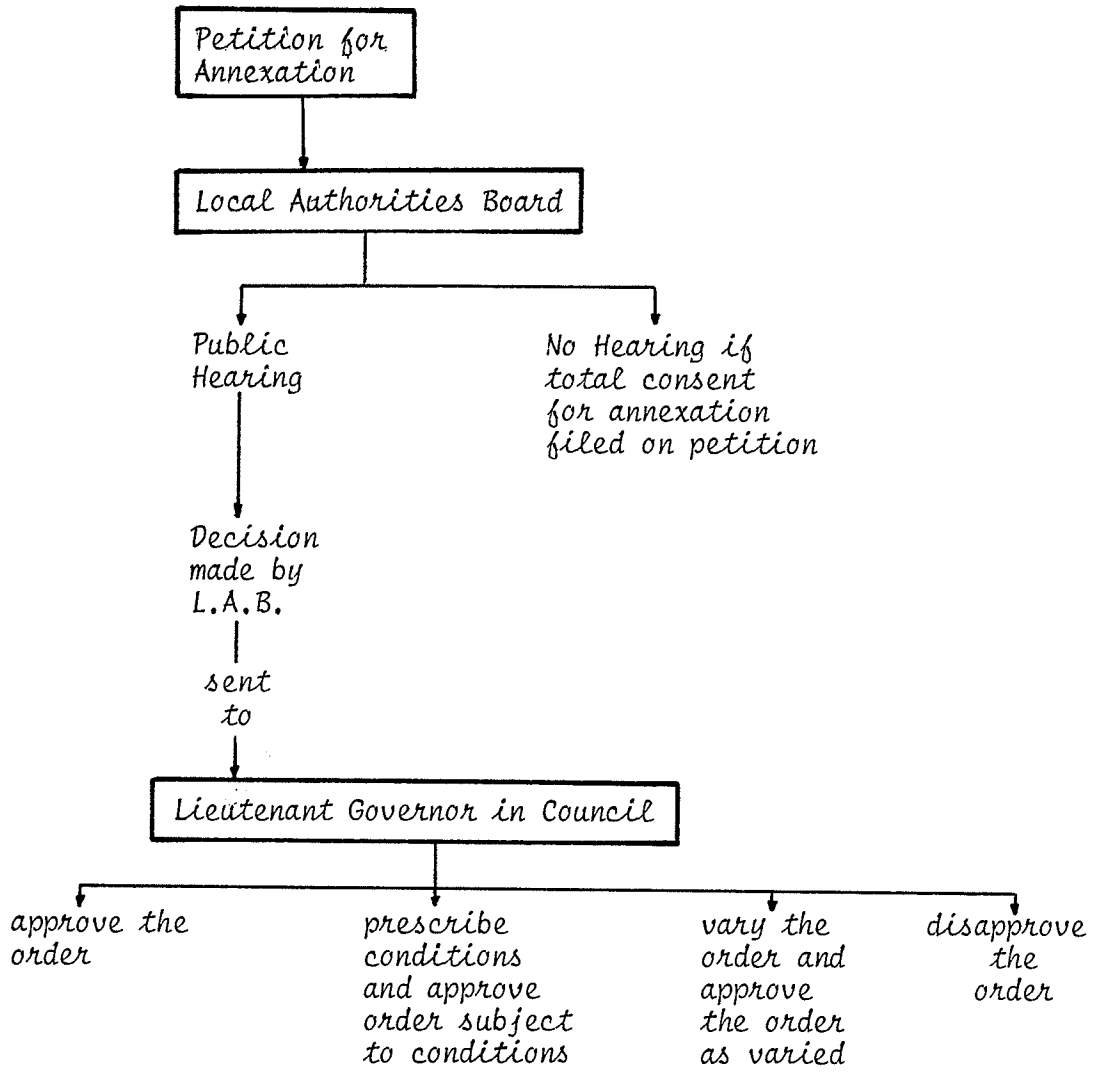
From there, the Local Authorities Board holds a public hearing or may forego a public hearing on an annexation application if total consent to the granting of the application is filed. Once the decision is made by the LAB, it is sent to the Lieutenant Governor-in-Council. The Cabinet reviews the LAB decision and they can either;

- 1) approve the order.
- 2) prescribe conditions and approve the order subject to these conditions.
- 3) vary the order and approve the application as varied.
- 4) disapprove the order.

It should be noted that prior to May 1978, the Cabinet could only approve or disapprove LAB orders. But with the passage of Bill 38 in May of 1978, the Cabinet gave itself the power to have sole authority and discretion on annexation decisions.

With this Bill, the Cabinet did not have to heed the recommendations of the LAB or the results of the public hearings conducted by the LAB. Also, the Cabinet was under no obligation to justify its decision; listen to the arguments of interested parties; make a decision within a limited time frame, or allow for an appeal of their decision to take place. This reduced the role of the LAB as an advisory committee of the Cabinet, instead of an independent quasi-judicial decision-making body.

Flow Chart 4 shows the step-by-step procedure of this process.



<p>Chart 4 D</p>	<p>The Annexation Procedure Used in the Province of Alberta.</p>	<p>Source: Dept. of Municipal Affairs. The Municipal Government Act, 1970</p>
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D. PROVINCES WHICH USE QUASI-JUDICIAL DETERMINATION AS AN ANNEXATION METHOD

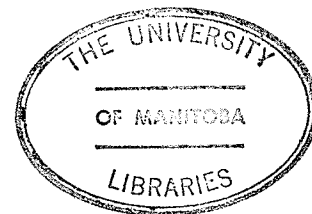
1. The Province of Ontario

Note: The Province of Ontario developed a new annexation process to replace the present process. However, to give the reader an indication of how the old process worked, it will be discussed at this time.

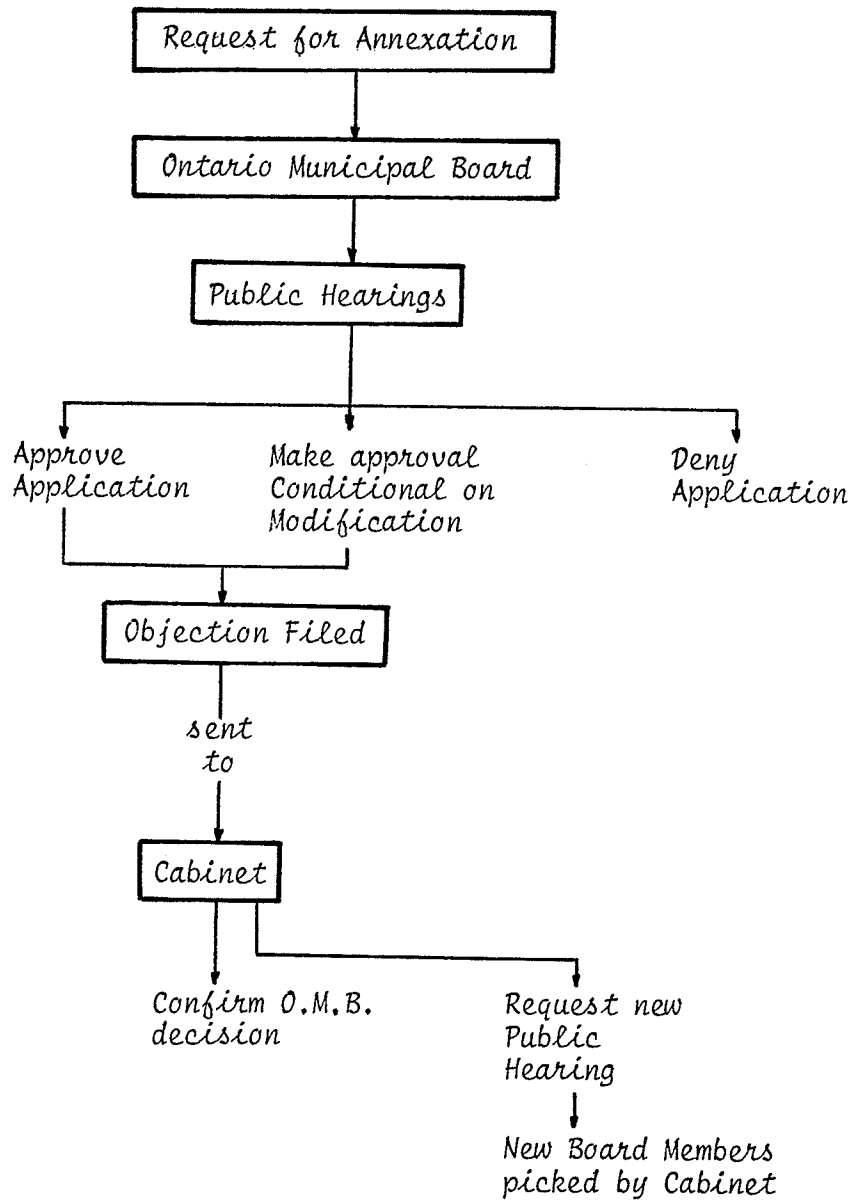
In the Province of Ontario, an annexation application can be made by any municipality authorized by a by-law of council; the Minister of Municipal Affairs authorized by the Lieutenant Governor-in-Council; or by the electors in any municipality seeking an annexation.

The application is submitted to the Ontario Municipal Board (OMB), a quasi-judicial autonomous body where a decision is based on the individual merits of the case. The OMB holds a number of public hearings on the application. These hearings are held 4 months after a notice of hearing is announced to give all interested parties sufficient time to respond.

The OMB then makes a decision by either approving the application as submitted, make approval conditional on modification, or deny the application. The OMB annexation decision is put in writing and copies of the decision are sent to affected municipalities and persons. A period of 28 days is allowed for objections, and if 10% of the persons living in a municipality applying for annexation or the proposed annexation area, object to the decision, it is sent to the Cabinet for review.



The Cabinet may confirm an OMB decision or require the Board to hold a new public hearing before Board members designated by the Cabinet. The decision of the OMB is final and not open to appeal where an objection is filed; when confirmed by the Cabinet; or after a new public hearing is ordered by the Cabinet. Flow Chart 5 shows the step-by-step procedure of this process.



<p>Chart 5 E.</p>	<p>The Annexation Procedure Used in the Province of Ontario</p>	<p>Source: Dept. of Intergovernmental Affairs. The Municipal Act</p>
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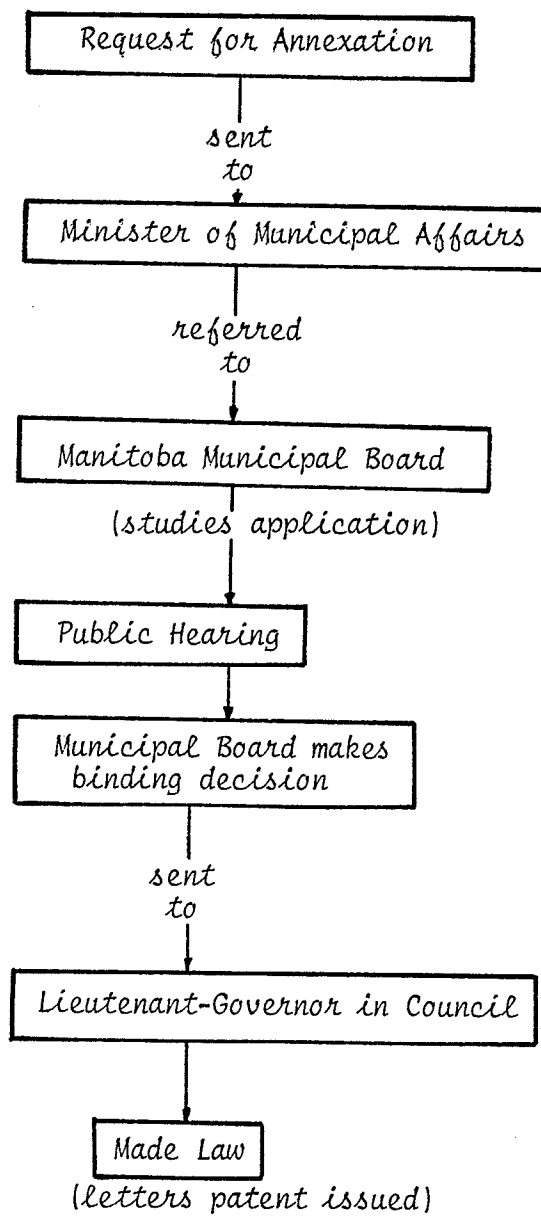
## 2. Province of Manitoba

In the Province of Manitoba, a petition for annexation is made to the Minister of Municipal Affairs. This annexation request can be made by a majority of electors or the council of a municipality. This request is most often in the form of an urban municipality requesting annexation of land from a neighbouring rural municipality.

The Minister refers the application to the Manitoba Municipal Board. This quasi-judicial board makes inquiries into the application and it initiates a public hearing to hear the concerns of the electors.

After the Board looks into matters such as taxation and boundaries, it takes into account the concerns expressed at the public hearing and it makes a decision. This decision is binding and not subject to appeal.

The Provincial Cabinet is not involved in the annexation process, other than to make the decision law, through the Lieutenant Governor-in-Council. Letters patent must also be issued. Flow Chart 6 shows the step-by-step procedure of this process.



<p>Chart 6 F.</p>	<p>The Annexation Procedure Used in the Province of Manitoba</p>	<p>Source: Dept. of Municipal Affairs. The Municipal Act of Manitoba, 1970</p>
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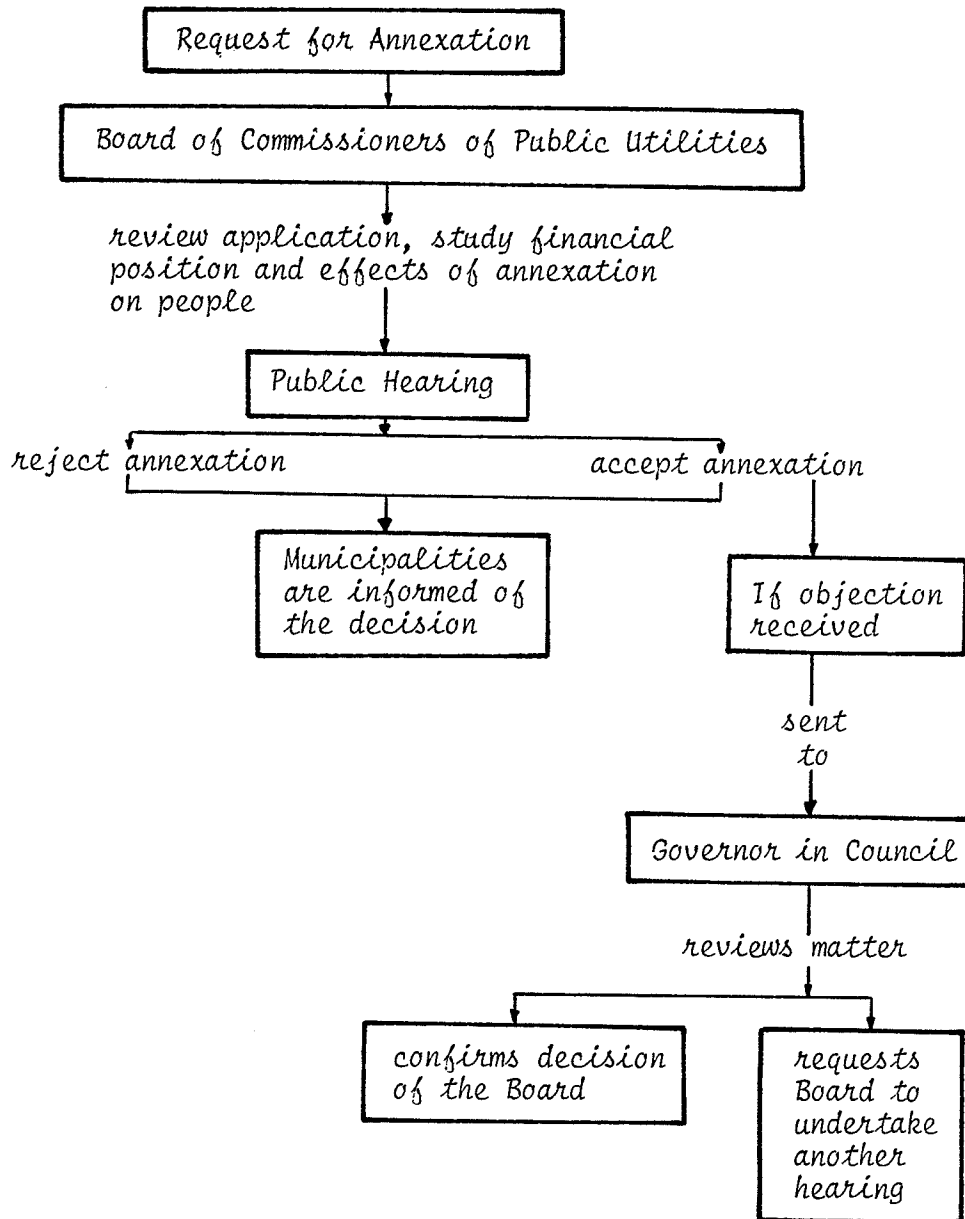
### 3. Province of Nova Scotia

In the Province of Nova Scotia, the question of annexation and municipal boundaries is the responsibility of the Board of Commissioners of Public Utilities who administer the Municipal Boundaries and Representation Act.

When an application is made to the Board, the Board inquires into and takes into account, the financial position and obligations of the municipalities affected, the taxation burden upon ratepayers and other relevant matters. The Board also holds a public meeting to listen to objectors.

After the hearing, the Board informs the municipalities involved, of their positive or negative decision on the annexation matter. If the Board accepts the annexation proposal, then their report is sent to the Governor-in-Council who reviews the report and confirms the decision of the Board or requests that the Board undertake another hearing.

Under Nova Scotia legislation, all by-laws, ordinances and administrative orders and health regulations of the latter municipality apply to the area or municipality annexed. All assets and liabilities of the annexed or former municipality or municipalities are assets and liabilities of the annexing or new municipality. Flow Chart 7 shows the step-by-step procedure of this process.



<p>Chart 7 G.</p>	<p>The Annexation Procedure Used in the Province of Nova Scotia</p>	<p>Source: Dept. of Municipal Affairs. Municipal Boundaries and Representation Act.</p>
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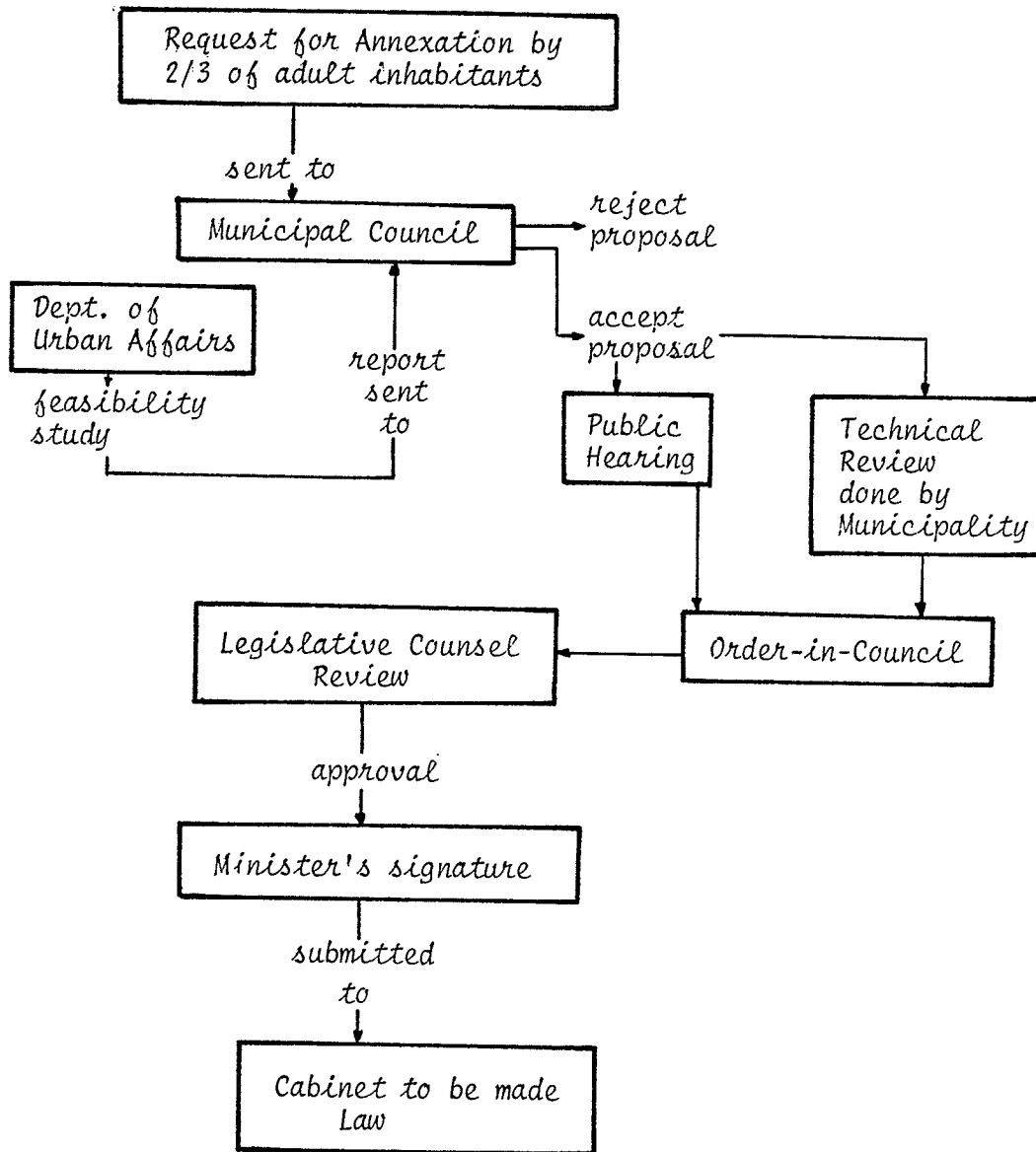
E. PROVINCES WHICH USE LEGISLATIVE DETERMINATION AS AN ANNEXATION METHOD

1. Province of Saskatchewan

In the Province of Saskatchewan, each annexation proposal submitted is handled on an individual basis. There is no set policy in resolving a boundary dispute. Applications or requests for annexation are made by the urban municipalities to the Department of Municipal Affairs for an order by the Lieutenant Governor-in-Council under the provisions of Sections 22 or 23 of The Urban Municipality Act, 1970. The need for annexation is determined by the urban municipality in consultation with the Department of Municipal Affairs.

The request is then assessed by the Department as to the validity of the reasons, need, etc., of the application. The assessed owners of properties within the area involved must be served with "Notices of Intention" and given an opportunity to file any written or oral objections. The Council of the rural municipality involved is also consulted. Following a field inspection and assessment of the annexation request, a recommendation is made to the Lieutenant-Governor in Council under the signature of the Minister of Municipal Affairs, which the final decision is made.

If the annexation request is approved, an Order is then issued under the signature of the Premier and the Lieutenant-Governor. Flow Chart 8 shows the step-by-step procedure of this process.



<p>Chart 8 H.</p>	<p>The Annexation Procedure Used in the Province of Saskatchewan</p>	<p>Source: Saskatchewan Urban Affairs. Urban Municipality Act, 1970.</p>
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## 2. Province of Newfoundland

The Province of Newfoundland was the second province in Canada to change their annexation process during the past year. In actual fact, Newfoundland never really had an annexation process in the first place. Rather, the province had a simplified procedure to extend the boundaries of a municipality.

Under this procedure, a petition signed by half of all persons living in an area, was sent to the Lieutenant-Governor in Council, requesting a boundary extension of their municipality. Also, the Lieutenant-Governor in Council could initiate an independent plebiscite, with or without a petition, to see if the electors in the area would like a boundary extension.

Upon a majority vote of the electors, the Lieutenant-Governor in Council could extend the boundaries of a municipality and publish the order in the Newfoundland Gazette.

The Municipalities Act of Newfoundland was revised in 1979, and provision was made in this Act to outline an annexation process for the province. Under the legislation of this Act, the Minister of Municipal Affairs and Housing publishes a notice of intent in the newspaper to inform residents of an area, that he is preparing to order a feasibility report to be conducted on the annexation issue.

The Minister will then appoint a Commissioner to hold public hearings in the municipality and report his findings and recommendations to the Minister.

If the Minister agrees with the report to accept the annexation, then he will recommend to the Lieutenant-Governor in Council to accept the annexation, subject to their review of the feasibility study.

Flow Chart 9 shows the step-by-step procedure of this process.



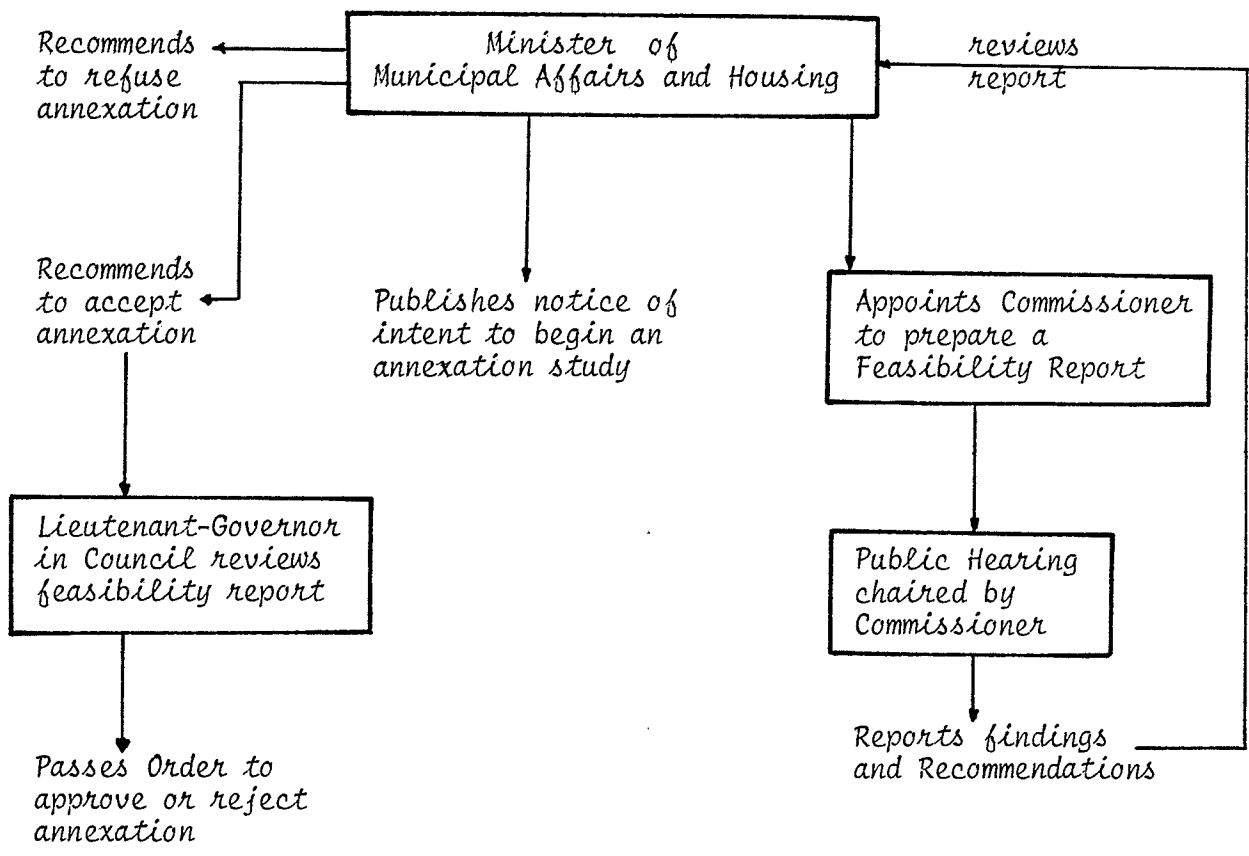


Chart 9 I.	The Annexation Procedure Used in the Province of Newfoundland	Sources: Dept. of Municipal Affairs. The Municipalities Act, 1979.
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### 3. Province of New Brunswick

Under New Brunswick Law, 25 or more persons qualified to vote under the School Act and resident in an area contiguous to, but not within a municipality may petition the Minister for the initiation of an annexation proceeding that area.

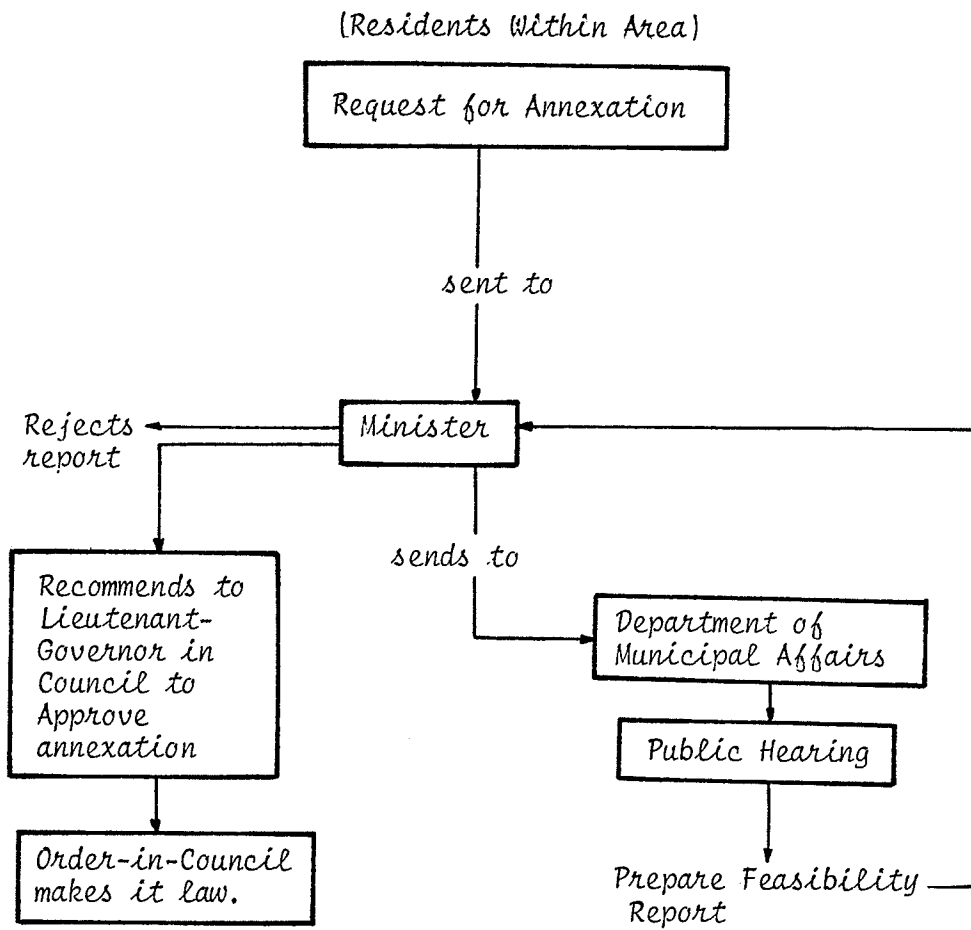
After the request for annexation, the Minister commissions the Director of Municipal Affairs to conduct a feasibility study. During the course of the study, the study team from Municipal Affairs holds at least one public meeting at which time the citizens of the proposed affected areas are given a chance to express their views on the subject.

When the feasibility report is sent to the Minister he can reject the report or recommend to the Lieutenant-Governor in Council to approve the annexation. It is then up to the Lieutenant Governor-in-Council by an Order-in-Council of,

- 1) prescribing the name and boundaries of the municipality.
- 2) designate the effective date of incorporation.
- 3) make adjustments of the assets and liabilities between affected municipalities.

When the Lieutenant Governor-in-Council is satisfied that all criteria are met, then an Order-in-Council allows a municipality to be enlarged by annexation.

Under the laws of the Municipalities Act of the Province, when an area is annexed to a municipality, the by-laws of the municipality extend to the annexed area. Flow Chart 10 shows the step-by-step procedure of this process.



<p>Chart 10 J.</p>	<p>The Annexation Procedure Used in the Province of New Brunswick</p>	<p>Source: Dept. of Municipal Affairs. Chapter M-22 of the Municipalities Act.</p>
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**CHAPTER THREE:**

**A SURVEY OF**

**MUNICIPAL ATTITUDES**

**TOWARD ANNEXATION**

**PROCEDURES**

CHAPTER 3 : A SURVEY OF MUNICIPAL ATTITUDES TOWARD  
ANNEXATION PROCEDURES

Chapter 1 introduced the reader to what annexation is and what its advantages and disadvantages are in regards to solving inter-municipal disputes and boundary alterations. From there, Chapter 2 identified the various methods and procedures of annexation which are used in Canada.

This Chapter reports the results of municipal attitudes towards these annexation procedures, as determined from the results of a cross-Canada survey which was conducted between the months of October 1980 and March 1981, upon municipalities which had undergone an annexation during the year of 1980. In some cases, where a province was inactive with annexations during 1980, then the municipalities which had undergone an annexation in 1979 were surveyed by mail.

The questionnaire was prepared in both French and English and was divided into two parts. A copy of this survey is included in the thesis appendix.

The first part of the questionnaire was designed to learn how the municipalities which had recently undergone an annexation, liked the annexation process in their province.

The second part of the questionnaire was designed to learn how these municipalities would change their present annexation process, if they had the chance. With this information, it was determined which annexation process was

most approved of by the municipalities surveyed and a model of an annexation process was developed from the responses received.

The information from the respective provincial governments in each province showed that during the year of 1980, 129 municipalities across Canada had undergone an annexation. See table 1. The provinces of British Columbia, Alberta and Ontario were the most active with annexations during 1980. Taking into account several municipalities which had undergone an annexation in 1979, 90 questionnaires were mailed out across Canada, to each province, and 54 surveys were returned for a response rate of 60%.

Table 2 shows the number of surveys sent to each province and the response rate from each province. The largest number of responses came from the western provinces and Ontario. The least number of responses came from Quebec and the maritime provinces. No questionnaires were sent to the Province of Newfoundland, as no annexation has taken place in that province since the enactment of a new Municipalities Act of Newfoundland in 1979.

The Province of Nova Scotia has undergone only one annexation in the last 5 years. Therefore, only one questionnaire could be sent to that province.

Likewise, only 3 questionnaires could be sent to the province of Prince Edward Island, because of its inactivity with annexations during that year.

A. BASIC SURVEY RESULTS

B. TABLE 1 : Number of Annexations which have Occurred in Canada during the Year of 1980

<u>Province</u>	<u>No. of Annexations</u>
British Columbia	23
Alberta	44
Saskatchewan	10
Manitoba	5
Ontario	26
Quebec	4
Newfoundland	0
Nova Scotia	1
P.E.I.	3
New Brunswick	<u>13</u>
Total	<u>129</u>

Source: Provincial Government Depts.

C. TABLE 2 : Response Rate from each Province

Province	Total No. of Questionnaires Sent	No. of Responses Received	% of Total
B.C.	18	14	78
Alberta	11	9	82
Saskatchewan	10	8	80
Manitoba	11	5	45
Ontario	18	9	50
Quebec	10	3	30
Newfoundland	0	0	0
Nova Scotia	1	1	100
P.E.I.	3	1	33
New Brunswick	<u>8</u>	<u>4</u>	<u>50</u>
Total	90	54	60

Source: Survey Results.

Note: No annexations have taken place in the Province of Newfoundland since the enactment of the new Municipalities Act of Newfoundland, 1979, which provides for a modified way to handle annexation applications.



D. The Results of Survey Questions

1) Are you satisfied with the present annexation process in your province?

Province	Total Responses	Yes	%	No	%
B.C.	14	7	50	7	50
Alberta	9	5	55	4	45
Saskatchewan	7	4	57	3	43
Manitoba	5	4	80	1	20
Ontario	9	6	67	3	33
Quebec	-	-	-	-	-
Newfoundland	-	-	-	-	-
Nova Scotia	1	-	-	1	100
P.E.I.	1	1	100	-	-
New Brunswick	<u>4</u>	<u>2</u>	<u>50</u>	<u>2</u>	<u>50</u>
Total	50	29	58%	21	42%

Source: Survey Results

As can be seen from the survey results, the majority of municipalities which had undergone an annexation in 1980, were satisfied with their provincial annexation process.

2) If your municipality is satisfied with the annexation process in your province; what are its good points?

The surveyed municipalities within the province of British Columbia felt that their annexation process gave the owners affected by annexation the chance to voice their concerns and recognize the rights of both annexing parties.

The same statements were made by the province of Alberta and Saskatchewan. One municipality surveyed, summed it up best. "It allows all parties an adequate opportunity to present their positions, which are then used to determine reasonable terms and conditions."

The municipalities within the province of Manitoba and Ontario liked the fact that an independent analysis of both parties concerns, was undertaken and that the quasi-judicial system (Manitoba Municipal Board, Ontario Municipal Board) was good.

The municipality within the province of Prince Edward Island, also acknowledged the benefits of the P.E.I. Land Use Commission, which as a non-partisan body, reviews the annexation request and makes a recommendation to the Government.

3) If your municipality is dissatisfied with the annexation process in your province; what are its bad points?

Within the province of British Columbia, the majority of municipalities surveyed, felt that their annexation process was too time consuming and created hard feelings between annexing parties. The following comments were outlined by the municipalities of B.C., when specifying the shortcomings of the annexation process in their province:

*'Red Tape' - the provincial government should give the municipality the facts, i.e. legal descriptions, etc., not opinions about the annexation application.*

*The provincial government is dragging its feet in approving annexation of resource based industries due to the fact that it would lose tax funds from these industries to the communities that are the industries bedrooms.*

*It is difficult for the Minister of Municipal Affairs to allow an annexation over complaints of residents who do not want annexation.*

*The policy of the provincial government on the actual mechanics of undertaking the annexation could be improved. Legislation is outdated and the procedures should be streamlined.*

*The municipalities have little or no control over fringe area growth; regional districts encourage rural residential.*

*The provincial government has a poor response time to initial queries on procedures, etc.*

The municipalities surveyed within the province of Alberta also felt that their annexation process was too time consuming and too costly. Some of the shortcomings for the

process in that province are quoted below;

*The current system is not conducive to large adjustments involving the annexation of urban concentrations. The decisions in such areas are based on politics rather than technical merits.*

*The involvement of the Cabinet in the final decision makes the entire process very difficult to interpret. It takes an inordinate amount of time for Cabinet decisions.*

*The rationale for approval or refusal of annexations is unclear.*

The municipalities surveyed within the province of Saskatchewan, also felt that their provincial annexation process was too time consuming and they offered other viewpoints about the process.

*There seems to be discrepancies between different centers when annexation takes place. The policy is not uniform for all annexations and is left to the various departments (urban and rural) who vie for their particular positions as they relate to the annexation.*

The municipalities surveyed within the province of Manitoba felt that there was not enough public education about annexation and that there was no predetermined formula to settle the question of municipal assets and liabilities.

The municipalities surveyed within the province of Ontario felt that the old annexation process was too time consuming, too complicated, costly and created hard feelings between annexing parties. One municipality stated;

*The emphasis should be on an adversarial approach, rather than one of consultation - hard feelings.*

In the province of Nova Scotia, the one municipality surveyed felt that;

*The annexation process did not include a land use impact statement which would be helpful in determining appropriate locations for new boundaries.*

4) Why did your municipality request a boundary alteration?

The results of the questionnaire indicated that a municipality annexed land for a number of reasons. These reasons were fairly uniform across Canada. However, some comparisons can be made between provinces.

In British Columbia, the largest number of municipalities surveyed extended their boundaries because of ineffective area-wide planning which caused problems with municipal servicing and equalized cost sharing.

In Alberta, the shortage of land for industrial, commercial and residential land uses, was the major reason for annexation in that province, followed by ineffective area-wide planning. The same case was true for the province of Saskatchewan.

In Manitoba and Ontario, ineffective area-wide planning and a shortage of land for future development within the municipal boundaries, were the main reasons for annexation in 1980.

The province of New Brunswick had undergone municipal boundary extensions mainly because of ineffective area-wide planning while Prince Edward Island was concerned with cost inequities of servicing land.

- 5) During your recent boundary extension, did you feel that your municipality had a fair assessment of the issues regarding annexation?

E. No. of Municipalities Surveyed Which Felt that They Had a Fair Assessment

Province	No. of Respondents	Yes	%	No	%
B.C.	14	13	93	1	7
Alberta	9	8	89	1	11
Sask.	7	6	86	1	14
Manitoba	6	6	100	-	-
Ontario	9	7	78	2	22
Nova Scotia	1	1	100	-	-
New Brunswick	4	4	100	-	-
P.E.I.	<u>2</u>	<u>1</u>	<u>100</u>	<u>-</u>	<u>-</u>
Total	51	46	90%	5	10%

Source: Survey Results

The majority of the municipalities surveyed felt that they had a fair assessment of the issues. Those municipalities which felt that they did not get a fair assessment, were those which did not get everything they requested in their annexation application, such as a green buffer around the municipality to control fringe development, or the amount of land they desired, etc.

6) Were the number of public hearings held, sufficient to handle all the objections?

In British Columbia, the majority of the municipalities surveyed felt that the number of public hearings held was sufficient to handle all the objections. However, in many cases, no objections were held, therefore, no public hearings were held.

As a matter of fact, the majority of municipalities in all the provinces were satisfied with the amount of public hearings held.

7) Did non-relevant objections at the Public Hearing slow down the annexation process?

F. Province	No. of Respondents	Yes	%	No	%	N.A.	%
B.C.	14	4	28	5	36	5	36
Alberta	9	2	22	7	78	-	-
Sask.	7	-	-	4	57	3	43
Manitoba	6	1	17	5	83	-	-
Ontario	10	5	50	3	30	2	20
Nova Scotia	1	1	100	-	-	-	-
New Brunswick	4	1	25	2	50	1	25
P.E.I.	<u>1</u>	<u>1</u>	<u>100</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
Total	52	15	29%	26	50%	11	21%

N.A. - No Answer

Source: Survey Results

Generally speaking, most of the municipalities surveyed had no complaints about non-relevant objections slowing down the annexation process in their respective provinces.

However, as one municipality within the province of Alberta stated, "non-relevant objections at public hearings are difficult to restrict."

8) Was your municipality aware of what the Province required in terms of studies done, maps required, etc., to complete the annexation process?

G. Province	No. of Respondents	Yes	%	No	%
B.C.	14	14	100	-	-
Alberta	9	8	89	1	11
Sask.	7	7	100	-	-
Manitoba	6	5	83	1	17
Ontario	9	9	100	-	-
Nova Scotia	1	1	100	-	-
New Brunswick	4	3	75	1	25
P.E.I.	<u>1</u>	<u>1</u>	<u>100</u>	<u>-</u>	<u>-</u>
Total	51	48	94%	3	6%

Source: Survey Results

The majority of municipalities surveyed felt that they were made aware of what the provincial government required from them, to complete the annexation process.

However, some municipalities did offer additional comments pertaining to this question.



A municipality within the province of British Columbia felt that more guidance from the province should be given in proceeding with the annexation.

In Alberta, one municipality stated that no specific guidelines were available and that they were aware of what the province wanted, through precedence. Another municipality within Alberta is quoted as saying; "There are no real requirements set out by the Board. You just document the case to the greatest extent possible and hope for the best."

The responses to questions 9 through 11 in the survey, were tabulated in Table 3 to give an overview of what impacts the annexation process from each province had on the municipalities surveyed.

As can be seen, the province of Alberta had the highest average number of acres acquired in 1980, as determined by the municipalities surveyed. The need for land was due to the in-migration of people from other provinces which caused a strain on existing municipal boundaries in Alberta.

The highest length of time to complete an annexation occurred in those provinces with a quasi-judicial or legislative type of determination. The shortest length of time to complete an annexation occurred under popular determination such as is practiced in British Columbia, P.E.I. and Quebec.

The average costs per acre to annex land in 1980, was highest in those provinces with a quasi-judicial type of

H - TABLE 3 : RESULTS FROM MUNICIPALITIES SURVEYED IN 1980

Province	Annexation Method Used (Type of Determination)	Average No. of Municipalities Surveyed per Province	Average Amount of Land Annexed	Length of Time taken to complete annexation	Average Costs per Acre
P.E.I. *	Popular/Leg. Det.	Lack of Data	-	-	-
B.C.	" "	11	482	1 year	\$ 8
Quebec *	" "	Lack of Data	-	-	-
Alberta +	Quasi-Judicial/Leg.	8	815	1.1 years	\$14
Ontario	Quasi-Judicial Det.	6	491	1.4 years	\$12
Manitoba	" "	6	613	1.6 years	\$ 9
Nova Scotia *	" "	Lack of Data	-	-	-
Saskatchewan	Legislative Det.	7	445	1.4 years	\$ 7
Newfoundland *	" "	Lack of Data	-	-	-
New Brunswick *	" "	Lack of Data	-	-	-
<b>TOTAL AVERAGE</b>	<b>Quasi-Judicial + Legislative Determination</b>	<b>7.6</b>	<b>581</b>	<b>1.3 years</b>	<b>\$10</b>

SOURCE: SURVEY RESULTS.

NOTE: Average Cost does not include the cost of purchasing any land.

\* The City of Edmonton in Alberta has not been included in the statistics, to avoid exaggerating the average costs of annexation for Alberta in 1980. Thus far, Edmonton has spent 2.1 million dollars in its attempt to annex 473,600 acres of land.

\* The Maritime Province and Quebec were not analyzed due to the lack of response and data from the questionnaire, to make a proper evaluation of these criteria.

determination. The lowest costs per acre occurred under popular and legislative determination. Although the survey results indicated that the municipalities surveyed, did not desire legislative determination, this method did reduce direct costs to the annexing municipalities, as the provincial governments used their own staff, time and money to study the annexation request and report to the Minister.

From these results, it can be stated that there is a high correlation between the costs and time taken to complete an annexation, by the type of annexation method used.

Although the quasi-judicial process is the most expensive and time consuming method used, it is also the most thorough, impartial and desirable type of adversary system available and preferred by the municipalities surveyed. It is also the best equipped to handle larger annexation proposals.

It could also be determined from the survey results that the Canadian average for the no. of acres acquired by a municipality which had undergone a boundary extension in 1980, was 581 acres. The average length of time to complete the annexation, was a little over one year, and the average costs per acre to annex land in Canada during 1980, was estimated from the municipalities surveyed, to cost **ten** dollars per acre.

- 12) Does your municipality find the present annexation mechanism in your province to be a workable and effective tool?

The following comments were attributed to the 14 municipalities surveyed from the province of British Columbia.

*There are two methods - 1) Restructuring and 2) Boundary extensions. The restructuring process provides for provincial grants. Boundary extensions do not. Both are workable, but some doubt is expressed to their effectiveness.*

*Too arbitrary on the Provincial side.*

*To an extent. The present system works, but it is a long drawn out process.*

*No! At present, the provincial government is reluctant to let municipalities take in resource based industries adjacent to municipalities. They do not like to lose provincial tax revenue.*

*No! Not suitable for the orderly growth of a small village.*

*Workable yes - effective no.*

About half of the 14 municipalities in British Columbia which were surveyed, were not satisfied with their provincial annexation process which included a combination of popular and legislative determination. The other half did not respond or simply answered with a yes.

The following comments were attributed to the municipalities surveyed from Alberta, and their quasi-judicial/legislative system.

No! The process must be adjusted as it relates to the major metropolitan areas.

No! There is too much uncertainty over when final decisions will be made and upon what basis.

Yes! But more consistency in decisions from one municipality to another is necessary.

The mechanism is archaic, but it is doubtful that the process can be streamlined within a tradition of democratic procedures. The cost of the procedures is a major objection. These costs should be less where undeveloped land is involved, compared with land that is developed and represents an instant source of revenue upon annexation.

Yes. It meets the need for communication between the parties in an open manner if all the parties recognized that the process can minimize the impact of change and can enhance the benefit which can be derived through the process.

The majority of 9 municipalities surveyed in Alberta, commented negatively about their annexation process.

The following comments were attributed to the 7 municipalities surveyed in Saskatchewan.

The process is workable with respect to adjacent farm land annexation for future development; problems occur with respect to land which has an established tax base.

The process seems to have discrepancies between different centers when annexation takes place. It is our intention to express our concerns to the provincial government.

On the whole, most of the municipalities surveyed in Saskatchewan were satisfied with their present annexation process. The negative comments were made by larger municipi-

palties with complicated boundary extensions,

The 5 municipalities surveyed within the province of Manitoba, had a majority acceptance of their provincial annexation process. One municipality liked their quasi-judicial system because it was controlled and decided upon by neutral body (Manitoba Municipal Board).

The majority of 9 municipalities surveyed in Ontario, felt that their old provincial annexation process was acceptable. However, they did offer additional comments.

*Yes, but there does seem to be a lack of communication between ministries and local offices involved in the process.*

*Yes, however, this is wholly dependant on the proper preparation for the hearing and the legal and planning expertise which the applicant has.*

*Generally speaking - No. However, this application went smoothly because both municipalities involved were in agreement.*

The municipalities surveyed within the maritime provinces of New Brunswick, Nova Scotia and Prince Edward Island, were satisfied with the annexation mechanism in their province. However, the survey response from Nova Scotia hoped that the existing process would be modified.

13) Would your municipality like to see a new annexation process developed for your province or have the old one modified?

I. Province	No. of Respondents	Maintain Present Process	%	Develop New Process	%	Modify Present Process	%
B.C.	14	7	50	4	29	3	21
Alberta	8	3	38	1	12	4	50
Sask.	5	2	40	1	20	2	40
Manitoba	5	2	40	-	-	3	60
Ontario	5	4	80	1	20	-	-
Nova Scotia	1	-	-	-	-	1	100
New Brunswick	4	2	50	-	-	2	50
P.E.I.	<u>1</u>	<u>1</u>	<u>100</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
Total	43	21	49%	7	16%	15	35%

Source: Survey Results

The results of the survey, showed that the municipalities surveyed within the province of British Columbia were divided, as were the municipalities surveyed within the province of Alberta, over maintaining, modifying or developing a new annexation process for their respective provinces.

However, while British Columbia was more for having a new annexation process being developed, Alberta desired having the present quasi-judicial system of annexation determination, modified.

The other provinces with some type of quasi-judicial process also desired to maintain their present process with modifications.

It is also interesting to note how this last question compares to the results of the first question asked on the questionnaire.

In British Columbia, 50% of the municipalities surveyed were not satisfied with their popular and legislative type of annexation determination. Almost 30% of the municipalities surveyed preferred to have a new process developed while 20% preferred to have the present process modified.

For the province under a quasi-judifical type of determination, 80% of the municipalities surveyed in Ontario preferred to maintain the present process. Previously, 67% of the municipalities surveyed in Ontario said that they were satisfied with their present process. It is ironic however, that the Province of Ontario, with a majority response to maintain the present process, was the one province in Canada to get a totally new annexation process developed and tested by the provincial government during the year 1979-80.

In Alberta, 50% of the municipalities surveyed preferred to have the present process modified. Previously, 55% of the municipalities surveyed said that they were satisfied with their present process.

In Manitoba, 60% of the municipalities surveyed preferred to have the present process modified. Previously, 80% of the municipalities surveyed said that they were satisfied with their present process.



Under the legislative type of determination, the Province of Saskatchewan and 57% of its municipalities which were surveyed, were satisfied with their present annexation process. Yet 40% wanted that process modified while 20% wanted a new process developed. The same situation occurred for the Province of New Brunswick, where 50% of the municipalities surveyed, did not like the legislative type of determination and 50% of the municipalities surveyed, preferred to have the present process modified.

It is quite clear from this study, that those provinces without a quasi-judicial system, had the most complaints about their annexation process. Furthermore, those provinces with a quasi-judicial system had the most recommendations to have this process modified.

Those provinces with legislative determination, had their surveyed municipalities respond that a modification of the process was needed.

**CHAPTER FOUR:**

**THE ONTARIO**

**ALTERNATIVE**

**PROCEDURE**

**- A CASE STUDY OF**

**ANNEXATION IN**

***BRANTFORD , ONTARIO***

CHAPTER 4 : THE ONTARIO ALTERNATIVE PROCEDURE: A CASE STUDY OF ANNEXATION IN BRANTFORD, ONTARIO

In the previous chapters, the reader has been exposed to what annexation is and the different methods of annexation used in Canada. Chapter 3 analyzed these methods through the use of survey responses from municipalities which had recently undergone an annexation. We saw how the combination of quasi-judicial/legislative determination was the most widely used annexation method in Canada, and what its advantages and disadvantages were.

This chapter will examine the new annexation procedure which was developed in the province of Ontario, to determine if this new process resolved the problem of other annexation processes which were revealed by the municipalities surveyed across Canada.

In recent years, annexation has had its greatest general significance as a means of resolving problems involving a city and its adjacent urban fringe. In some places, annexation has been used as the preferred approach to resolve inter-municipal problems, while in other places, it has been used as the desirable supplement to other approaches or as the only method which was available to resolve conflicts.

Nevertheless, the backlog of annexation cases, serves as a grim reminder that the annexation process is falling behind in its duties. In some places, it is unworkable or

burdensome to use and in other places, annexation laws are too stringent.

The procedural steps involved in a number of annexation laws also should be simplified. Too often they contain tortuous, easily misunderstood or obscure provisions. Eliminating these procedural defects will permit quicker and more certain use of the process.<sup>1</sup>

#### A. Case Study: Brantford, Ontario

As early as 1978, the Province of Ontario realized that the trend of bitter and expensive annexation battles was accelerating. Under the system which was being used at that time (the Ontario Municipal Board) to resolve boundary problems, it was quite clear that it was increasingly difficult to achieve solutions to inter-municipal problems. The old system was outdated,<sup>2</sup> expensive,<sup>3</sup> and the disputes were lengthy.<sup>4</sup>

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<sup>1</sup>The Council of State Governments, The States and the Metropolitan Problem. Chicago, 1956, pg.34.

<sup>2</sup>As of May 1980, there was a backlog of 30 annexation hearings facing the Ontario Municipal Board. A modern system would speed up this process. London Free Press. May 15, 1980.

<sup>3</sup>As of March 1, 1979, the City of Barrie, Ontario has spent 3 million dollars on its annexation attempt. The Association of Municipalities of Ontario, op. cit., p. 1.

<sup>4</sup>The survey results showed that the average length of time for a municipality to complete an annexation in Ontario during the year of 1980, was 1.4 years.

The Minister of Intergovernmental Affairs outlined some of the problems that plagued the municipalities of Ontario:

- We have shopping malls in the fringes and downtown decay.
- We have industrial development stalled for lack of servicing.
- We have inter-municipal agreements that encourage random growth.
- We have designated growth areas that can't grow and that are indeed being bled off by indiscriminate growth.
- We have so-called rural areas that compete vigorously and successfully for industrial, commercial and residential development.<sup>1</sup>

By 1979, the provincial government of Ontario realized that they needed a new process to handle annexation disputes. They discussed the situation with several Ontario municipal associations, and it was decided that a new type of settlement process that employed the principles of collective bargaining between municipalities should be experimented with.

For years, the City of Brantford and its neighbours have had inter-municipal disputes which they could not resolve among themselves. The City, the Township and the County all agreed that a better way had to be found to resolve the issues in contention. With this in mind, the Minister of Intergovernmental Affairs on August 20,

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<sup>1</sup>From a speech by the Minister of Intergovernmental Affairs, the Honourable Thomas H. Wells, to the Association of Counties and Regions of Ontario, Sudbury, Ontario. October 17, 1978.

1979,<sup>1</sup> outlined a new approach to annexation and amalgamation disputes and proposed that the Brantford area should be the pilot project to test this new process.

1. The Brantford-Brant Local Government Pilot Project

In 1978, the City of Brantford petitioned to the Ontario Municipal Board to acquire 5,201 acres of Township land through annexation. Negotiations between the City and the Township had failed to resolve major conflicts for many years, and the City felt that annexation was the only other alternative to go to. In previous years, various restructuring methods were analyzed, but none was ever implemented.

Although the city was aware of the fact that the use of the OMB would cause bitterness, mistrust and animosity between itself and the township, it had no other alternative. The City also knew that the township would contest the annexation and that both sides would hire consultants, lawyers, economists and other expert witnesses to win their case. It would all be very expensive and time consuming.

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<sup>1</sup>From a speech by the Minister of Intergovernmental Affairs, the Honourable Thomas Wells, to the Association of Municipalities of Ontario, August 20, 1979.

However, in 1979, with the development of the new alternative annexation mechanism in Ontario, the City of Brantford, the Township of Brantford and the County of Brant all agreed to use this experimental process and the Brantford-Brant Local Government Pilot Project was born.

At that time, the Minister of Intergovernmental Affairs stated that:

The area where I propose that this method be tested has perhaps the longest and one of the most complicated histories of inter-municipal disputes of any part of the Province. The history of difficulties between the City of Brantford and its neighbours presents an intimidating background for the pilot project. We reasoned that if this process could work in Brantford-Brant, it could work in most other parts of the Province.<sup>1</sup>

#### B. The Alternative Annexation Process

This new annexation process emphasized the following essential characteristics:

- 1) negotiation and agreement.
- 2) mediation of unresolved issues.
- 3) an efficient, impartial and quick arbitration if an agreement cannot be reached.

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<sup>1</sup> Statement by the Honourable Thomas L. Wells, Minister of Intergovernmental Affairs, The Introduction of an Act Respecting the City of Brantford, The Township of Brantford and the County of Brant. June 12, 1980, p. 2.

A review of Flow Chart 11 gives an indication of the new process which was developed by the Ontario Ministry of Intergovernmental Affairs. With this new process, a schedule was adopted to outline the requirements which had to be followed. These are listed below.<sup>1</sup>

- Step 1 : The disputing parties express their concern over boundary problems. They elect representatives to a negotiating team.
- Step 2 : The proposed amendments are discussed and the Minister considers the application and proposes a schedule for the process.
- Step 3 : The Province appoints a factfinder and his study team to be involved in the main negotiation sessions.
- Step 4 : Negotiations begin and include an initial stage of fact finding, agreement on the issues and facts, resolution of the issues and negotiation of specific areas of differences.

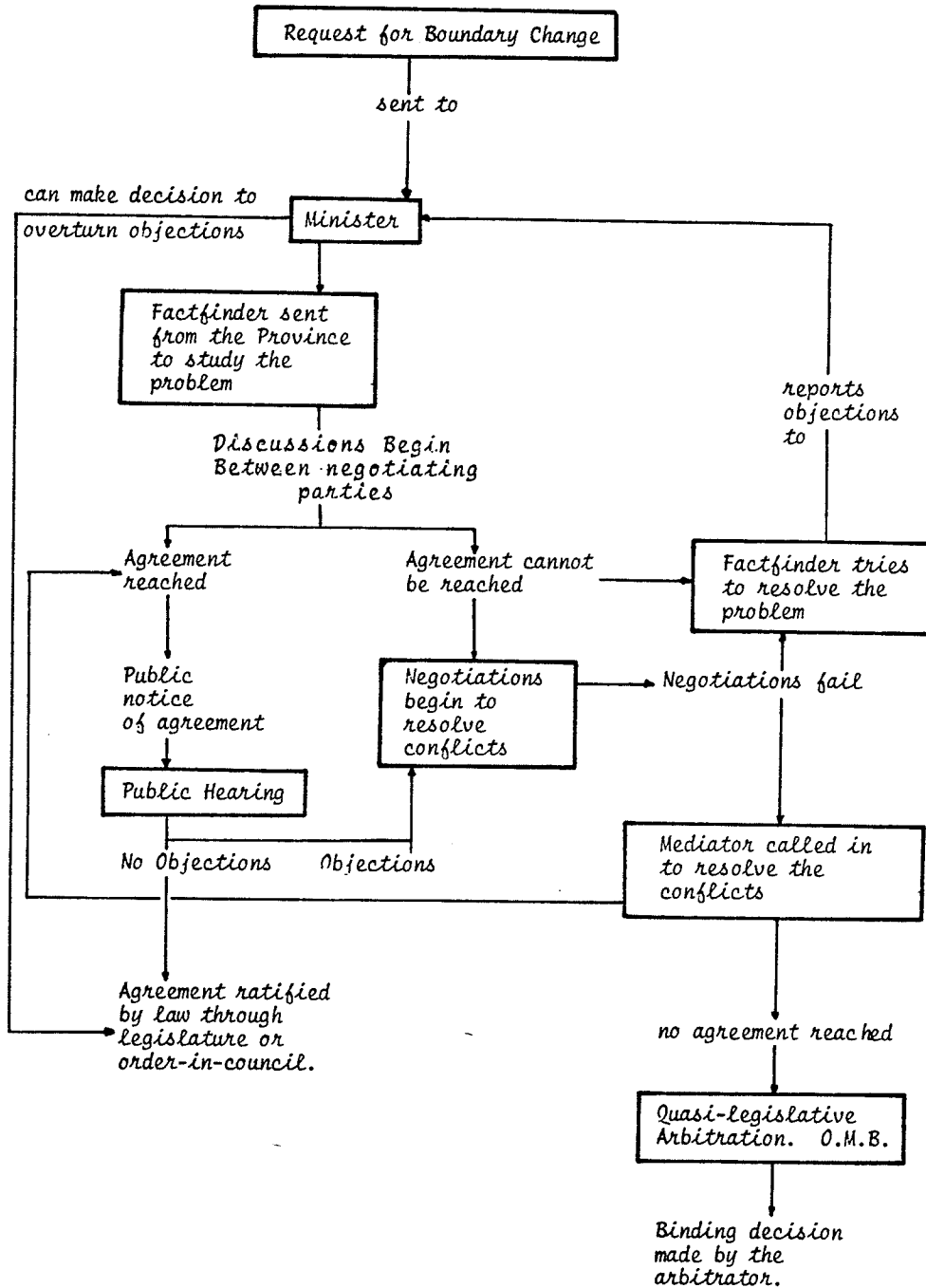
The job of the factfinder would be to develop an inventory of issues, concerns and facts pertaining to the issues. Once the priority list of issues was established, these issues would try to be resolved by consensus of the parties involved. When an agreement is reached, a document of agreement would be drawn up and submitted to the Minister with a request that legislation be prepared accordingly.

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<sup>1</sup>For an indepth study of this process, see the Brantford-Brant Local Government Pilot Project Recommendation for Agreement. City of Brantford, April 2, 1980.



An Alternative Annexation Process  
Developed for the Province of Ontario



<p>Chart 11 K.</p>	<p>A new Annexation Process Developed for the Province of Ontario</p>	<p>Source: The Author from information derived from the Brantford-Brant Local Government Pilot Project. Recommendation for Agreement April 2, 1980.</p>
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If there were any outstanding major issues which could not be resolved by the negotiating team, the factfinders would write a report to the Minister who would decide to send the issue to mediation, arbitration or legislation. This report would describe the areas of agreement and disagreement and would summarize the arguments relating to the issues of the dispute.

### C. The Issues of Negotiation

In the case of the Brantford Pilot Project, the City of Brantford argued that they needed to resolve problems which included a shortage of land for industrial uses, cost inequities, ineffective area-wide planning, downtown revitalization and a lack of legislation which would permit orderly growth of urban centres without the expense of costly annexation procedures. Many of these complaints are universal among growing municipalities.

Therefore, six major issues were identified and negotiated in the Brantford-Brant Pilot Project.

#### 1. Issue I : The Boundaries

The city wanted all existing developed land on the fringe of the city to be within the city boundaries. Their contention was that all urban development in the immediate vicinity of the city's boundary was related to it and was a reflection of its growth, irrespective of the existing boundaries.

This was agreed upon in the negotiations, provided that full city services would be made available to the area upon annexation and that property tax increases would be phased in over two years to prevent financial hardship to the Township residents.

2. Issue 2 : Boundary Security

It was agreed during the negotiations that comprehensive arrangements and provisions for planning controls on the fringe of the city should be developed and a moratorium on future annexations by the City should be established so that the Township would be assured of a relatively permanent boundary for a lengthy period of time. In this case the negotiating team agreed on a 23 year moratorium.

3. Issue 3 : Urban Sprawl - Future Planning

It was agreed that the fringe area could be used for either agricultural and related uses and that other land uses could be determined by a 'Mutual Planning Advisory Area'. Therefore, planning would be carried out on a co-operative basis between the City, County and Township.

4. Issue 4 : Cost-Sharing

It was agreed that cost-sharing would be based on the principle of weighted equalized assessment except where one municipality may benefit disproportionately from any given service.

## 5. Issue 5 ; Tax Protection

It was agreed that a phase-in of higher taxes would occur for the annexed regions, to reduce the financial impact of property owners in the annexed areas.

### D. A Review of the Alternative Annexation Process

The author's subjective view of the new annexation process developed and used during the Brantford-Brant pilot project, is that modifications can also be made to this process. Specifically, the matter of the mediator causes some concern. With the use of Provincial factfinders and an arbitration committee, the need for a mediator seems unwarranted.

The factfinders can act as the mediators and the negotiating teams could be made aware that if the dispute between parties was not resolved between themselves, then an impartial arbitration committee would make a binding decision on the dispute, with no provision for appeal.

The use of a mediator (although in theory a practical idea ) only serves to give the negotiating parties a buffer or a chance to use someone else to make the decision for them instead of resolving the conflict by themselves, through the forum of collective bargaining.

In order to gain a closer insight into other problems associated with this new process, the author conducted several interviews with the chief negotiators of the Brantford-Brant

Local Government Pilot Project. Several interesting points emerged from these interviews. The most important point concerned the time frame involved with the process. The 7 month time frame agreed upon by the negotiators was just not long enough to resolve all the issues. Although the negotiators went over the allotted time frame, they still could not come to an agreement on the cost sharing for servicing. But under pressure to stay as close to their agreed time frame as possible, they reluctantly ratified their recommendation for agreement and agreed to look at these problems at a later date.

The members of the negotiating team would have liked to resolve all the issues before submitting their recommendation for agreement to the Minister of Intergovernmental Affairs, who in turn would present the agreement in the form of a Bill to the Cabinet and try to get it passed before the legislature went on summer recess, or an unanticipated provincial election prevented the bill from being passed for some time. The deadlines made the negotiators feel uncomfortable to ratify an agreement, yet they realized that they were needed. Hopefully, in the future, the factfinders through experience, will be better able to gauge the length of time needed to resolve a boundary dispute, by looking at the size of the annexation and the issues of contention. After using this new process with several other municipalities, the factfinders will learn from experience and be better able to advise

other municipalities on a realistic time frame to handle their annexation dispute.

Deadlines were also considered to be a disadvantage, by a majority of the people who were affected by the annexation and attended the public hearings for more information. The deadlines pushed things too quickly and didn't give the people enough time to read the complicated documents associated with the annexation and respond to the bill.

The final major concern expressed by the negotiators, was the fact that the time they spent at annexation meetings caused them to neglect their other political responsibilities and consequently, other members of the council had to carry a heavier workload to relieve those council members who were involved in the negotiations.

The Ministry of Intergovernmental Affairs carried out their own examination of the new annexation process they developed and they commented on several ways to improve the process.<sup>1</sup>

- The exchange and inventory of facts and documents rather than the documents themselves would save the gathering and duplicating of such a large quantity of material.
- Factfinding should be concurrent with the commencement of negotiations since it is an important time for establishing relationships as well as positions on issues.

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<sup>1</sup>An Examination of the Brantford-Brant Local Government Pilot Project: An Alternative Annexation Process, Ontario Ministry of Intergovernmental Affairs, August, 1980.

- Compromise may not always be in the best interest of residents of one area, or the area as a whole. In other words, a negotiated settlement could be more reflective of the relative abilities of the negotiators to be persuasive than of the worthiness of the argument.
- Negotiators must be chosen from among members of a council and the level of talents may vary from group to group.
- Property owners affected by a settlement may feel that they have been deprived of the due process of law if they have not been given the opportunity to plead their case with or without legal representation, before a judicial body of some sort.

In regards to this last statement, the negotiators have the power to change the zoning of the land that they are annexing. Since land use planning between urban and rural areas differ, it is assumed that property once part of a rural area, will be downzoned and the property devalued when it becomes part of the city. In this case, it may be advantageous to have a higher authority look at the negotiated settlement in regards to the legality of these rezoning decisions on land use.

#### 1. Cost-Sharing

A major advantage of the new Ontario process was its shared-cost program, whereby the costs of the annexation process would be divided between the province and the municipalities involved in the annexation attempt. The costs would be divided on the following basis:

- a) 100% of overhead expenses and 50% of special studies to a total of 75% of all expenditures would be borne by the Province.
- b) A minimum of 25% of the total cost would be borne by the municipalities on the basis of weighted equalized assessment. Individual studies would be funded 50% by the municipalities.
- c) Municipalities would be responsible for their own staff time and the Province would pay its own staff directly.<sup>1</sup>

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<sup>1</sup> Position Paper, A New Process For Resolving Municipal Boundary And Related Disputes, Ministry of Intergovernmental Affairs, Province of Ontario. Queen's Park, Toronto. Oct. 1980, pg. 14.



**CHAPTER FIVE:**

**A MODEL FOR A**

**NEW ANNEXATION**

**PROCESS**

## CHAPTER 5 : A MODEL FOR AN ANNEXATION PROCESS

The previous chapters examined the annexation process in Canada, through the analysis of existing literature on annexation, and the responses received from a cross-Canada survey. This information was used for the analysis of an alternative annexation process developed for Ontario.

This chapter will now present a model annexation process which was derived from the survey results and the analysis of the new Ontario process.

### A. A Provincial Annexation Policy

It is unfortunate that most annexation processes in Canada perpetuate the idea that the setting of boundary lines should be one way to plan land use. However, this is the present state of making annexation decisions in Canada. Until that changes, the planner and politician must work within the present framework or a modified framework.

It is desirable and recommended that under a modified framework to handle annexation disputes, some provision will be made to study the relationship between the continuing need to adjust boundaries in order to accommodate urban growth and long term planning requirements.

Eric Hardy, a private consultant from Toronto who specializes in municipal problems such as boundary disputes, raised some other questions regarding a provincial policy to handle annexations. He asked:

- 1) Is it possible to define in advance the conditions under which continuing provision will be made for municipalities to apply for and obtain territory by annexation? Should these conditions be given the form and status of a provincial policy position?
- 2) Can a further policy position be formulated to govern the future of a municipality that is required to give up territory by annexation to an adjoining municipality? <sup>1</sup>

With these two questions in mind, it is evident that identifying the need for a provincial policy is not enough. There is a need to develop guidelines to provide a framework within which sound annexation decisions can be made. Hardy further stated that;

The fact is that agreement on a process for dealing with annexations cannot be expected to resolve the differences in outlook between applicant and respondent municipalities. What will moderate their attitudes on the subject, although it cannot be expected to eliminate their differing viewpoints, will be the publication of provincial guidelines for disposing of annexation or amalgamation applications. The guidelines statement should declare the policy position taken by the Province on expected boundary changes to accommodate urban growth, define the principles that lie back of the policy and describe the procedures that will be followed to give effect to the policy. <sup>2</sup>

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<sup>1</sup>Eric Hardy, "A Better Way of Resolving Annexation Issues." Municipal World, Municipal World Limited, St. Thomas, Ontario, July 1979. Volume 89, Number 7, Pg. 183.

<sup>2</sup>Eric Hardy, Ibid., Pg. 183.

Indeed, it is quite clear from the evidence and survey results, that the absence of a provincial policy is a critical defect of existing annexation processes.

"The absence of a declared provincial policy of a comprehensive nature escalates the conflicts between the opposing parties at annexation hearings."<sup>1</sup>

As for each respective province, their annexation policy would reflect the widely held values within their political system as well as the economic, social conditions and attitudes of their province. However, the survey results indicated that some general recommendations on the basic framework of an annexation policy, can be made.

#### B. The Survey Results for Developing a Model Annexation Process

During the development of a new annexation process for the Province of Ontario, the Honourable Thomas H. Wells, Minister of Intergovernmental Affairs, for the province, asked several questions to municipal organizations, in an attempt to solicit their views in developing an alternative annexation process. Questions of a similar nature were asked in the second part of this cross-Canada questionnaire, to determine what each individual province would like to see within a model annexation process.

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<sup>1</sup>Eric Hard, Ibid., Pg. 183.

J. 1) Should annexation disputes be settled by elected people, at the local level of government?

Province	No. of Respondents	Yes	%	No	%
B.C.	14	9	64	5	36
Alberta	8	3	37	5	63
Sask.	5	4	80	1	20
Manitoba	3	1	25	2	75
Ontario	6	5	83	1	17
Nova Scotia	1	1	100	-	-
New Brunswick	3	2	67	1	33
P.E.I.	1	-	-	1	100
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
Total	41	25	61%	16	39%

Source: Survey Results

The survey results showed that the municipalities surveyed in over half the provinces in Canada desired an annexation process which used elected people at the local level to settle annexation disputes. British Columbia, Saskatchewan and Ontario were the major supporters of this proposal.

K. 2) Should provincial civil servants act as factfinders during the negotiating process and direct the elected people during negotiations?

Province	No. of Respondents	Yes	%	No	%
B.C.	13	11	85	2	15
Alberta	8	4	50	4	50
Sask.	5	4	80	1	20
Manitoba	4	2	50	2	50
Ontario	6	4	67	2	53
Nova Scotia	1	1	100	-	-
New Brunswick	3	3	100	-	-
P.E.I.	-	-	-	-	-
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
Total	40	29	73%	11	27%

Source: Survey Results

The majority of provinces felt that the provincial government should be directly involved in the annexation process, but only through the use of provincial civil servant factfinders. The provinces of Alberta and Manitoba were middle of the road supporters of this proposal.

In other words, these provincial factfinders would oversee the annexation procedure between municipalities, to see that the legislative framework dictated by the provincial government, was carried out properly.

L. 3) If elected people at the local level cannot come to an agreement, should the boundary or annexation dispute be settled by elected people at the Provincial level, which means the legislature or Cabinet?

Province	No. of Respondents	Yes	%	No	%
B.C.	13	7	54	6	46
Alberta	10	4	40	6	60
Sask.	9	1	11	8	89
Manitoba	6	1	17	5	83
Ontario	8	4	50	4	50
Nova Scotia	1	-	-	1	100
New Brunswick	3	1	33	2	67
P.E.I.	1	-	-	1	100
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
Total	51	18	35%	33	65%

Source: Survey Results

The majority of the municipalities surveyed within each province did not desire any type of provincial government decision-making on an annexation. Rather, as was stated previously, the surveyed municipalities wanted the provincial government to develop a comprehensive annexation policy which would guide them in resolving annexation issues and prevent future inter-municipal conflicts between adjoining municipalities.

M. 4) Should impartial people be appointed by elected local people, to settle annexation disputes?

<i>Province</i>	<i>No. of Respondents</i>	<i>Yes</i>	<i>%</i>	<i>No</i>	<i>%</i>
<i>B.C.</i>	<i>12</i>	<i>1</i>	<i>8</i>	<i>11</i>	<i>92</i>
<i>Alberta</i>	<i>8</i>	<i>4</i>	<i>50</i>	<i>4</i>	<i>50</i>
<i>Sask.</i>	<i>5</i>	<i>5</i>	<i>100</i>	<i>-</i>	<i>-</i>
<i>Manitoba</i>	<i>3</i>	<i>1</i>	<i>33</i>	<i>2</i>	<i>67</i>
<i>Ontario</i>	<i>7</i>	<i>3</i>	<i>43</i>	<i>4</i>	<i>57</i>
<i>Nova Scotia</i>	<i>1</i>	<i>1</i>	<i>100</i>	<i>-</i>	<i>-</i>
<i>New Brunswick</i>	<i>3</i>	<i>3</i>	<i>100</i>	<i>-</i>	<i>-</i>
<i>P.E.I.</i>	<i>1</i>	<i>1</i>	<i>100</i>	<i>-</i>	<i>-</i>
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
<i>Total</i>	<i>40</i>	<i>19</i>	<i>47%</i>	<i>31</i>	<i>53%</i>

*Source: Survey Results*

The provinces were divided on the issue of appointing impartial people to settle annexation disputes. While Saskatchewan was one hundred percent in favour of the proposal, British Columbia was almost one hundred percent against it.

An observation can be made from the statistics on this question. Those municipalities surveyed under legislative determination, desired more responsibility and accountability of the annexation decision at the local level.

Those municipalities surveyed under popular determination desired less local involvement and more decisions at the provincial level.



N. 5) Should a whole new body or special panel be implemented to consider and decide on annexation disputes?

Province	No. of Respondents	Yes	%	No	%
B.C.	13	3	23	10	77
Alberta	9	5	56	4	44
Sask.	6	4	67	2	33
Manitoba	4	2	50	2	50
Ontario	8	1	12	7	88
Nova Scotia	1	-	-	1	100
New Brunswick	3	2	67	1	33
P.E.I.	1	-	-	1	100
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
Total	45	17	38%	28	62%

Source: Survey Results

The provinces were also divided on the question of a special panel to decide on annexation disputes. However, most agreed on individual comments that some sort of quasi-judicial system should be present, and that their present quasi-judicial systems should be modified.

0. 6) Should the Province have a comprehensive annexation policy?

Province	No. of Respondents	Yes	%	No	%
B.C.	14	13	93	1	7
Alberta	10	8	80	2	20
Sask.	8	8	100	-	-
Manitoba	6	6	100	-	-
Ontario	8	6	75	2	25
Nova Scotia	1	1	100	-	-
New Brunswick	4	4	100	-	-
P.E.I.	<u>1</u>	<u>1</u>	<u>100</u>	<u>-</u>	<u>-</u>
Total	52	47	90%	5	10%

Source: Survey Results

All of the provinces, by the largest majority agreement on any question in the survey, felt that their province had to have some type of annexation policy.

Compiling the survey data on these questions from the municipalities surveyed in all of Canada, resulted in the following statistics.

P.

SUMMARY OF SURVEY RESULTS

	Yes	No
Should annexation disputes be settled by elected local people?	61%	39%
Should provincial civil servants act as factfinders?	73%	27%
Should the legislature or cabinet be involved in the decision-making?	35%	65%
Should impartial people be appointed by elected local people to resolve the issues?	47%	53%
Should a special panel be implemented?	38%	62%
Should the Province have a comprehensive annexation policy?	90%	10%

## SOURCE: SURVEY RESULTS

The summary of survey results indicated that a model annexation process would be one where disputes were settled by elected local people, with the assistance and guidance of provincial factfinders. Elected provincial politicians would not be involved in the annexation process through the legislature or cabinet, but some type of impartial arbitration would be desirable.

The major desire of the municipalities surveyed across Canada, was to have a provincial annexation policy which would guide the municipalities in decision-making, and reduce the chance of intermunicipal-boundary disputes in the future.

The municipalities surveyed, voiced their comments on their answers.

The province of British Columbia felt that;

*During negotiations, civil servants can advise but the decision must remain political in accordance with the objectives of those elected. Which in turn, makes the whole process an arbitrary one at best. This places a burden on the applicant to justify and sell the application.*

*If certain criteria are met, then annexations and boundary extensions should be fairly automatic.*

*Annexation disputes should be handled locally by appointed persons; similar to a Board of Variance.*

*Boundary extensions in many cases are controversial and therefore there are always a few persons opposed to anything a municipality suggests or proposes. If a dispute cannot be settled locally, a decision has to be made by the provincial government.*

*Annexations should be settled at the provincial level, which eliminates all local political pressures.*

The province of Alberta had similar comments:

*The provincial government should establish an independent board to consider and rule upon municipal boundary adjustments. The board should adopt a 'review commission' approach with informal hearings (reduce the need for lawyers, consultants, etc.) and have final authority.*

*What is needed is an impartial body that, in the context of overall provincial and regional policy, can make objective decisions on annexation applications.*

*Too many decisions are made by provincial authorities which often are not good for the municipality.*

*The annexation process should be removed from excess political decision at this point in our history due to the somewhat extreme reaction to minority pressures.*

*Elected people should accept advice from their resource people, especially planners, and set policy for annexation in order that the experts in the field can negotiate.*

The province of Saskatchewan felt that;

*The initial stages of negotiation should be done by elected officials at the local level. If there is no agreement, then the process of annexation should go to a mediator type mechanism.*

*If an agreement cannot be reached, it should be settled by the courts.*

*Some impartial outside agency should rule on disputes and this would not include elected people at any level.*

One municipality surveyed in Ontario felt that the;

*province should provide facts but not necessarily do all the footwork for either or both areas. Elected people should negotiate as they have a mandate to administer the municipality and should not delegate that responsibility.*

The municipalities surveyed in the other provinces of Canada did not comment on their answers to the questionnaire,

as they felt they were too inexperienced with annexations to make a valid comment, or they were unprepared to comment on their answers before a detailed study or proposals were tabled and public discussions held.

The final question on the survey, asked the municipalities to comment on what type of annexation policy they felt would be most beneficial to their province and what type of form it would take.

The municipalities surveyed in the province of British Columbia answered that;

*The provincial government should take the initiative in B.C., to provide that the majority of people live within urban municipalities. The cost of extending services to areas outside municipal boundaries and leap-frog development should not be allowed. The present provisions in the statutes seem to be workable, but a quasi-judicial board is needed. As only a minority of voters turn out at the polls when required, a new system could be adopted to provide for objections and letters of support to be heard and allow the quasi-judicial board to make the decision. If the electorate cannot turn out, in the majority to decide important issues, such as annexation, then they should be relieved of that duty.*

*The policy should allow municipalities to include urban fringe areas within their boundaries.*

*Certain criteria should be established when proposing to incorporate lands which are outside municipal boundaries, but have a large tax base.*

If the peripheral area was well planned and laid out, a lot of annexation problems would disappear. Furthermore, the provincial government should increase its basic 10 mil levy on the rural area to something more reasonable. This would make the tax transition much easier. Let's face facts; people live just outside municipal boundaries because they pay less taxes, but use all the amenities paid for by those in the urban municipality. The greatest opposition to annexation is the increase in taxes.

The policy should include, what is good for the community, assistance for extension of services, and input from the local residents and politically elected people.

Municipalities should have statutory approving authority for specified distances around their boundaries - or shared assessments - and fringe area water or fire and sewer improvement districts should be required to join their closest incorporated neighbour, with grants to assist in the trunk extensions and other capital costs.

The municipalities surveyed in the province of Alberta commented that;

A policy should be reasonably explicit and outline the following:

- 1) information requirements;
- 2) specific criteria required to bring about an adjustment;
- 3) guarantee that all affected parties have the right to participate in the hearings
- 4) attempt to ensure speedy processing of applications.

Recognition of the fact that urban centres need land to grow and that in order to properly plan their futures and to ensure adequate replacement, land annexation should be permitted far in advance of development (e.g. 20 years).

Any annexation policy has to recognize the very direct relationship between land supply, land use, environmental protection and the sophisticated needs of urban society, which to the greatest possible degree will recognize the necessary protection from excessive erosion of the supply of agricultural land.

All applications for annexation should be initiated by the municipality and only allow for one application every three years.

- Policy -
- a) application with full report
  - b) public hearing
  - c) decision of the governing body

Ideally, an administrative tribunal should resolve these matters, providing appointment to the tribunal and related to past accomplishments of individuals and not to political party affiliation. To work well, the tribunal should have a core group whose membership provides continuity to the process, but at the same time may be supplemented by additional members depending on the magnitude of the issues involved - supplementary members could be technical experts, local spokespersons for the contending municipalities, etc.

The current policy provides for an independent hearing before the Local Authorities Board and the only objection to the current policy is the fact that the provincial cabinet must ratify the L.A.B. order. The cabinet should not be involved in the process.

The statement from Saskatchewan was that;

No one person should be allowed to hold up progress of a community and thus restrict the benefits to the citizens of that community.



The province of Manitoba felt that;

*Decisions on any dispute should never be resolved by elected officials at any level of government. An independent body is a requisite.*

The following comments were attributed to the province of Ontario.

*Annexations should be categorized in order of priority.*

*The urban municipality should be allowed to provide for all its land needs through annexation as required. It should also be allowed to annex to control urban development on its fringe.*

The municipality surveyed in Nova Scotia felt that the Province should have a comprehensive annexation policy, but only as it relates to provincial matters. Municipalities should be able to decide the basic question - "shall we or shall we not annex." The municipality also felt that a policy should allow for annexation disputes to be settled by elected people at a negotiating table.

The municipalities in the province of New Brunswick asked for a quicker process while the municipality in P.E.I. felt that many improvements could be made in their annexation policy, but if the "Land Use Commission was ever disbanded, it would definitely be a backward step for the province in resolving boundary disputes."

### C. The Model

Developing a new annexation process is no easy task, as no single best annexation process is uniformly applicable to all the provinces. Provinces differ too widely in economic, social and political characteristics to make this possible.

However, although this problem has been taken into account, the results of the national-wide survey and the analysis of all the annexation processes in Canada revealed that a model annexation process can be developed and modified by individual provinces to suit their specific needs.

The results of the annexation survey revealed that most larger municipalities throughout Canada, were not satisfied with their present annexation process. These municipalities offered their insights into developing a new annexation process, and many of their opinions and recommendations were similar.

Annexation problems and solutions in Canada are not as diversified as many people may think. Although each province must initiate its own legislation and policies towards annexation (i.e., when annexation will be allowed to occur, issues to be resolved during annexation, annexation of incorporated territory, annexation of unincorporated territory, etc.), the procedure outlined in this chapter can serve as a way in which annexations can be administered in an efficient, inexpensive, less time consuming and more cordial manner than the annexation processes being used today.

#### D. Basic Principles of a Good Annexation Process

A review of the literature offers some interesting insights into developing a good annexation process. The Department of Urban Studies, National League of Cities,<sup>1</sup> offered the following commentary on the main provisions of an annexation process. They included:

- 1) Define the annexable territory.
- 2) Outline the methods for initiating annexation proceedings.
- 3) Outline the steps necessary to complete an annexation.
- 4) Include the provision for public and some type of judicial review of the proceedings.

Complementary to these provisions, a Subcommittee on

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<sup>1</sup>Department of Urban Studies, National League of Cities, op. cit., Pg. 23.

Municipal Boundary Adjustments of the National League of Cities Metropolitan Areas Committee, recommended 18 major principles for a good annexation process. The most important principles and those most easily adaptable to the Canadian context, include:

- 1) Municipalities should have the authority to initiate the annexation of territory outside of its boundaries to promote the health, welfare, safety and economic development of the area and the entire community.
- 2) Annexation statutes should provide simple, clear-cut procedures, uncomplicated with unnecessary detail, thus preventing lengthy and frivolous litigation on statutory construction.
- 3) The territory to be annexed to a city should, as a general rule be contiguous.
- 4) Territory located in a county other than the one in which the growing municipality is found cannot be annexed.
- 5) Municipal boundaries cannot be extended to take in lands merely for the purpose of increasing the city's area, population or tax revenues.<sup>1</sup>

The Ministry of Intergovernmental Affairs for the province of Ontario, came up with their own components which they felt were vital to any future annexation process, and which they fashioned their alternative annexation process from.

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<sup>1</sup>Department of Urban Studies, National League of Cities, Op. cit., pg. 65 and 66.

They included:<sup>1</sup>

- Commitment
- Clear Process
- Time Frame
- Consistency of Members
- Consensus Building
- Motivation
- Confidentiality
- Public Input and Respect for Due Process
- Records of Proceedings

These points were used as a starting base in developing this model annexation process and supplemented with information and practical research into the problem by:

- 1) Soliciting the views of the quasi-judicial boards and experts in the field of annexations.
- 2) Soliciting the views of municipal and provincial politicians.
- 3) Surveying municipalities across Canada with a questionnaire about annexation.
- 4) Interviewing people who attended public hearings on the Brantford, Ontario, annexation issue.
- 5) Undertaking a comparative analysis of the structure and practices of annexation processes in all Canadian provinces.
- 6) Undertaking a comparative analysis of the annexation process in other countries.

From this theoretical and practical research, the model annexation process was devised for the consideration of the reader.

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<sup>1</sup> Ontario Ministry of Intergovernmental Affairs. An Examination of The Brantford-Brant Local Government Pilot Project: An Alternative Annexation Process, August, 1980.

### E. The Process of Developing a New Annexation Procedure

The major obstacle in developing a new annexation process is the fact that all annexations are different and may require a different annexation process to solve the problem.

For example, a simple uncontested annexation will not require an elaborate annexation procedure. A one or two step procedure may be all that is needed in this case.

However, in a situation where a municipality requests an annexation of land from an adjoining municipality, for any number of reasons, and this annexation is contested by the municipality to be annexed, then the following model annexation process would be ideally suited to meet the needs for handling this type of annexation.

The results of the survey showed that the larger municipalities desired this type of annexation process, as they were not satisfied with their present process. The smaller municipalities were more content with their existing process.

A review of the annexation methods used in the various provinces of Canada indicated that 5 provinces (Alberta, Manitoba, Ontario, Nova Scotia and P.E.I.) could initiate this annexation process by making slight modifications to their existing process. The majority of other provinces would require a restructuring of their present process.

## F. The Procedure

A 6 step procedure is recommended with a definite but flexible time frame, which includes a combination of collective bargaining between annexing parties and a special quasi-judicial body to review unresolved issues and make a binding decision.

The reader will observe that the early stages of this process are very similar to the new annexation process developed for the province of Ontario. The results of the survey and an analysis of the success of the new annexation process developed for Ontario, indicated that this is the best way that future annexations should be handled.

Provincial factfinding and negotiating by local politicians will resolve many of the conflicts associated with present day annexation processes. These will be discussed throughout the chapter.

It is acknowledged that the new annexation process developed for Ontario, has been used as a base for this process. Steps 1 to 3 are similar to the Ontario model, but do include slight modifications. The remaining steps are different and are derived from the synthesis of information compiled by the author.

## 1. Step 1

Generally, most annexation processes must begin with some type of request to begin the annexation procedure. Within Step 1, it is recommended that a municipality make a request to the Minister responsible for Municipal Affairs. In some cases where people living within an area request an annexation, the municipality must submit their request to the Minister, if a petition with the names of over 50% of the electors in the area, is presented to the municipal council.

It is recommended that only these two parties be allowed to initiate an annexation request. After the request is sent to the Minister, he automatically appoints a senior civil servant within the department, who is a specialist in analyzing inter-municipal problems and boundary disputes, to handle the application.

This civil servant will work under the title of a Chief Provincial Factfinder, and his job will be to visit the area requesting an annexation and acquire first hand information to determine whether the annexation request is warranted.

The Chief Factfinder will be concerned with looking at the following main points. They include:

- 1) Does the territory requested for annexation represent the actual growth of the municipality beyond its legal boundaries.



- 2) Is there no other way to solve the problem.
- 3) Is this land needed for any proper urban purpose as for the extension of sewers, equitable tax assessments, etc.
- 4) Is the municipality financially able to provide municipal services to the annexed area in the near future.
- 5) Is there no more land within the municipality's boundaries to allow for the economic growth of the municipality. Namely, the factfinder will look at the industrial, residential and commercial land, its projected need in the future and the estimated population growth of the municipality in the future and its present population density.
- 6) How much land is requested for annexation and what are its land uses.
- 7) Is the territory contiguous to the abutting municipality.
- 8) What are the social and economic interests of the area.

The factfinder can also comment on anything else he feels is relevant to studying the annexation request. After a personal observation is made and the data is studied, the factfinder will submit a report to the Minister, recommending that the annexation request be accepted or rejected.

If the report is accepted by the Minister, Step 2 of the process is begun immediately. If the report calls for the annexation request to be rejected, the Minister will inform the annexing parties by letter, and a copy of the report will be sent to them.

The municipality will be given 30 days to review the report and comment on it. If the municipality can prove with supporting documentation, that the report is not a fair assessment of the situation, then they can send their response back to the factfinder who will in turn comment on their concerns and inform the Minister that he stands by his first recommendation or changes it.

It is up to the Minister to make the final decision. However, it should be noted that if a provincial policy states quite clearly what the criteria for annexation is, a municipality will not attempt to annex land it has no right to annex and this will make the factfinder's job easier. He will simply observe that the municipality is annexing land within the legislative framework of the provincial policies.

## 2. Step 2

When the Minister gives his authorization to proceed with the annexation request, the chief factfinder will compile a staff of assistant factfinders to assist him in the process. This staff will include a secretary/administrative assistant and provincial civil servants specializing in municipal planning and policy, financial analysis, and any other multitude of specialities which the chief factfinder feels would be necessary to assist in the annexation.

It is recommended that these factfinders become

permanent staff and work as a team. After each annexation request they handle, they will become more efficient and knowledgeable in helping municipalities resolve their problems as quickly and economically as possible.

The sole job of the factfinders will be to gather data and serve as advisors to the annexing parties as well as act as community liaisons at public meetings, etc.

When the factfinders assemble at the annexing municipality, they will begin to gather the data for the negotiations. These will include:<sup>1</sup>

◦ Issues of Philosophy

- Attitudes towards methods of governance

◦ Issues of Cost

- Sharing of costs for:

- a. suburban roads
- b. education
- c. water pollution and sanitary sewers
- d. storm water drainage
- e. water supply and distribution
- f. flood control
- g. transportation, including public transit
- h. refuse disposal
- i. open space
- j. recreational and cultural facilities
- k. library services
- l. senior citizen housing, public housing
- m. health and social services
- n. police protection
- o. fire services protection including rescue and radio dispatch
- p. community planning

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<sup>1</sup> An Examination of the Brantford-Brant Local Government Pilot Process. Op. cit., Pgs. 20 to 22.

- Cost of the boundary change to:
  - a. City
  - b. Township
  - c. County
  - d. Ratepayers

° Issues of Servicing

- Effectiveness of intermunicipal servicing agreements.
- Effectiveness of planning for development and servicing regarding:
  - a. commercial, industrial and residential land use
  - b. transportation
  - c. drainage
  - d. water supply
  - e. recreation
  - f. community revitalization
  - g. urban growth
  - h. preservation of agricultural land
  - i. preservation of land for mineral extraction.
- Conflicts with adjacent municipalities on planning matters

° Issues of Procedure

- Moratorium on annexation applications

In turn, the chief factfinder will be involved with getting the negotiating teams selected. The councils for each municipality will pick their representatives to serve on the negotiation committee and the chief factfinder will see that there is an equitable representation on all sides of the negotiating table.

When the chief factfinder feels that enough information

has been gathered by his team of factfinders and the issues of contention have been tabled for discussion, the chief factfinder will call the negotiating teams together for a closed door meeting.

### 3. Step 3

During the first meeting, the chief factfinder will request that a time frame be established for the negotiations. This time frame will be flexible, yet rigid enough so that the negotiators will have a goal of amortization to look forward to.

During the meetings, the negotiators will try to solve the problems facing the annexation, through collective bargaining.

The factfinders will serve as reference people and advisors while the chief factfinder will overlook the proceedings and see that the negotiations continue to proceed at a favourable pace to meet the deadlines, and that the issues are resolved within the legislative framework.

If a major issue cannot be resolved, there are three courses of action that can be taken:

- 1) A private consultant is hired to produce a report on the matter.
- 2) The chief factfinder and his staff can analyze the problem and offer the negotiating team their opinions to resolve the conflict.

- 3) Defer a decision on the matter to a special impartial panel in Step 6.

The chief factfinder will make the negotiators aware of the fact that any decision by a special panel will be binding and that from past experiences with other annexations, this similar problem was solved in a certain way.

Therefore, the chief factfinder would give the negotiators the incentive to come up with their own compromise. In the event that an issue cannot be resolved until further study is done, then another issue will be tabled for review and the factfinders or private consultants will concentrate on the former issue and present their recommendations. At that time, the chief factfinder will once again table the unresolved issue and ask the negotiators to come to a decision in light of the new information presented.

When all of the issues of contention are resolved, the negotiating parties will vote to ratify a recommendation of agreement. If the vote is unanimous, the chief factfinder will temporarily suspend the meetings and Step 4 will begin.

#### 4. Step 4

During Step 4, the secretary/administration assistant from the factfinders group, and under the direction of the chief factfinder, will compile all the information

and decisions reached by the negotiation team and begin to prepare the recommendation for agreement document, as well as a layman's report of the agreement for the general public.

The technical and professional staff from the respective municipalities involved in the annexation, will concern themselves with preparing maps for public display and carrying out the planning, engineering and financial details of the proposed annexation.

When this work is almost complete, the chief factfinder will arrange to advertize in the local newspapers, on television and radio, that the ratified agreement is ready for public display and comment.

Copies of the layman's report will be made available for distribution to interested parties, a few days before the public display.

During the public display, members of the factfinding team and the negotiating team will present the annexation proposal to the general public in the form of a verbal and visual presentation. If the municipality has a cable television system, this presentation can be shown live and by video repeat on the community channel.

After the presentation, the members of the annexation negotiating team can answer specific questions from the floor or talk to the public on a more informal basis after the meeting.

The general public will be informed at this time, that a public meeting will be held to formally hear complaints, either written or oral, on any aspects of the annexation proposal. This public hearing will occur several weeks after the public display and meeting. Until that time, the reports and displays of the annexation proposal will remain accessible to the general public and some staff members will be on hand during certain periods of the day to answer specific questions.

#### 5. Public Hearing

During the public hearing, those people who are affected by the annexation and disagree with some aspects of the proposal, can lodge a formal complaint, either verbal or written, at the hearings.

A secretary will take the minutes of the hearing and acknowledge all complaints. The members of the negotiating team and factfinders will listen to the objections and explain their position on the matter but defer a decision on the objection.

The names and addresses of all the people at the meeting will be taken and the minutes of the hearing as well as the future decisions of the negotiating team, on the objections, will be mailed to them.

If within an allotted period of time (1 month) no complaints are received, the recommendation for agreement is



sent to the Minister for his signature of approval. There is no need to engage the services of a special arbitration panel.

#### 6. Step 5

After the public hearing, all the complaints will be compiled by the secretary and the negotiating team as well as the factfinders who will once again sit down at the bargaining table and review the complaints. The frivolous or non-relevant complaints will be quickly dispatched and the valid complaints will be tabled for negotiation.

With the help of the factfinders and the chief factfinder, the negotiating teams can change their position on an issue, decide to stand by their agreement, or defer the decision to a special arbitration panel.

Regardless of the decision, it must be made by a majority vote of the negotiating team and the respective complainants will be notified by mail. Only those people who have their decision deferred to a special arbitration panel, can have another chance to present their case to a higher impartial authority. The other people must be content with the fact that their elected officials reviewed all the facts and made a decision for the best interests of the whole area.

It is assumed that under the direction of the factfinders, the negotiating team will make the right decision as to defer certain complaints and reject others.

If an individual feels that his rejected complaint is not fair, then he has the option of presenting a stronger case for his complaint, by hiring a lawyer to argue the case or by presenting a petition to the negotiating team, with the names of residents within the area who agree with the complaint.

The negotiating team can once again review the case and reject the objection, comply with the objection by changing their agreement, or include the objection with the other ones scheduled for arbitration review.

#### 7. Step 6 : Special Arbitration Panel

The role of the special review panel is different than that of a quasi-judicial review. The special panel does not decide whether to accept or reject an annexation request, but rather, make a judgment on undisputed issues so that all matters of the annexation request can be resolved and the annexation accepted as per the recommendation for agreement.

Approximately three weeks before the special panel convenes for a hearing which should not last longer than one week, all the maps, reports and complaints will be sent to the special panel by the Chief Factfinder. The purpose for this is to allow the impartial experts of the special panel, to thoroughly verse themselves on the issues, the

agreements and the complaints.

The complainants will be given due notice of when they are scheduled to present their case, and this schedule can be altered if any party cannot be present for its scheduled appearance.

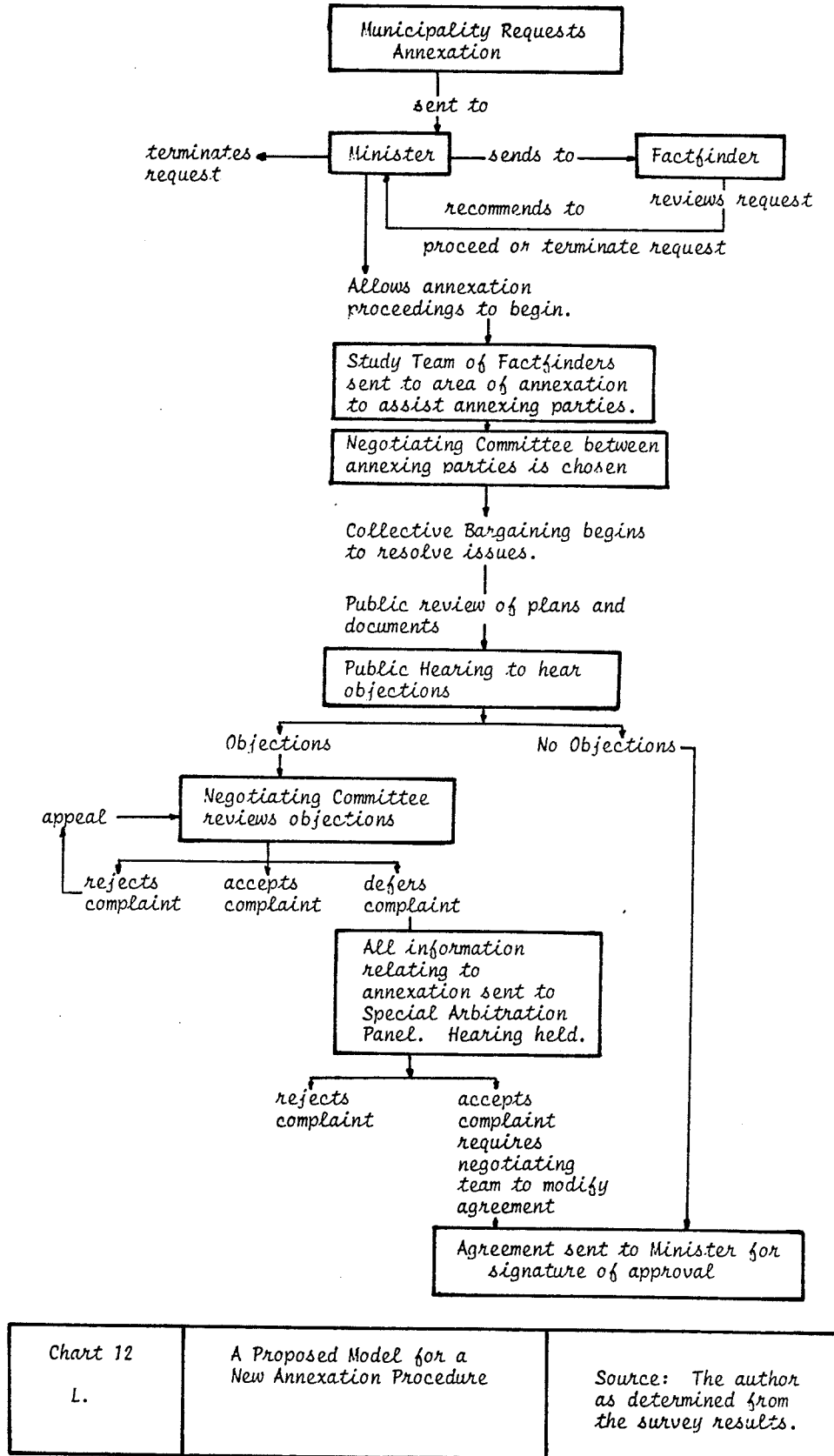
Any complainant will be free to engage a lawyer to present his defense. The special panel will consider all of the complaints and within one week of hearing all the evidence, they will submit copies of their written decision to the negotiating teams and individual complainants. This written submission will include the reasons for their decision and it can take the following form:

- 1) The complaint is rejected and the ratified agreement is allowed to stand.
- 2) The complaint is accepted as being valid and the negotiating team must change their recommendation for agreement.

The decisions of the special panel are totally binding and without appeal.

After the decision of the special panel, any required changes are made to the recommendation for agreement. When the chief factfinder is satisfied that all criteria have been met, he will return to his provincial department and submit the recommendation for agreement to the Minister for his signature of approval.

Flow Chart 12 is an example of this proposed model for a new annexation procedure.



<p>Chart 12 L.</p>	<p>A Proposed Model for a New Annexation Procedure</p>	<p>Source: The author as determined from the survey results.</p>
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## G. An Explanation of the Model Annexation Process

### 1. Negotiations

The fact that local problems should be handled by local people, has always been the motto of most provincial governments. However, when it came to the problem of boundary disputes or annexations, the province stepped in.

The issues were always political and the outcome was a situation where one municipality was the winner and the other municipality was the loser.

The province of Ontario replaced their old quasi-judicial process with a negotiating process between disputing parties, and the success of this new process was enough to make other provinces take notice.

The art of collective bargaining has been around for a long time because it has proven to be a successful method of resolving disputes. As for the topic of boundary disputes, an interesting lesson can be learned from A.O. Cukwurah and his research into the settlement of international boundary disputes. Cukwurah observed that:

Direct negotiations between disputing parties seems to offer the widest opportunity for reaching an effective settlement in all forms of boundary conflicts. The atmosphere for achieving the necessary compromise settlement

is more readily attainable under diplomatic procedures which do not suffer from the constitutional limitations of adjudication.<sup>1</sup>

At the provincial level, these negotiations can be very important. For example, a different process will not have to be used to resolve all the different types of annexation applications. Rather, the same process could always be used, and just the procedure could be modified by an agreement between negotiating parties. The elected local people would be making the final decision, not the process.

Cukwurah further commented that;

through the diplomatic mode of settling boundary disputes, the parties concerned should derive some personal pride and satisfaction from the thought that an effective adjustment has been achieved by their direct efforts.<sup>2</sup>

A similar comment was made by the Brantford-Brant negotiators after the successful conclusion of their annexation under the new process developed in Ontario.

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<sup>1</sup> Cukwurah, A.O. The Settlement of Boundary Disputes in International Law. Manchester University Press, Manchester, England, 1967. Pg. 230.

<sup>2</sup> Ibid., Pg. 231.

One negotiator was quoted as saying,

We now know that municipalities can resolve problems amongst themselves without the need for direction from higher authority. Reasonable men meeting together can arrive at reasonable solutions or reasonable compromises.<sup>1</sup>

However, it must be stated that the secret to this annexation process is the fact that the negotiation procedure will be sincere and the disputing parties are committed to resolving the issues by themselves. There is no room in this process to withdraw halfway through the process. If the negotiators begin the process, they must finish it, or risk having a special annexation review panel make the decision for them. This must be clearly understood at the onset of the process.

## 2. Factfinders

The factfinder is a very important part of this model annexation process, as he was for the Ontario alternative process.

He serves a multitude of purposes, the least of which include, provincial-municipal liaison, negotiating committee-public liaison, mediator, advisor, chairman, information gatherer, analysis, etc. He provides the expertise needed

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<sup>1</sup>An Examination of the Brantford-Brant Local Government Pilot Project: An Alternative Annexation Process.  
The Ministry of Intergovernmental Affairs. Province of Ontario, August 1980. Pg. 65.

to allow the negotiators to reach a settlement in the fastest and most amicable way possible.

The most important role that the factfinder has, is to see that the negotiations and decisions occur within the legislative framework of the provincial policy.

As a resource person, the factfinder informs the negotiating parties what the provincial position is on a particular matter and what they can or cannot get away with.

For example, the previous Edmonton, Alberta annexation attempts did not succeed, because "earlier presentations advancing proposals for boundary rationalization and government reorganization lacked quality and comprehensiveness."<sup>1</sup>

The problem here, was in the fact that the Edmonton staff did not know what the province expected from them. Their assumption was wrong and considerable man hours and expense were wasted.

A report on the Ontario Municipal Board,<sup>2</sup> showed that between the years 1972 and 1976, 41% of annexations in Ontario were rejected, and 90% of these were due to the lack of preparation of their annexation application.

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<sup>1</sup>E.J. Hanson, Op. Cit., Pg. 223.

<sup>2</sup>"Annexation: Criteria for the O.M.B.," Municipal World, Municipal World Limited, St. Thomas, Ontario, Oct. 1977.



The municipalities did not know what the O.M.B. wanted or they did not appreciate the 'terms' under which the Board would grant an application for annexation.

On the other hand, however, too much information can be accumulated and presented for an annexation application, when it is not needed. The following situation occurred in Ontario, during an annexation attempt.

In 1971, the Town of Simcoe applied to annex 270 acres from the Township of Woodhouse. The position of the Township and of the property owners affected remained obscure. When the hearing day dawned, the Town assembled its contingent of lawyers, witnesses and officials, ready for any eventuality. No one appeared to object. The hearings took less than ten minutes and the application was subsequently approved; but all the time and cost for preparation had been for naught.<sup>1</sup>

In other words, the presentation was geared to the presentation of everything possible, rather than the minimum necessary.

Under the guideness of a factfinder, this problem would not occur as the factfinder would oversee the annexation process from start to finish. He would not allow the process to continue if he knew that things were not in order.

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<sup>1</sup>"Subject to Approval. A Review of Municipal Planning in Ontario," Ontario Economic Council, Toronto 1973, Pg. 27.

### 3. A Special Quasi-Judicial Panel

This special panel could operate under the name of an Annexation Review Committee or Boundary Review Commission. Its title is not important, but its responsibilities are.

This special panel would consist of several carefully selected experts who would concentrate specifically on boundary disputes. It is recommended that this special panel consist of three persons. One should be an experienced lawyer and the other two could be senior university professors or experts in economics, political science, planning or other disciplines which would give them a thorough knowledge of provincial and inter-municipal problems associated with annexation attempts and boundary disputes.

The provinces which already have a quasi-judicial board, could simply make this special panel, a branch of the existing board. Provinces without a quasi-judicial board (British Columbia, Saskatchewan, Quebec, New Brunswick and Newfoundland) would have to establish a totally new special panel.

The criticism here is that start up costs may be expensive to begin with. In these times of economic hardship, it may be difficult to justify such expenditures. However, one might expect the system to eventually pay for itself by the money saved from a more expensive and

lengthier process.

This special panel would operate on a strict mandate from the provincial government and their powers would be well defined.

This special panel would be asked to intervene if the negotiating parties could not settle the issue of a public complaint by themselves. At this stage of the process, the special panel could not look at the annexation request and reject it. It can only hear the public complaints and rule on each individual case as it relates to the overall annexation attempt.

The special panel, using an adversary system of investigation will hear all sides of the story from the representative of the negotiating parties, the fact-finder and the complainant or his legal representative.

Three weeks before the actual hearing, the special panel will receive all the information compiled during the annexation process, and they will be well versed on the annexation situation in the area before the hearing begins.

If the judgment is for the complainant, the decision is binding and the negotiating parties must revise their recommendation for agreement, as per the instructions of the special panel.

If the decision is against the complainant, the reason will be stated in writing and no change will have to be made in the recommendation for agreement.

The author foresees a situation where the special panel would be most useful in arbitrating zoning changes brought on because of the annexation agreement. In the Brantford annexation, many people who bought large tracts of urban fringe property on a speculative basis, soon found their once zoned industrial or commercial land, rezoned into agricultural, residential or recreational land, in the attempt to improve the planning for the entire area.

These people, of course, objected to the depreciation of their land values. The negotiators from the rural municipality were hesitant to vote down the objection, as they initiated the previous zoning in the first place, to acquire tax assessments.

Therefore, to save face, this model process would allow the negotiators to submit the complaint to be settled by the special panel.

The special panel would look at whether the complainant will be severely hampered by the rezoning and whether it is in the best interests of the community to reject or accept the complaint.

This special panel hearing would last as long as the number of complaints. No recess would be needed to compile

information as everything would already be prepared and it is estimated that a 1 to 2 week special panel review would be adequate.

This special panel should satisfy the requirements of any individual who feels that his complaint should be handled by impartial experts in a quasi-judicial setting, instead of local politicians.

This view was also taken by H.E. Stewart - Present Chairman of the Ontario Municipal Board, who in a letter of correspondence with the author, stated that;

I agree that the approach which was used in Brantford was very successful and would probably be a useful approach in most large applications for boundary change. However, I do not believe that that system will achieve the same degree of success in all cases, therefore, the combination of the present quasi-judicial system or a modified system (special panel), with this added feature, should result in some improvements.<sup>1</sup>

J.S. Drury - Chairman of the Board of Commissioners of Public Utilities in Nova Scotia, expressed his views so eloquently, that his letter of correspondence has been reproduced in the Appendix. John Palmer,<sup>2</sup> who

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<sup>1</sup>H.E. Stewart - Chairman of the O.M.B. Letter of Correspondence dated Oct. 18, 1980.

<sup>2</sup>Palmer, John. The Ontario Municipal Board. A Study of the Resolution of Conflicts between Private and Social Welfare Function. Canadian Consumer Council, 1972.

studied the Ontario quasi-judicial system for the Canadian Consumer Council, also held this view. His study revealed that quasi-judicial boards are ill-equipped to handle intermunicipal disagreements. He recommended that a special panel or board should be established to handle intermunicipal cases such as boundary disputes and annexations. This would leave the regular quasi-judicial tribunal with the time and mandate to help allay the problems of other externalities of land use.

#### 4. Special Panel vs. Legislative Determination

There are several major reasons why the legislature or cabinet should not be used to resolve boundary disputes. They include;

- 1) The large backlog of legislation in the House will cause an annexation decision to be deferred for some time.
- 2) Members of the legislature are already overworked and lack the suitable expertise to make a proper evaluation of the situation.
- 3) Many members of the legislature don't care or have the background and knowledge of local conditions in municipalities far away from their own jurisdiction, to make a decision.
- 4) A summer or winter recess of the House, or an unexpected election can defer a decision on an annexation application for some time.

- 5) The legislative members do not have researchers or factfinders to explain the issues to them.
- 6) Settling a boundary dispute by political intervention is not always appropriate, when economic, social and other issues are more relevant.
- 7) If the legislature is used to make a decision on an annexation, they do not have to explain the reason for their decision, to the public. This is a prerequisite for other types of determination.

Although seven provinces in Canada use legislative determination and many people feel that boundary problems are a political matter which should be handled in a political forum, the author and the municipalities across Canada which responded to the survey, feel that a solid provincial policy and a workable legislative framework to handle boundary disputes and annexations, would better serve the public.

In other words, let the provincial government make the laws and have a responsible organization administer them under a defined mandate.

##### 5. Special Panel vs. Regular Quasi-Judicial Board

The present quasi-judicial boards in Canada have caused many problems for municipalities engaging in an annexation attempt. This is not to say that they are bad,

in fact, they are very good.

They are thorough and are run by competent and dedicated individuals. The problem is the system they operate under which has serious defects. The least of which include;

- 1) The hearings tend to be legalistic, adversarial confrontation between annexing parties.
- 2) The win or lose decision of the board causes bitterness between annexing parties. This hurts future relations and cooperation.
- 3) The use of competing sets of lawyers and expert witnesses, drags out the process and causes considerable expense to the annexing parties.
- 4) The responsibility of the board is very large. Considering and making recommendations on annexation applications is only one of very many other matters which the board must rule on. For example, the Local Authorities Board in Alberta, is responsible for ruling on 15 different matters under a number of provincial statutes pertaining to municipalities. Only one of these matters is that of annexations and alterations of municipal boundaries.

One criticism which cannot be levied against the quasi-judicial boards, is the fact that the hearings are fair and impartial. However, its negative attributes work so successfully against it that a special panel could alleviate some of the pressure that the present boards now feel.

The special panel would concentrate on annexations and boundary disputes while the regular quasi-judicial



boards would handle the other type of least time consuming applications.

A recent survey undertaken by the province of Ontario indicated that within the next 5 years, at least one hundred boundary adjustments will be sought in that province.<sup>1</sup> This would indicate that a more efficient system is warranted.

#### 6. Special Panel vs. Judicial Determination

Using a court and the legal process to make a decision on an annexation proposal, has the benefit of providing a judiciously fair hearing to all the annexation parties.

However, like the quasi-judicial board, the process of achieving the final result, makes judicial determination unacceptable.

The provinces in Canada which use judicial determination (Alberta, Ontario and P.E.I.) only do so on a secondary appeal basis, rather than as a primary method of determination.

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<sup>1</sup> Position Paper, "A New Process for Resolving Municipal Boundary and Related Disputes," Ministry of Intergovernmental Affairs, Queen's Park, Toronto, Ontario, 1980, Pg. 3.

The judicial process by nature, is lengthy, laborious and expensive to undertake. These major disadvantages are the same factors that a new annexation process would try to avoid.

#### 7. Time Frame for the Model Process

It is impossible to put a time limit on any new annexation process, as all annexations are different. Some are small scale while others are large scale. In most cases, the issues are different, as are the decisions.

However, some direction can be given into determining how long the time frame should take. The major component of an annexation, consists of the number of issues and the complexity of the issues.

It is felt that a maximum time period of 10 months, to complete an annexation application, is realistic. In many cases, this time period would be considerably shorter.

The process should be long enough to settle all the issues of contention and not overwork the negotiators or supporting staff and prevent them from neglecting their other duties. Yet, the process should be short enough to prevent stagnation of the negotiating to occur.

The process should also be long enough to allow private consultants engaged to produce special reports,

the time to research and come up with good reports, instead of rough, quickly investigated reports of low quality.

In regards to the alternative process used in Brantford, Ontario, the private consultants were given a maximum of 2 weeks to prepare comprehensive reports. In the end, the results and accuracy of these reports were challenged at the negotiating table.

### 8. The Use of Lawyers and Private Consultants in the Model Process

Without a doubt, these experts have a place within a new annexation process, but on a smaller scale than they were used before.

The private consultants should be used for their expertise in helping negotiating parties to make the best decisions on a matter.

They should not be used to pit one negotiating party against another.

As for the use of lawyers, they have a tremendous amount of knowledge about land use planning and annexations. However, they are also experts in making an annexation process go around in circles, if the process allows them to do so.

The lawyers are not concerned with what is best for the area as a whole, but rather, what his client feels is best for himself. The lawyer will defend that client for a fee, and fight the legality of the annexation process, rather than work within it.

Nevertheless, the new process allows for a lawyer's input, especially as it relates to representing a client at the hearing in front of the special arbitration panel.

**SUMMARY AND  
RECOMMENDATIONS**

## Summary and Recommendations

This extensive study of the annexation process in Canada served the purpose of gaining a better understanding on the subject of annexation policy and how all the provinces in Canada resolved their municipal boundary disputes.

In Chapter one, we learned what annexation was.

A shortage of land resources within the jurisdiction of a growing municipality can be met either by increasing the density of land uses within its boundaries or by renewing obsolete uses or alternatively by seeking new sources of land for development by means of annexation.<sup>1</sup>

The main advantages attached to annexation included;

- The municipality can satisfy its needs for additional land.
- An annexing municipality may be able to provide more adequate urban services to adjacent developed areas where local authority possessing territorial jurisdiction is presently unwilling or unable to financially do so.
- Annexation provides an opportunity for a municipality to exercise some degree of control over areas outside its boundaries which might otherwise have injurious impact upon it.<sup>2</sup>

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<sup>1</sup>Adler M. Gerald - Land Planning by Administrative Regulation. University of Toronto Press, Toronto, Ontario, 1971. Pg. 141.

<sup>2</sup>Ibid., Pg. 141.

We also saw that;

while municipal annexation is only one of a number of techniques which may be employed to resolve inter-municipal conflicts over the distribution and administration of scarce resources, it appears to be the most commonly employed technique, not only promoting more orderly growth of urban fringes, but also providing the balanced assessment necessary to support the level of urban services.<sup>1</sup>

The different annexation methods used in Canada were analyzed and it was shown that the quasi-judicial and legislative types of determination were the most common types used. It was also shown that of these two types, the quasi-judicial system was the most desired with modifications, while the legislative system was rejected. The municipalities surveyed, desired an annexation policy but not legislative involvement in the annexation decision.

This information was compiled from a cross-Canada survey, where 90 questionnaires were mailed out to municipalities in all the provinces, which had recently undergone an annexation. A total of 54 questionnaires were returned for a response rate of 60%.

The results from this survey allowed the author to get first hand opinions about the workability of the different annexation processes used in Canada and how they

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<sup>1</sup>Adler M. Gerald, Op. Cit., pg. 144.

could be improved. The municipalities surveyed, also gave their insights into developing a new annexation process.

These municipalities desired a process which was dictated by an annexation policy. The annexation would be resolved by local elected people sitting at a negotiating table, with provincial factfinders serving as advisers and information gatherers. Any unresolved matters would be settled by a quasi-judicial type of panel which would only be involved with annexations. The recommendation for agreement would be sent to the Minister for his signature of approval. The legislature or cabinet would not be involved in the annexation decision.

It was clear from the survey results, that there was a high correlation between the costs and time taken to complete an annexation, by the type of annexation method used. The amount of land acquired in a boundary extension, was probably more a variable of the growth factor of a province such as Alberta, and the reasons for needing additional land outside of the municipal boundary, rather than the type of annexation determination.

A. Recommendations for an Annexation Policy, as Determined from the Survey Results.

Of all the municipalities which responded to the questionnaire, 90% of them felt that a provincial annexation policy was needed. However, because of the highly political



nature of annexations, the provincial governments have always been fearful of putting down any type of annexation policy in writing, without fear of losing political support.

No one set of guidelines can be established to handle the different types of inter-municipal conflicts which can arise during an annexation request. That is why a negotiating annexation procedure with a quasi-judicial arbitration board, is so important.

However, it is quite evident that proper planning does not occur in many fringe areas around an urban municipality. The reasons for this are politically, socially and economically motivated. The type of planning in these fringe areas can also be defended to a degree by the rural planner and politician. But, the different types of land use planning will eventually confront one another, and conflicts will arise.

In many instances, these conflicts will develop into an annexation request, in the attempt to resolve the problems created because of the lack of provincial policy.

It is not only the duty, but the responsibility of the respective provincial governments in Canada, to develop some sort of annexation policy. The following recommendations were given by the municipalities surveyed. These municipalities desired an annexation policy and their wishes should be acknowledged.

## B. Criteria for a Comprehensive Annexation Policy

- A policy should be adopted for staging utilities.
- A major evaluation of the cost/benefit and impact analysis on the community should be made.
- There should be the adoption of a compact growth policy for the annexing community, to prevent leap-frog development.
- The proposed annexed land should be pre-zoned, prior to the acceptance of the annexation. This policy would enable the property owners to know what his zoning will be upon annexation and enables the municipality to plan appropriate public services. This pre-zoning however, covers only that territory to be annexed immediately, to avoid speculation.
- Enough land should be taken to prevent annexation for a predetermined length of time.
- Laws should be established to prevent further fringe conflicts. These could include a green belt, approximately 10 miles wide, around the municipality and zoned agricultural or other related uses such as recreation, rural residential with limited rural based commercial and limited rural based industrial such as aggregate extractions.
- Only contiguous areas can be annexed.
- Annexation can only occur if it can be proven that;
  - 1) the area is urban in character and an economic and social part of the city.
  - 2) the city is financially able to provide municipal services within the reasonably near future.
  - 3) the area sought to be annexed will be needed by the annexing municipality within the reasonably near future.

- The residents of a potential annexation area should not be given the final decision on annexation because their decision will be based solely on the cost to the individual rather than on what is best from the standpoint of the whole social and economic community.
- To prevent future annexations, a Mutual Planning Advisory Area should be established to review and comment on proposals for official plan amendments on the urban-rural fringe. This advisory board will look at severances and zoning bylaws, to prevent future land conflicts.
- No more piecemeal annexations will be allowed, as they offer the following limitations;
  - 1) limits effective financial planning
  - 2) complicates facilities planning and development
  - 3) reduces the opportunities for servicing efficiency.
  - 4) does not contribute to achievement of municipal objectives designed to create diversity of opportunity in land supply.
  - 5) through lack of overall planning, public and private objectives may not be rationalized in the common interests.<sup>1</sup>
- Land use impact statements should be carried out to determine appropriate locations for new boundaries. Environmental protection must also be recognized.
- Development outside the new boundaries of a municipality could be directed towards satellite community development. These communities would protect 'the urban-rural interface from shadow development'
  - Speedy processing of applications.
  - Information requirements should be outlined by the provincial government.
  - Specific criteria required to bring about an adjustment should be outlined.

---

<sup>1</sup> Horizon 21 - A visionary but practical approach to the future. The City of Edmonton, Alberta, 1978, pg. 5.

- It should be guaranteed that all affected parties have the right to participate in the annexation hearings.
- A Cost-sharing program should be instigated between the province and municipalities involved in the annexation, to share in the high costs of annexation.
- The different philosophy of rural planning and urban planning should be solved by changes in the planning act. Planning for rural areas demands a new framework and tools quite different from those used in urban planning. Present planning policies assume that rural areas are no more than a part of the urban fringe. Rural planning policies should stress: halting urban sprawl, minimizing expensive public services, preventing damage to environmentally sensitive areas, preserving open space and excluding urban-type development from rural land, rather than allowing competition and confrontation to occur with the urban area.

These recommendations of course, are offered as points of discussion. They nevertheless represent a cross-section of the views of the municipalities surveyed across Canada.

The purpose of this thesis was not to determine whether annexations are good or bad, but merely to develop a better annexation process, if the provinces must continue to use annexation to resolve boundary disputes. However, at this time in our country's political philosophy, it must be stated that,

the alternative to annexation may be a city eventually consisting of blighted areas with depleted taxable resources, surrounded by a fringe area containing the new homes and business and commercial development whose residents want no part of a derelict and decaying city.<sup>1</sup>

<sup>1</sup>Holiday, "Should Cities Extend City Limits," Tennessee Town and City, Oct 1950, p. 15 cited in Sengstock, Annexation: A Solution to the Metropolitan Area Problem (1960) pg. 4.

# APPENDICES

Dept. of City Planning  
Bison Building  
University of Manitoba  
Winnipeg, Manitoba  
R3T 2N2

**A.** the questionnaire

I am a student at the University of Manitoba where I am doing my Master's thesis in City Planning on "New Directions in Annexation Policymaking."

I have recently completed a study of the annexation process used in your province and the provincial government informed me that your municipality has recently expanded or is in the process of expanding its boundaries using the procedure recommended by the provincial government and outlined in the provincial act of legislation.

I am requesting your assistance in the research of my thesis, by completing the enclosed questionnaire. I am hoping to analyze the annexation policies of your province, by surveying those municipalities which have recently undergone a boundary extension and still have the experience of undertaking this procedure, fresh in their minds.

The results of this questionnaire will be analyzed on a provincial and national basis, with the actual municipalities involved in the questionnaire, remaining anonymous.

I trust that I can depend on your co-operation in this matter, and I hope that I will receive a speedy response from your municipality. Your comments will be most helpful and they are vital to the completion of my thesis.

Thank you,

Sincerely.

---

Richard A. Nadwodny

**Part I:**

Are you satisfied with the present annexation process in your Province?

Yes  No

If the answer is Yes, what are it's good points?

---

If the answer is No, check off your reason for thinking so.

- Too time consuming..... \_\_\_\_\_
- Not enough time..... \_\_\_\_\_
- Too complicated..... \_\_\_\_\_
- Creates hard feelings  
between annexing parties..... \_\_\_\_\_
- Too Costly..... \_\_\_\_\_
- Not enough public participation..... \_\_\_\_\_
- Too much public participation... \_\_\_\_\_
- Other..... \_\_\_\_\_

Specify it's shortcomings.

---

Why did your municipality request a boundary alteration?

- A shortage of land for  
industrial uses... \_\_\_\_\_  
commercial uses... \_\_\_\_\_  
residential uses.. \_\_\_\_\_
- Cost inequities of servicing.... \_\_\_\_\_
- Ineffective area-wide planning.. \_\_\_\_\_
- Downtown revitalization..... \_\_\_\_\_
- Lack of legislation which  
would permit orderly growth  
of urban centres without  
the expense of costly  
annexation procedures..... \_\_\_\_\_
- Other..... \_\_\_\_\_

Specify \_\_\_\_\_

---

During your recent boundary extension, did you feel that your municipality had a fair assessment of the issues regarding annexation?

Yes  No

Comment \_\_\_\_\_

---

Were the number of public hearings held, sufficient to handle all the objections?

Yes  No

Comment \_\_\_\_\_

---

Did non-relevant objections at the public hearing, slow down the process?

Yes  No

Comment \_\_\_\_\_

---

Was your municipality aware of what the province required in terms of studies done, maps required, etc., to complete the annexation process?

Yes  No

Comment \_\_\_\_\_

How long did it take your municipality to complete your boundary extension?

\_\_\_\_\_ months \_\_\_\_\_ years \_\_\_\_\_ still ongoing

What were the estimated costs to your municipality to complete the boundary extension?

\$ \_\_\_\_\_

How many acres did your municipality acquire in the boundary extension?

No. of acres \_\_\_\_\_

In your opinion, did you find the present annexation mechanism in your province to be a workable and effective tool?

Yes  No

Comment \_\_\_\_\_

Would you like to see a new annexation process developed in your province or have the old one modified?

Comment \_\_\_\_\_

Part 2:

If your provincial government was developing a new annexation process for your province, and they asked your municipality to examine and respond to the following questions, how would you answer?

- |   | Yes                      | No                       |
|---|--------------------------|--------------------------|
| 1. Should annexation disputes be settled by elected people on a negotiating committee.....  | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. During the negotiating process between elected people, should provincial civil servants act as factfinders during the meetings and direct the negotiating parties.....   | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. If elected people at the local level cannot come to an agreement, should the boundary or annexation dispute be settled by elected people at the provincial level - which means the legislature or cabinet..... | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Should annexation disputes be settled by people appointed by elected local people, because of their impartiality.....  | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Should a whole new body or special panel be implemented to consider and decide on boundary and annexation disputes.....  | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Should the province have a comprehensive annexation policy.....  | <input type="checkbox"/> | <input type="checkbox"/> |

Could you comment on the reverse side of this page, on what type of annexation policy would be most beneficial to the province and what type of form it would take:



## COMMISSIONERS:

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 A. J. MEAGHER, Q.C., VICE CHAIRMAN  
 J. L. HARRIS, LL.B.  
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 R. A. ROBERTSON, C.A.  
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## Board of Commissioners of Public Utilities

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CLERK: JOAN COVEY

TELEPHONE (902) 424-4448

January 7, 1981

## B. letter of correspondence

Mr. Richard A. Nadwodny,  
 Dept. of City Planning,  
 Bison Building,  
 University of Manitoba,  
 Winnipeg, Manitoba,  
 R3T 2N2.

Dear Mr. Nadwodny:

I regret the delay in answering your letter dated October 6, 1980, however, it would take much longer to properly answer your questions. My opinion is that municipal government as it now exists is rooted in concepts that were evolved to meet medieval problems. Not surprisingly subsequent events have created a strain on the functioning of municipal government. It is unfortunate that recent ideas of planning in regard to municipal government when implemented have made matters worse. Under these circumstances the alteration of municipal boundaries becomes a series of ad hoc measures to deal with individual situations which cannot be resolved by reference to any useful general guidelines. The issues are mainly over money, services, taxation and political power. There is no way that the Provincial government can resolve annexation problems without losing political support. This is why the matter has been made the responsibility of the Board of Commissioners of Public Utilities. Where there is an appeal to the government as there is in Nova Scotia and when this happens the appeal usually remains unresolved and the annexation is permanently deferred. With this background I shall now attempt to answer your questions.

..... 2

## BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

Mr. Richard A. Nadwodny

- 2 -

January 7, 1981

In the present state of the art of planning in municipal government, educational qualifications related to planning and municipal government are often more harmful than helpful because the prevailing accepted ideas that are indoctrinated in these areas have been proven to be more harmful than helpful. Under these circumstances the decisions as to whether or not annexation takes place can best be made by the Board using administrative experience to judge the probable best results. The advantage of using the Board is that with its reputation for independence it protects the government from political fallout and also makes it possible to arrive at a decision one way or the other because the safe tenure of the Board enables it to make a decision. A full hearing following principles of natural justice is important and promptness in making a decision is desirable so that the wounds incurred during the battle over annexation can be healed as soon as possible. Prompt decisiveness in dealing with annexation applications can only be achieved by careful choice of the personalities who are to decide the issue. Under present circumstances I believe the Board is best able to deal with annexation problems provided that the commissioners who deal with the matter are able to be decisive when dealing with problems of this type.

It is not desirable to make annexation hearings more streamline, efficient and cheaper. The whole object of the hearing is to let everyone let off steam and to vent every opinion and feeling and to expose every remotely relevant fact. It may be desirable to provide some financial assistance to enable everyone to have full participation. A prompt decision is the only cure for bitterness, mistrust and animosity because it allows the healing process to begin and because it prevents unnecessary wounds from prolonging the fight.

I don't think that a separate board can be justified. In my opinion there are already too many boards, commissions, and civil servants and the resulting bankruptcy is obvious.

When the Province can develop sound ideas of municipal government, then annexation should be an administrative responsibility of the Department of Municipal Affairs. In view of the fact that no one has come close to finding such policies it may be some time before this manner of administration will be desirable.

Original thought on which to base provincial policy in this area is badly needed. The concept of evolving an overall plan implemented by zoning by-laws, contracts and other legal devices

..... 3

## BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

Mr. Richard A. Nadwodny

- 3 -

January 7, 1981

is not working. If you study the planning process used for the development of the new City of Columbia, which is near Washington, D. C., you'll find an appreciation of the complexity of the problem and also an understanding of the importance of planning becoming an integral part of administration and not a sideline for draftsmen, engineers and economists.

Time does not permit me to properly answer your questions and I trust you will appreciate that I have not given these questions the full reflection and study that they deserve. Nevertheless, I hope that you may find some of my thoughts on these matters stimulating.

Yours very truly,

J. S. Drury,  
Chairman.

JSD:dpw

**C. the municipalities act of newfoundland - 1979**

PART II

COMMUNITIES

DIVISION A - ESTABLISHMENT

Establishment  
of communities

251. The Lieutenant-Governor in Council may, by order, on the recommendation of the Minister and subject to a feasibility study being conducted pursuant to section 256

- (a) establish an area in the province as a community;
- (b) amalgamate communities or communities and towns, and annex areas to communities;
- (c) establish and alter boundaries of communities;
- (d) disestablish a community and provide that it have the status of a town; and
- (e) disestablish a community.

Names of  
communities

252. The Lieutenant-Governor in Council may, by order, prescribe and change the names of communities.

Annexation

253. In an order made annexing an area to a community the Lieutenant-Governor in Council may provide for the adjustment of assets and liabilities between the towns and communities affected thereby.

Existing  
communities

254.(1) Every community continued or constituted under The Community Councils

Act, 1972, is continued as a community under this Act.

(2) The provisions of subsection (1) are not to be interpreted so as to impair the status of any of the communities included therein.

Publication  
of orders

255. In addition to the requirements for publication in the Gazette pursuant to The Statutes and Subordinate Legislation Act, an order made pursuant to this Part shall be published by the Minister in a newspaper having general circulation in the area affected by the order, where there is such newspaper, and by public notice posted up in the area.

Feasibility  
report

256.(1) The Minister shall order the preparation of a feasibility report in the prescribed form prior to his making a recommendation for an order of the Lieutenant-Governor in Council under section 251 and shall appoint a person to prepare the report.

(2) The person conducting the feasibility report has all the powers of a commissioner under The Public Enquiries Act.

Notice of  
intent

257.(1) Prior to the ordering of a feasibility report by the Minister under section 256, the Minister shall publish a notice of his intent to do so in a newspaper having general circulation in the area affected by the feasibility report, where there is such newspaper, and by public notice posted up in the area.

(2) Where a notice of intent is to be published by the Minister under subsection (1) that directly affects a municipality, the Minister shall give prior notification of his intent to so publish it to the council of that municipality.



**D. Published By Authority**

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**NEWFOUNDLAND REGULATION 105/80**

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*The Municipalities Feasibility Reports Regulations, 1980*  
 under  
*The Municipalities Act*  
 (O.C. 683/80)

*(Filed May 28th, 1980)*

Under and by virtue of the powers conferred upon him by section 645 of *The Municipalities Act*, and of all other powers enabling him in this behalf, the Lieutenant-Governor in Council has been pleased to make the following regulations.

Dated at St. John's this 26th day of May, 1980.

ROBERT J. JENKINS,  
 Deputy Clerk of the Executive Council.

**REGULATIONS**

---

1. These regulations may be cited as *The Municipalities Feasibility Reports Regulations, 1980*.
2. In these regulations, "Act" means *The Municipalities Act*.
3. These regulations shall apply whenever the preparation of a feasibility report is ordered by the Minister under the provisions of the Act.
- 4.(1) The Minister may appoint such other persons as he deems necessary to assist the person appointed by him under the provisions of the Act to prepare a feasibility report and may fix the remuneration and expenses to be paid to the person appointed to conduct the feasibility report and the persons appointed to assist him.
- (2) The Minister shall establish by whom and in what proportion the costs and expenses incurred in preparing a feasibility report shall be paid and may fix the amount of the costs and expenses in accordance with a schedule or scale of costs or as a lump sum.
5. A Notice of Intent to order the preparation of a feasibility report which is published, posted or given in accordance with the provisions of the Act shall be in accordance with Schedule A.

6. An Order of the Minister issued in accordance with the provisions of the Act to prepare a feasibility report shall be in accordance with Schedule B.

7.(1) The person conducting a feasibility report shall hold public hearings when required to do so by the Act and at such other times as may be ordered by the Minister.

(2) Notices of a public hearing held in accordance with the provisions of subsection (1) shall be given in the form set out in Schedule C and such notice shall be given publication in a newspaper having general circulation in the area affected by the feasibility report, where there is such newspaper, and by public notice posted up in the area at least two clear weeks before the date fixed for the public hearing.

(3) The person appointed to prepare the feasibility report shall make suitable provisions for the inspection by the general public, of any plans and reports that outline the purpose of the feasibility report.

(4) Any person who desires to have objections or representations to the purpose of the feasibility report or any part thereof, considered at the public hearing shall, at least forty-eight hours before the time set for the public hearing, deposit in the manner stated in the Notice announcing the public hearing, a statement of his objections or representations or a notice of his intent to make an oral submission at the hearing.

(5) Persons appearing at the public hearing shall be heard in the order in which their statement or notice of intent to make an oral submission was received unless arrangements are made to be heard at a specific time.

(6) (a) The person appointed by the Minister to prepare a feasibility report shall conduct all public hearings pertaining to that feasibility report and shall hear all objections or representations taken in accordance with these regulations and the Act.

(b) In the conduct of public hearings, the technical rules of evidence shall not apply.

(c) The person giving evidence at a public hearing may be required by the person conducting the public hearing to do so upon oath or upon solemn affirmation.

(d) All persons wishing to be heard at a public hearing and giving due notice in accordance with the provisions of these regulations, shall be given reasonable opportunity to be heard outside normal working hours.

(e) Witnesses may be summoned by the person conducting the public hearing to give evidence orally or in writing upon oath or solemn affirmation and to produce such things that may be deemed requisite.

8. Upon the completion of the feasibility report and within such time limits as may be set by the Minister, the person appointed to prepare a feasibility report shall submit to the Minister

(a) a written report containing the information required by Section 9;

(b) a copy of all written submissions submitted at the public hearing or at any other time;

(c) a synopsis of the evidence taken at the public hearing; and,

(d) a copy of any documents or things pertaining to the feasibility report that have been considered by the person appointed to prepare the report.

**9. Feasibility reports shall contain**

- (a) a clear statement of the purpose of the report;
- (b) a statement explaining and describing the existing situation in the area under consideration, relative to the purpose of the report, and an outline of the possible impact of the proposal on the area;
- (c) an evaluation of the effect of the proposal relative to the following criteria:
  - (i) **access** of the people to elected and appointed officials;
  - (ii) **representation** in accordance with the distribution of population;
  - (iii) **community identity**;
  - (iv) **suitability** and need of the area for municipal servicing;
  - (v) **physical constraints** to municipal servicing;
  - (vi) **administrative capability** of the municipality;
  - (vii) **co-ordination** of municipal services and functions throughout the area concerned;
  - (viii) **cost efficiency** of the type of administration proposed for the scale of services required;
  - (ix) **feasibility** in terms of revenues and expenditures;
  - (x) **equity** in terms of both the taxpayer's ability to pay and the benefits he receives;
  - (xi) **response** of tax yields to changes in economic activity;
  - (xii) **equality** among adjoining municipalities considering their different needs and assets;
  - (xiii) **simplicity** of proposed municipal structure;
  - (xiv) **acceptability** of proposals at local and regional levels.
- (d) alternative approaches and options to the proposal and the relative acceptability of each;
- (e) recommendations of the person and options to prepare the feasibility report in accordance with Section 10.

**10.(1) Recommendations shall include**

- (a) In the case of towns, the establishment of towns, the amalgamation of towns, the amalgamation of communities with towns; the change of status of a community to a town, and the annexation of areas to towns, the following:
  - (i) a description of the proposed boundary;
  - (ii) the name of the town;
  - (iii) the status of the council;
  - (iv) the number of councillors;
  - (v) the number of wards and their boundaries and the number of councillors to represent each ward, if wards are recommended;



- (vi) adjustments of assets and liabilities between towns and communities affected thereby; and
  - (vii) the effective date.
- (b) In the case of establishing and altering the boundaries of towns the following:
- (i) a description of the proposed boundary;
  - (ii) the number of additional councillors, if any;
  - (iii) the number of wards and their boundaries and the number of councillors to represent them, if wards are recommended; and,
  - (iv) the effective date.
- (c) In the case of the disestablishment of a town the following:
- (i) the disposal of assets and liabilities;
  - (ii) the effective date.
- (2) Recommendations shall include
- (a) In the case of communities, the establishment of a community, the amalgamation of communities, the amalgamation of towns with communities, the change of status of a town to a community, and the annexation of areas to communities the following:
- (i) a definition of the proposed boundary;
  - (ii) the name of the community;
  - (iii) adjustments of assets and liabilities between town and communities affected thereby;
  - (iv) the effective date.
- (b) In the case of establishing and altering boundaries of communities the following:
- (i) a description of the proposed boundary;
  - (ii) the effective date.
- (c) In the case of the disestablishment of a community the following:
- (i) the disposal of assets and liabilities;
  - (ii) the effective date.
- (3) Recommendations shall include:
- (a) In the case of Regions, the establishment of regions, the amalgamation of regions, the annexation of areas to regions, and the establishment and alteration of regional boundaries the following:
- (i) a description of the proposed boundary;
  - (ii) the name of the region;
  - (iii) the number of councillors;
  - (iv) the number of Wards and their boundaries, and the number of councillors to represent each ward;

- (v) the status of Council;
  - (vi) regional responsibilities and powers within municipalities and cities and in unincorporated areas;
  - (vii) the establishment of local service districts and advisory committees;
  - (viii) ancillary powers of the regional council;
  - (ix) the adjustment of assets and liabilities;
  - (x) the effective date.
- (b) In the case of the disestablishment of Regions the following:
- (i) the disposal of assets and liabilities;
  - (ii) the effective date.

11. For the purpose of the Act and these Regulations, each feasibility report shall be considered independently and the Minister shall not be bound by precedent.

SCHEDULE A

**NOTICE OF INTENT  
RESPECTING A FEASIBILITY REPORT  
UNDER  
THE MUNICIPALITIES ACT**

I....., Minister of  
Municipal Affairs and Housing, pursuant to Section.....  
of *The Municipalities Act*, hereby give notice of intent to order a Feasibility Report to  
be prepared concerning the matter of \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dated at St. John's this \_\_\_\_\_ day of \_\_\_\_\_  
198

\_\_\_\_\_  
Minister of Municipal Affairs and Housing.

SCHEDULE B

**ORDER**  
**RESPECTING A FEASIBILITY REPORT**  
**UNDER**  
*THE MUNICIPALITIES ACT*

I,....., Minister of  
Municipal Affairs and Housing, pursuant to Section.....  
of *The Municipalities Act*, make the following Order:

**ORDER**

1. A Feasibility Report shall be prepared concerning the matter of \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. M..... is hereby  
appointed to prepare the said Feasibility Report.
3. The Feasibility Report shall be prepared in accordance with the provisions of *The  
Municipalities Act*, and *The Municipalities Feasibility Reports Regulations, 1980*, and  
shall be completed and submitted to me on or before .....

Dated at St. John's this \_\_\_\_\_ day of  
198

\_\_\_\_\_  
Minister of Municipal Affairs and Housing.

SCHEDULE C

**NOTICE**  
**PUBLIC HEARING**

.....**FEASIBILITY STUDY.**

A Public Hearing will be held at \_\_\_\_\_ on  
\_\_\_\_\_ time  
\_\_\_\_\_ day the \_\_\_\_\_ day of \_\_\_\_\_ 198 \_\_\_\_  
day date month

at \_\_\_\_\_  
place

to consider any objections, comments, support or other representations which may be raised by any person or group of persons respecting the Feasibility Study into

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

A statement and plans outlining the purpose of the Feasibility Study may be inspected by any interested persons during normal business hours at \_\_\_\_\_ and at the Department of Municipal Affairs and Housing, Confederation Building, St. John's.

Any person wishing to make objections or comments or support or make other representations to the purpose of the Public Hearing shall, at least 48 hours before the date set for the Public Hearing, deposit at \_\_\_\_\_

\_\_\_\_\_ or at the Department of Municipal Affairs and Housing, Confederation Building, St. John's, a copy of a signed written statement outlining said objections, comments or support, or other representations, or a written notice of intent to make an oral submission at the Public Hearing. Submissions will be deposited in sealed envelopes clearly marked "Public Hearing.....Feasibility Study".

\_\_\_\_\_  
Minister of Municipal Affairs and Housing.

E. BILL 120

1980

**An Act respecting the City of Brantford, the  
Township of Brantford and the County of Brant**

**H**ER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of the Province of Ontario, enacts as  
follows:

**1. In this Act,**

Interpre-  
tation

- (a) "annexed area" means the lands annexed to the City of Brantford under subsection 1 of section 2;
- (b) "City" means The Corporation of the City of Brantford;
- (c) "County" means The Corporation of the County of Brant;
- (d) "Minister" means the Minister of Intergovernmental Affairs;
- (e) "Municipal Board" means the Ontario Municipal Board;
- (f) "Township" means The Corporation of the Township of Brantford.

**2.—(1)** On the 1st day of January, 1981, the portions of the Township described in Schedule A are annexed to the City. Annexation

(2) On the 1st day of January, 1991, the portions of the Township being composed of approximately 50 acres in Lot 18, Concession II north of and contiguous to Highway 403 and approximately 50 acres in Lot 19, Concession II north of and contiguous to Highway 403, or such other lands as the City and Township may agree upon, as described by an order of the Lieutenant Governor in Council to be made in the year 1990, are annexed to the City. Subsequent  
annexation

(3) The determination of the lands to be annexed under subsection 2 shall be made jointly by agreement among the City, the Agreement

County and the Township by the 1st day of July, 1990. and, following such agreement, the Lieutenant Governor in Council shall, by order, annex the lands agreed upon by the City, the Township and the County.

Order in council

(4) If the City, the Township and the County are unable to agree on the lands to be annexed under subsection 2, the Lieutenant Governor in Council shall, by order, annex such lands to the City as the Lieutenant Governor in Council may consider appropriate.

Subsequent annexation

(5) On the 1st day of January, 1996, the portions of the Township described in Schedule B not previously annexed under subsection 2, are annexed to the City.

Application of R.S.O. 1970, c. 284, ss. 5, 336

**3.**—(1) Sections 5 and 336 of *The Municipal Act* apply to the City in respect of the lands described in Schedule B.

Roads and water

(2) On and after the 1st day of January, 1991, the City may provide roads, piped water and sewer services to the lands to be annexed to the City under subsection 5 of section 2.

Limitation

(3) Subject to subsection 2, the City may not extend piped water or sewer services beyond its boundaries without the consent of the Township or unless so ordered by the Province of Ontario under any general Act.

Official plan designations

**4.**—(1) The portions of the Township described in Schedule C shall be designated by the Township in its official plan, and in subsequent amendments thereto, so as to ensure the preservation of farmland, the provision of a municipal water supply and the development of mineral resource extraction and for uses related to agriculture and mineral resource extraction.

Official plan amendments

(2) The Township shall prepare and, subject to the agreement of the City and the County, shall adopt and submit to the Minister of Housing an amendment to its official plan for the area referred to in subsection 1 by the 1st day of September, 1980.

Idem

(3) The Township, subject to the agreement of the City and the County, and the City, subject to the agreement of the Township and the County, shall prepare, adopt and submit to the Minister of Housing by the 1st day of September, 1980 amendments to their official plans for the portions of the area described in Schedule D under their respective jurisdictions.

Idem

(4) The Township shall prepare, in consultation with the City and County, and shall adopt and submit, after consultation with the City and County, to the Minister of Housing in accordance with *The Planning Act* by the 1st day of September, 1981 an

R.S.O. 1970, c. 349

amendment to its official plan for the portions of the Township not described in Schedules C and D.

(5) The City, the Township and the County may appoint one or more arbitrators to decide the detailed definition of land uses in the official plan amendments to be submitted in accordance with subsections 2 and 3. Arbitration

(6) If the City, the Township and the County cannot agree on the detailed definition of land uses referred to in subsection 5 or are unable to agree on the appointment of an arbitrator or arbitrators, the Minister of Housing shall appoint a hearing officer under subsection 7. Idem

(7) The Minister of Housing shall appoint one or more hearing officers to hear representations and make recommendations, having regard to the objective referred to in subsection 1, concerning the proposed designations for the areas included in the official plan amendments to be submitted in accordance with subsections 2 and 3, and the Minister of Housing may, upon the request of the Township and if he considers it appropriate, appoint one or more hearing officers to hear representations and make recommendations concerning the proposed designations for the areas included in the official plan amendment submitted in accordance with subsection 4, and, following a hearing under rules of procedure adopted by the hearing officer or officers, the recommendations of the hearing officer or officers shall be made to the Minister of Housing concerning the proposed official plan or plans and copies of the recommendations shall be filed with the clerks of the City, the Township and the County and public notice of such filing shall be given by the clerk of each municipality. Hearing officers

(8) Following the recommendations of the hearing officer or officers, the Minister of Housing shall make a recommendation to the Lieutenant Governor in Council as to whether the report of the hearing officer be approved, rejected or varied, and if the recommendation of the Minister of Housing to the Lieutenant Governor in Council is other than that the report of the hearing officer be approved, then the Minister of Housing shall give public notice to this effect, state his intentions and a period of twenty-one days shall be allowed when representations in writing can be made by anyone concerned to the Lieutenant Governor in Council. Approval of recommendations

(9) Where the Minister of Housing makes a recommendation under subsection 8 respecting the areas referred to in subsections 2 and 3, he shall have regard to the objective set out in subsection 1. Objective to be considered

(10) The City, the Township and the County shall not make representations under subsections 7 and 8 that are contrary to an agreement under subsection 1 or 3, or that are contrary to the decision of an arbitrator under subsection 5. Estoppel

Approval  
of official  
plans

(11) The Lieutenant Governor in Council having regard to the objective set out in subsection 1 may, by order, approve the proposed amendments to the official plans or may approve them with such modifications as the Lieutenant Governor in Council, following consultation with the municipalities, considers desirable, and thereupon the official plans, as amended, are, for the purposes of every Act, the official plans for the municipalities and portions of municipalities affected thereby.

Mutual  
Planning  
Advisory  
Committee

(12) The City, the Township and the County shall establish a consultative body, to be known as the "Mutual Planning Advisory Committee", to advise the municipalities on planning matters in the portions of the Township and City described in Schedule D.

Amendments  
to official  
plan

R.S.O. 1970,  
c. 349

(13) After the approval of the official plan amendments by the Lieutenant Governor in Council under subsection 11 with respect to the lands described in Schedule C, amendments may be made to the official plan of the Township in accordance with *The Planning Act* to provide for any land use designation with respect to the said lands, but no amendment may be made that provides for land use designations other than those referred to in subsection 1 unless the City, the Township and the County agree to the proposed land use designations.

City's power  
to apply to  
O.M.B. for  
annexations  
restricted

5.—(1) The City shall not apply to the Municipal Board for the annexation of any lands in the Township before the 1st day of January, 2004 unless the Township agrees to such annexation.

Exceptions

(2) Notwithstanding subsection 1 but subject to subsection 4, the City may apply to the Municipal Board at any time to annex,

(a) lands within the area described in Schedule C or D, other than lands that are the subject of an agreement under clause *c* of subsection 2 of section 8, to which the Township requests that the City extend piped water or sewer services or to which the Province of Ontario under any general Act requires the City to extend such services;

(b) lands within the area described in Schedule C or D,

(i) for which a draft plan of subdivision to which the Minister of Housing has given approval or draft approval under section 33 of *The Planning Act*, or

(ii) in respect of which a restricted area by-law or by-law amendment which takes effect under section 35 of *The Planning Act* or an approval granted by the Township or a local board thereof,



permits development exceeding that provided for in the official plan amendments submitted under subsections 2 and 3 of section 4 by any of the following,

(iii) residential development, other than farm dwellings, consisting of more than twenty adjacent or proximate dwelling units, or development consisting of more than twenty adjacent or proximate residential lots created as a result of consents under section 29 of *The Planning Act* or by a plan or plans of subdivision under section 33 of *The Planning Act*,

R.S.O. 1970,  
c. 349

(iv) commercial development of a total of more than 930 square metres of gross floor area on one parcel of land or on two or more adjacent parcels,

(v) industrial development on a total of more than four hectares of land capable of being utilized for industrial purposes on one parcel of land or on two or more adjacent parcels; and

(c) such other lands lying between lands annexed under this subsection and the closest logical boundary of the City that, in the opinion of the Municipal Board, are required to provide an appropriate boundary between the City and the Township.

(3) The County and the Township shall not oppose any annexation application made under clause *a* of subsection 2.

Opposition by  
County and  
Township  
prohibited

(4) The City, the Township and the County may from time to time agree that no application may be made under subsection 2 during the period set out in the agreement with respect to lands described therein and the City shall not apply to the Municipal Board during any such period to annex the described lands.

Agreements  
not to  
annex  
lands

6.—(1) For the term of office beginning on the 1st day of December, 1980, the council of the City shall be composed of a mayor who shall be elected by general vote of the electors of the City and shall be the head of the council, and eleven members elected by wards.

Composition  
of City  
council

(2) Subject to subsection 4, for the term of office beginning on the 1st day of December, 1982 and for subsequent terms of office, the council of the City shall be composed of a mayor who shall be elected by general vote of the electors of the City and who shall be the head of the council, and such number of members elected by wards as the Minister by order determines, following representations by the City as to the composition of council.

Idem

Elections in  
1980 and 1982

(3) For the purposes of the elections in the years 1980 and 1982, the Minister may, by order, divide the City and annexed area into wards and make provision for the respective number of members of the council and the public utilities commission of the City to be elected in the respective wards, and the wards provided for the elections in the year 1982 shall remain in effect until altered by the Municipal Board.

Idem  
-1977, c. 62-

(4) Notwithstanding *The Municipal Elections Act, 1977*, the Minister may, by order, provide for the holding of the election in the year 1980 of the members of the councils of the City and the Township, The Public Utilities Commission of the City of Brantford, the Hydro-Electric Commission of the Township of Brantford, The Brant County Board of Education and The Brant County Separate School Board, including nominations, polling days, qualifications of electors, polling places, the appointment of returning officers, preparation of polling lists, the terms of office of the members and any other matters considered necessary in respect of the election.

Application of  
R.S.O. 1970,  
c. 284, s. 28

(5) If the wards provided for the elections in the year 1982 are altered by the Municipal Board, the council of the City shall be composed in accordance with section 28 of *The Municipal Act*.

Public  
Utilities  
Commission  
1944, c. 72  
R.S.O. 1970,  
c. 390

(6) Notwithstanding *The City of Brantford Act, 1944* and section 42 of *The Public Utilities Act*, for the term of office beginning the 1st day of December, 1980, The Public Utilities Commission of the City of Brantford shall be composed of the mayor of the City and six members, elected by wards.

Idem

(7) For the term of office beginning the 1st day of December, 1982, the Minister may, by order, following representations by the City and The Public Utilities Commission of the City of Brantford as to the composition of the Commission, determine the composition of the Commission and the composition of the Commission continues as set out in the order until such time as the council of the City, by by-law, provides that *The City of Brantford Act, 1944* shall apply.

1944, c. 72

Transportation  
and service  
corridor

7.—(1) The City, the Township and the County may by agreement make recommendations with respect to, and the Lieutenant Governor in Council shall, by order, do whatever the Lieutenant Governor in Council considers necessary for, the provision of a transportation and service corridor to link the portion of the annexed area lying to the north-west of the City with the portion of the annexed area lying to the south-west of the City, and, notwithstanding the generality of the foregoing, may authorize the City to acquire any lands that the Lieutenant Governor in Council considers necessary for such purpose.

(2) The City, the Township and the County may appoint one or more arbitrators to make recommendations concerning the limits of the corridor referred to in subsection 1 and the desirability of annexing the area or any part thereof to the City. <sup>Arbitration</sup>

(3) If the City, the Township and the County are unable to agree on the matters referred to in subsections 1 and 2 or are unable to agree on the appointment of an arbitrator or arbitrators by the 30th day of September, 1981, the Minister shall appoint one or more arbitrators to assist in the resolution of the issues that have not been resolved. <sup>Idem</sup>

(4) The Lieutenant Governor in Council may, by order, annex any or all of the corridor area to the City. <sup>Orders in council</sup>

(5) The Lieutenant Governor in Council shall, by order, annex to the City such area as is agreed upon by the City, the Township and the County under this section. <sup>Idem</sup>

(6) Before an order is made under subsection 4, the Minister shall cause public notice to be given and a period of twenty-one days shall be allowed when representations in writing can be made by anyone concerned to the Lieutenant Governor in Council. <sup>Public notice</sup>

(7) The Lieutenant Governor in Council may, by order, alter the boundaries of the lands described in Schedules C and D to conform with the limits of the corridor area. <sup>Amendment of Schedules</sup>

8.—(1) The City and the County may enter into agreements to determine the municipal contributions to the Brantford Suburban Roads Commission and the sharing of costs in respect of suburban roads, the Brant Planning Board, the Children's Aid Society of Brant, homes-for-the-aged, rescue truck services, assisted housing, general welfare, hospital debt, health, emergency measures and a fire radio alarm system. <sup>Cost sharing agreements</sup>

(2) The City and the Township may enter into agreements to, <sup>Idem</sup>

- (a) share municipal costs attributable to the use of the City of Brantford Public Library and the City landfill site facilities;
- (b) determine the use, maintenance and disposition by the Township of the Shellard Lane well and related water lines;
- (c) define areas in the Township to be supplied with water by the City and establish the rates for such water; and
- (d) define areas in the City to be supplied with water by the Township and establish the rates for such water.

- Arbitration** (3) The City, the Township and the County may appoint one or more arbitrators, whose decision shall be final, to decide any of the matters referred to in subsections 1 and 2.
- Item** (4) If the City, the Township or the County are unable to agree on any of the matters referred to in subsections 1 and 2 or are unable to agree on the appointment of an arbitrator or arbitrators, the Minister shall appoint one or more arbitrators, whose decision shall be final, to decide any of the issues which have not been resolved.
- Assent of electors not required** (5) Agreements reached for sharing costs shall not require the assent of the electors.
- Application of R.S.O. 1970, c. 201** (6) Sections 66, 67 and 68 of *The Public Transportation and Highway Improvement Act* do not apply to agreements reached under this section in respect of suburban roads and the Brantford Suburban Roads Commission, but such agreements shall not take effect until they have been approved by the Lieutenant Governor in Council.
- Application of 1978, c. 85** (7) Subsection 6 of section 8 of *The Child Welfare Act, 1978* does not apply to agreements reached under this section in respect of the Children's Aid Society of Brant, but such agreements shall not take effect until they have been approved by the Lieutenant Governor in Council.
- Order in council** (8) The Lieutenant Governor in Council may, by order, approve or reject the agreements referred to in subsections 6 and 7, and following the approval of any agreement, the sharing of costs as approved becomes effective on the date specified in the order.
- Transitional rates** 9.—(1) The Minister may provide from time to time, by order, that in the years 1981, 1982, 1983, 1984, 1985 and 1986, and in the manner specified in the order, that the council of the City shall levy and impose on the whole of the annexed area and on the whole of the remainder of the City rates of taxation for general purposes and rates and charges for special purposes that are different than the rates and charges that would have been levied or imposed for such purposes but for the provisions of this section.
- Rural areas** (2) The City may provide for rates of taxation for general purposes and rates and charges for special purposes in defined areas of the rural parts of the annexed area lower than the rates generally applicable in the City to reflect the extent to which rural areas do not receive City services, and the rates may vary among the defined areas.

(3) The level, duration, boundaries and conditions of the area <sup>Determination of area rating</sup> rating authorized under subsection 2 shall be determined by a committee consisting of one representative appointed by each of the City, the Township and the County and such other person or persons as the Minister may appoint, and the determination of the committee shall be effective upon the unanimous ratification by the councils of the municipalities.

(4) If the committee cannot agree on any of the issues which it is <sup>Arbitration</sup> required to determine or if the councils of the municipalities do not ratify the determination of the committee, the councils may appoint one or more arbitrators, whose decision shall be final, to decide the issue or issues.

(5) If the councils cannot agree on the appointment of an arbi- <sup>Idem</sup> trator or arbitrators, the Minister shall appoint one or more arbitrators, whose decision shall be final, to decide the issue or issues.

(6) The Ministry of Revenue shall in the years 1980 and 1981 <sup>Assessment in annexed area</sup> assess real property in the annexed area on the same basis as the assessment of real property in the Township, and the special assessment roll prepared for the annexed area in accordance with this provision shall be used for the fixing and levying of rates of taxation by the council of the City in the years 1981 and 1982.

**10.—**(1) For the purposes of subsection 2 of section 307 of *The* <sup>Estimates R.S.O. 1970, c. 284</sup> *Municipal Act*, the surplus of the previous year for which allowance is to be made, or the operating deficit to be provided for, in the estimates of the council of the City for the year 1981 shall be the aggregate of the audited surplus or audited operating deficit of the City and the portions of the audited surplus or audited operating deficit of the Township attributable to the annexed area.

(2) For the purposes of subsection 1, the audited surplus or <sup>Calculation of audited surplus, deficit</sup> audited operating deficit attributable to the annexed area shall be an amount that is the same proportion of the audited surplus or audited operating deficit of the Township that the amount of the assessment of the annexed area is of the total amount of the assessment of the Township, according to the 1980 assessment rolls as returned to the clerks of the City and Township.

**11.—**(1) In this section, "surplus or operating deficit" includes <sup>Interpretation</sup> any reserves provided for under subsection 2 of section 307 of *The Municipal Act* other than reserves established in connection with the employment of officers or servants by the City or the Township.

(2) The audited surplus or audited operating deficit of the <sup>Allocation of surplus or deficit</sup> Township or the City at the 31st day of December, 1980 shall accrue to the credit of or become a charge on the assessment

supporting such surplus or operating deficit and shall be provided for by adjustment of the tax rate over a period not exceeding five years from the 1st day of January, 1981.

Assets and liabilities,  
County roads

**12.—(1)** All the assets and liabilities of the Township attributable to an area annexed to the City under this Act and the County roads in an area so annexed become assets and liabilities of the City on the effective date of the annexation without compensation.

Exceptions

**(2)** Notwithstanding subsection 1, the Tranquility Fire Hall and Community Centre shall remain an asset of the Township until such time as it ceases to be used by the Township for the purposes for which it was used on the 1st day of April, 1980, and the Shellard Lane well and related water lines shall remain assets of the Township until such time as the Township and the City have reached agreement on the ultimate disposition of the well and water lines.

Arbitration re assets and liabilities

**13.—(1)** In the year in which an annexation occurs under section 2 or 7 of this Act, the Minister shall appoint committees of arbitrators for the purpose of determining the assets and liabilities of the Township attributable to the lands annexed and the disposition, including the physical possession, of the assets and liabilities, including reserve funds, of the Township attributable to such lands.

Composition of arbitration committees

**(2)** Each committee shall consist of one representative appointed by each of the City, the Township and the County and such other person or persons as the Minister may appoint.

Provisional determination

**(3)** Before the 31st day of December of the year in which the annexation occurs, the committee shall, where appropriate, make a provisional determination of the disposition of the known assets, liabilities and reserve funds of the Township and the disposition shall become operative from the 1st day of January of the following year.

Final determination

**(4)** As soon as possible thereafter, the committee, where appropriate, shall make a final determination of the disposition of assets, liabilities and reserve funds as at the 31st day of December of the year in which the annexation occurs together with the determination of any financial adjustments that may be necessary.

Notice of determination deemed agreement

**(5)** The final determination made under subsection 4 shall be forwarded forthwith to the clerks of the municipalities concerned and the Municipal Board, and unless the council of the City, Township or County notifies the Municipal Board in writing within thirty days of the mailing of such determination that it

objects to the determination, such determination shall, for the purposes of clause *a* of subsection 11 of section 14 of *The Municipal Act*, be deemed to be agreed upon by such municipalities. R.S.O. 1970, c. 284

(6) Notwithstanding the provisions of section 11 and this section, the Minister may prescribe the period over which any adjustments and settlements made under section 11 or this section are to be made. Proviso

**14.—(1)** Every by-law of the Township and the County as the by-law exists on the 31st day of December, 1980 shall remain in force in the annexed area and may be amended or repealed by the council of the City. Continuation of by-laws

(2) Where the Township or the County has commenced procedures to enact a by-law that, prior to its enactment, requires the approval of any minister of the Crown, any Provincial Ministry, the Municipal Board or any Provincial body or agency, and such approval has not been obtained prior to the 31st day of December, 1980, then the council of the City shall be entitled to continue the procedure to finalize such by-law of the Township or the County in so far as it pertains to the City, and the provisions of subsection 1 apply with necessary modifications to any such by-law. Idem

**15.** Where the Minister or the Lieutenant Governor in Council is given the power to make an order under this Act, the Minister or the Lieutenant Governor in Council, respectively, may appoint such arbitrators or other persons as is considered appropriate to assist in the determination of such matters. Appointment of arbitrators and advisors

**16.** The Lieutenant Governor in Council, upon the recommendation of the Minister, may authorize all such acts or things not specifically provided for in this Act that in the Minister's opinion are considered necessary or advisable to carry out effectively the purposes of this Act. General

**17.** The City, the Township and the County and those negotiating on their behalf shall be deemed to have always had the power to negotiate and enter into the Brantford-Brant Local Government Pilot Project Agreement entered into by the municipalities in April, 1980. Brantford-Brant Local Government Pilot Project Agreement

**18.** The Lieutenant Governor in Council may, at any time prior to the 1st day of January, 1987, by order, on such terms and conditions as the Lieutenant Governor in Council considers appropriate, provide for payments to be made to the City, the Township and the County to achieve any of the purposes of this Act. Grants

Conflict **19.** In the event of any conflict between any provision of this Act and any provision of any general or special Act, the provision of this Act prevails.

Commencement **20.** This Act comes into force on the day it receives Royal Assent.

Short title **21.** The short title of this Act is *The Brantford-Brant Annexation Act, 1980*.



**F. prince edward island**  
**CHAPTER M-16**  
**MUNICIPALITIES EXTENSION ACT**

- 1. In this Act**
- |  |   |
|--|---|
| <p>(a) "area" includes a city, town or village;</p> <p>(b) "Minister" means the Minister of the Crown charged by the Lieutenant Governor in Council with the administration of this Act;</p> <p>(c) "poll clerk" means a poll clerk appointed under section 10;</p> <p>(d) "resident" means a person eighteen years of age or over who has lived in the city, town, or village, or area proposed to be annexed, for the six months immediately preceding the date on which the first bylaw under section 2 was passed;</p> <p>(e) "returning officer" means a returning officer appointed by the Lieutenant Governor in Council under section 4. 1974(2nd),c.29,s.1; 1975,c.75,s.1 (<i>eff. Dec. 12/75</i>).</p> | <p>Definitions</p> <p>area</p> <p>Minister</p> <p>poll clerk</p> <p>resident</p> <p>returning officer</p> |
|--|---|
- 2. (1)** Any incorporated city, town or village in the province, by affirmative vote of the majority of the members of its city or town council or village commissioners, may make bylaws to extend its limits by annexing thereto for municipal purposes, any other area.
- Annexation of areas
- (2)** A bylaw made pursuant to subsection (1) shall contain a complete description of the area to be annexed and shall set forth the terms and conditions upon which it should be annexed, and whether the annexed territory should form a single ward or more than one ward or be wholly or in part annexed to any existing ward or wards of the city, town or village, but in the case of a city, town or village not subdivided into wards, no reference to wards or other subdivisions is required in the bylaw.
- Contents of bylaw
- (3)** Notwithstanding anything contained in this Act, where two adjoining municipalities have each made a bylaw to establish a new boundary line between the municipalities, the agreed line, upon approval by the Lieutenant Governor in Council shall be deemed to be the boundary line between the municipalities.
- Mutual agreement of boundary lines
- (4)** Where any incorporated city, town or village in the province wishes to amalgamate with another city, town or village in the province, each city or town council or village commissioners shall,
- Amalgamation of areas



by affirmative vote of the majority of its members, make a bylaw consenting to the amalgamation, setting forth therein the terms and conditions under which the amalgamation should take place, including the name for the new municipality, and whether it should be a city, town or village. 1974(2nd).c.29.s.2.

Conditions precedent to operation of bylaw

3. Before a bylaw made under section 2 can come into effect

- (a) the proposed annexation or amalgamation shall be reviewed under section 3.1 by the Land Use Commission; and
- (b) if the proposed annexation or amalgamation is approved by the Land Use Commission, the bylaw shall be submitted subject to subsection 5 (3) to a plebiscite in which a three-fifths majority of the residents casting ballots in each of the areas being a party to the proposed annexation or amalgamation approve the bylaw. 1975.c.75.s.2 (*eff. Dec. 12/75*).

Bylaw filed with Land Use Commission

3.1 (1) Where a bylaw is passed by the City, a town, or a village, a copy of the bylaw shall be filed by the clerk thereof with the Land Use Commission within three days of the passage of the bylaw.

Hearing

(2) The Land Use Commission shall within seven days of receipt of the bylaw set a date for a hearing to review the necessity or advisability of the proposed annexation or amalgamation; that date shall be not less than fourteen days from the date of receipt of the bylaw.

Entitlement to be heard at hearing

(3) The Land Use Commission shall permit the following persons to appear at a hearing:

- (a) any resident of the area to be annexed;
- (b) any owner of land in the area proposed to be annexed or his authorized agent;
- (c) representatives of the municipality proposing to annex the area;
- (d) legal counsel for any of the persons referred to in clause (a) to (c).

Powers of Commission on appeal

(4) The Land Use Commission shall have the powers of a commissioner referred to in the *Public Inquiries Act*, R.S.P.E.I. 1974, Cap. P-30 in a hearing under this section.

Disposition of appeals

(5) Where it appears to the Land Use Commission, after hearing such evidence as may be brought before it at a hearing under this section,

- (a) that the annexation would involve more land or less land than is reasonably necessary for the development or economic welfare of the municipality over the next five years;
- (b) that the annexation is not justifiable on the grounds of the economy or development needs of the municipality considering a period of five years from the date of the bylaw; or

(c) that some or all of the land in the area proposed to be annexed is of a grade or class that could be better used for non-municipal purposes;

the Land Use Commission may dispose of the appeal

(d) by ordering that the bylaw be amended to exclude some of the land proposed to be annexed or to include additional land; or

(e) by ordering that the bylaw be rescinded by the municipality.

(6) The decision of the Land Use Commission under subsection (5) is binding on the municipality and the residents and the land owners of the municipality and the area proposed to be annexed or amalgamated and the residents or land owners of any area included in the area proposed to be annexed or amalgamated. Effect of decisions of

(7) An appeal from the decision of the Land Use Commission lies to the Supreme Court of Prince Edward Island. 1975,c.75,s.2 (*eff. Dec. 12/75*). Appeal to Supreme Court

4. The Lieutenant Governor in Council may appoint a returning officer who shall have such qualifications as may be prescribed by regulation, and who shall Returning officer, appointment and duties

(a) exercise general direction and supervision over the administrative conduct of plebiscites;

(b) enforce on the part of poll clerks and other persons acting as officials at a plebiscite, fairness, impartiality and compliance with this Act;

(c) issue to poll clerks and other persons acting as officials at a plebiscite such instructions as he may deem necessary to ensure the effective execution of this Act; and

(d) perform such other duties as are prescribed by or under this Act. 1974(2nd),c.80,s.1.

5. (1) Subject to subsection (3) the mayors and chairmen of the areas being parties to the proposed annexation or amalgamation shall fix a day, being not less than sixty days and not more than sixty-five days after the first reading of the bylaws, and on that day the plebiscite shall be held in all areas being a party to the proposed annexation or the amalgamation. Date of plebiscite

(2) The clerk of each city, town or village being a party to the proposed annexation or amalgamation within three days after the passage of the bylaws shall cause Publication of bylaws

(a) a copy of the bylaws;

(b) a certificate signed by the clerk certifying that the bylaws are a true copy of the original;

(c) a notice that the bylaws will be considered by the council or the commissioners after the expiration of thirty days from the date of its posting; and

(d) the date fixed by the mayors or chairmen on which the plebiscite is to be held;

to be published once a week for four consecutive weeks in a daily newspaper published in the province, and having a circulation in the areas being a party to the proposed annexation or amalgamation, and shall cause similar copies of the bylaws, certificates and notices to be posted in at least five conspicuous places within his city, town or village.

(3) Where a municipality proposes to annex an area, a plebiscite shall be held subject to section 3.1 and subsection (3.1) in the area proposed to be annexed, but a plebiscite shall not be held in the municipality unless within seven days of the date of the last publication of the notice referred to in subsection (2)

Annexation, no plebiscite unless

- (a) ten or more residents in the municipality petition the municipality to hold a plebiscite; or
- (b) the council or village commissioners by means of a bylaw direct that a plebiscite be held.

(3.1) Where the area to be annexed has ten or less residents, a poll taken by signed petition of the residents of the area proposed to be annexed, on the day fixed for the plebiscite, shall be in substitution for a plebiscite in that area.

Poll by petition

(4) A copy of the bylaws, certificates, and notices shall be forwarded to the returning officer within three days after the first reading of the bylaws. 1974(2nd),c.80,s.1; 1975,c.75,s.3 (*eff. Dec. 12/75*).

Copies sent to returning officer

6. Upon receipt of a copy of the bylaws, certificates, and notices referred to in section 5, the returning officer shall

Voters' list, place of polling

- (a) prepare a voters' list of all the residents of the area in which a plebiscite must be held and shall post the list in at least five prominent places in each of the areas in which a plebiscite must be held at least ten days prior to the date fixed for the plebiscite; and
- (b) designate a place or places where the plebiscite shall take place near the center of each of the areas in which a plebiscite must be held and cause notices of the time and place of the plebiscite to be posted in not less than five prominent places in each of the areas in which a plebiscite must be held. 1974(2nd),c.80,s.1.

7. (1) Every person whose name appears on the voters' list is entitled to one vote.

One resident, one vote

(2) Should the name of any person who is qualified as a resident be omitted from the voters' list, that person may present himself to the returning officer at any time prior to the holding of the plebiscite to have his name added to the voters' list, but no further names shall be placed on the voters' list within twenty-four hours of the holding of a plebiscite under this Act. 1974(2nd),c.29,s.7.

Name of qualified resident omitted

8. (1) Where a resident whose name appears on the voters' list is qualified to vote in the plebiscite and has reason to believe that he will be unable to vote in the plebiscite during the hours for voting by reason of

Proxy voting, who may make application

(a) his absence from the polling division in the course of his employment as a fisherman, a mariner, a student, or a member of the armed forces; or

(b) his illness or physical incapacity;

he may, on a form prescribed by regulation, appoint another resident whose name appears on that voters' list and is qualified to vote in that plebiscite, to be his proxy voter to vote for and in place of him at the plebiscite.

(2) At any time prior to forty-eight hours preceding ordinary polling day at a plebiscite, a resident who has appointed a proxy voter pursuant to subsection (1), or a proxy voter appointed pursuant to that subsection, may apply in person for a proxy certificate to the returning officer or poll clerk.

Application for proxy certificate

(3) Where the returning officer or poll clerk

Issuance of proxy certificate

- (a) receives a completed appointment of a proxy voter during a plebiscite prior to the expiration of the time for applying for a proxy certificate; or
- (b) in the case of a resident referred to in clause (1)(b), receives a medical certificate completed by his attending physician, or any legally qualified medical practitioner, certifying that the resident is unable to vote at the plebiscite because of his illness or physical incapacity;
- (c) is satisfied that
  - (i) the resident is entitled to appoint a proxy voter under subsection (1),
  - (ii) the names of the resident and proxy voter both appear on the voters' list,
  - (iii) a proxy certificate has not been issued by him during the plebiscite to any other person to act as a proxy voter for the resident, and
  - (iv) the proxy voter has not previously been appointed during the plebiscite to be a proxy voter for any other resident;

the returning officer or poll clerk shall, unless the proxy voter has already completed and signed the consent in writing set out, under his appointment, require the proxy voter to complete and sign that consent and shall thereupon complete and issue a proxy certificate in triplicate in a form prescribed by regulation.

(4) Upon the completion of a proxy certificate pursuant to subsection (3), a returning officer or poll clerk shall

Distribution of copies of certificate

- (a) deliver the original copy of the certificate to the resident or proxy voter who has applied to him;
- (b) retain a copy of the certificate together with the appointment of the proxy voter.

(5) An appointment of a proxy voter and a proxy certificate shall be open for public inspection in the office of the returning officer or poll clerk who issued the certificate at all reasonable times prior to twenty-four hours preceding the holding of the plebiscite.

Public inspection of certificate

(6) Where a resident

Cancellation of certificate

- (a) requests, in writing on a proxy certificate issued during a plebiscite in relation to him, that the certificate be cancelled; and

(b) has the certificate returned to the returning officer or poll clerk who issued it prior to twenty-four hours preceding the holding of the plebiscite;

the returning officer or poll clerk shall cancel the certificate.

(7) Subject to subsection (2), where a proxy certificate has been returned to the returning officer or poll clerk for cancellation, the resident to whom it relates may appoint another proxy voter and thereupon the returning officer or poll clerk shall, subject to this section, complete and issue another proxy certificate. Substitute proxy voter

(8) Where at the plebiscite a proxy voter appointed in accordance with this section delivers to the returning officer or poll clerk a proxy certificate issued under this section and takes the oath set out in the regulations Voting with certificate, procedure

(a) the proxy voter may thereupon vote at the plebiscite for and in the place of that resident;

(b) the poll clerk shall enter in the poll book opposite the resident's name, in addition to any other required entry, the fact that the resident voted by proxy together with the name of the proxy voter; and

(c) the poll clerk shall transmit the proxy certificate to the returning officer.

(9) A resident who

(a) has been appointed, in accordance with this section, to be a proxy voter at a plebiscite; and Entitlement to one ballot

(b) votes as a proxy voter at a plebiscite;

is entitled to vote in his own right at the plebiscite.

(10) A proxy certificate issued and an appointment under oath made during a plebiscite under this section are valid only at the plebiscite for which they were issued. 1974(2nd),c.29,s.8. Period certificates valid

9. Every person is guilty of an offence against this Act who, at a plebiscite Offences and penalties: proxy voting

(a) appoints more than one proxy voter;

(b) being ineligible to vote by proxy, fraudulently appoints a proxy voter;

(c) having appointed a proxy voter and not having had the appointment cancelled in accordance with this section, himself votes;

(d) applies to vote as a proxy voter for more than one resident;

(e) not being qualified to vote in a plebiscite completes and signs a consent in writing pursuant to this section whereby he consents to be a proxy voter for a resident in the plebiscite; or

(f) except in accordance with this section, applies for a proxy certificate or votes as a proxy voter at a plebiscite;

and is liable on conviction to a fine of not less than fifty dollars or more than one hundred dollars, or to imprisonment for a period of thirty days, or to both fine and imprisonment. 1974(2nd),c.29,s.9.

Poll clerk,  
appointment &  
duties

10. (1) The returning officer or some other person duly authorized by him shall preside at the plebiscite; the returning officer shall appoint a poll clerk for each place of voting and it shall be the poll clerk's duty to record the name of each resident presenting himself to vote, and to perform such other duties as may be prescribed for him by this Act or the regulations.

Scrutineers

(2) The returning officer shall appoint two residents as scrutineers for each place of voting who shall be present in the polling station with the poll clerk and with the returning officer or a person authorized by him to preside at the polling station. 1974 (2nd),c.29,s.10.

Hours of polling

11. The poll shall be open at twelve o'clock noon and shall remain open until nine o'clock in the evening. 1974(2nd),c.29,s.11.

Voting by ballot

12. The voting shall be by ballot and the ballot shall be in such form as may be approved by regulations. 1974(2nd),c.29,s.12.

Voting procedure

13. (1) At the hour fixed for opening a polling station and during the polling hours, the returning officer or poll clerk shall

(a) admit into the polling station any person whose name is on the voters list or is qualified to vote at the polling station;

(b) have the person declare his name, address and occupation and if his name is on the voters list, have the poll clerk enter the name, address and occupation of the resident in the poll book; but if the person's name is not on the voters list, have him take an oath prescribed by regulation and then enter the name, address and occupation of the resident in the poll book;

(c) give each resident whose name is entered in the poll book one ballot;

(d) instruct the resident, how and where to affix his mark on the ballot by using the following or like words, "mark one cross with the black lead pencil on the ballot within the space on the ballot opposite the statement with which you agree that indicates approval or rejection of amalgamation or annexation";

(e) direct the resident to return the ballot to him when marked.

Taking oath  
when required

(2) If required by the returning officer or the poll clerk, a resident shall, before receiving the ballot, take an oath prescribed by regulation before the returning officer or poll clerk, and

(a) if the resident refuses to take the oath, he shall not be permitted to vote and lines shall be drawn through his name on the voters list; and



(b) if the voter takes the oath, he shall then be given the ballot and permitted to vote.

(3) A resident who refuses to take the oath referred to in clause (1)(a) shall not receive the ballot or be permitted to vote, or be again admitted to the polling station during the day of the voting. 1974(2nd),c.29,s.13. Affect of refusal to take oath

14. (1) Subject to subsection (2), where a resident is unable to vote in the manner prescribed by section 13 because he is unable to read, or is incapacitated by blindness or other physical infirmity, and who is accompanied by a friend, the returning officer or a poll clerk, may require the resident and friend to take the oaths prescribed by regulation. Incapacitated resident, voting procedure

(2) The friend shall thereafter accompany the resident into the voting compartment and assist the resident by marking his ballot in the manner directed by the resident, but the friend must take the oath of secrecy prescribed by regulation. Marking ballot

(3) No person shall at any plebiscite be allowed to act for the purpose of marking a ballot as the friend of more than one resident. Limitation on voting

(4) Where a resident has his ballot marked as provided in subsection (1),(2) or (3), the poll clerk shall enter in the poll book opposite the resident's name, in addition to any other requisite entry, Entry in poll book

- (a) the reason why the ballot was so marked; and
- (b) the taking of the oaths, if any. 1974(2nd),c.29,s.14.

15. When the poll closes, the returning officer or the person authorized by him to preside at the poll shall, in the presence of the scrutineers or poll clerk open the ballot box and count the votes, and the poll clerk and scrutineers shall keep tally and when all ballots have been counted, the results shall be declared. 1974(2nd),c.29,s.15. Counting ballots

16. After counting the ballots, the returning officer or the person authorized by him to preside at the poll shall return the ballots to the ballot box in the presence of the scrutineers and the poll clerk after having ascertained the number of votes polled, the number who voted for, and the number who voted against, and the number of spoiled ballots, and shall then seal the ballot box retaining it in his custody for a period of one month after the plebiscite; after that time if not called upon to produce the ballots by the mayor of the city or town or chairman of the village commissioners, the Lieutenant Governor in Council, or any court, he may destroy them. 1974(2nd),c.29,s.16. Sealing ballot box

17. The returning officer shall, within forty-eight hours after the closing of the polls, forward to the clerk of the city, town or village a return showing Official results of plebiscites

- (a) the date of the poll;
- (b) the number of votes polled;
- (c) the number of ballots marked "for";
- (d) the number of ballots marked "against";

together with a certificate countersigned by the poll clerk as to the result of the plebiscite. 1974(2nd),c.29,s.17.

Area elected  
bodies to receive  
notice

18. If the bylaws are approved by the plebiscite, it shall be submitted to the council of each city or town, or each village commissioner, together with a preamble stating that it has been approved by the voters of the areas being a party to the proposed annexation or amalgamation. 1974(2nd),c.29,s.18.

Producing of  
documents

19. (1) The Lieutenant Governor in Council may require from the areas being a party to the proposed annexation or amalgamation, all such documents and information as he may deem necessary for ascertaining the advisability of the proposed annexation or amalgamation, and the officers of the area receiving such a request shall furnish the same.

Approval by  
Lieutenant  
Governor in  
Council

(2) If the bylaws are approved by the residents of the areas being parties to the proposed annexation or amalgamation, the Lieutenant Governor in Council may approve or decline approval of the bylaws.

Royal Gazette

(3) Where the Lieutenant Governor in Council approves the bylaws, a notice shall be published in the Royal Gazette proclaiming that the bylaws come into force on a date prescribed in the proclamation. 1974(2nd),c.29,s.19.

Annexed area  
subject to laws

20. (1) As soon as any area has been annexed to another area, it becomes subject at the time of annexation to the various Acts, bylaws, rules and regulations in force in the area to which it has been annexed, except insofar as the provisions are incompatible with the conditions of the bylaws under the authority of which the annexation was affected.

Amalgamated  
areas, subject to  
laws

(2) Where amalgamation of two or more areas is approved by their residents, and upon proclamation by the Lieutenant Governor in Council, the areas being a party to the amalgamation become amalgamated upon the terms and conditions set forth in the bylaws referred to in section 2, including the name of the area and whether the area is to be a city, town or village, and the areas become subject, except as provided in subsection (3), to the *Town Act* R.S.P.E.I. 1974, Cap. T-4 or the *Village Service Act* R.S.P.E.I. 1974, Cap. V-5, as the case may be.

*Town Act,*  
*Village Service*  
*Act,*

(3) The procedure set forth in this Act shall be deemed to satisfy the requirements of the *Town Act* R.S.P.E.I. 1974, Cap. T-4 and the *Village Service Act* R.S.P.E.I. 1974, Cap. V-5, relating to the establishment of a town or village. 1974(2nd),c.29,s.20.

- 21.** Every person is guilty of an offence against this Act who
- Offences and  
penalties - general
- (a) applies to be included in a list of voters in the name of some other person, whether that person is living, dead or fictitious;
  - (b) applies to be included in a list of voters of a city, town or village in which he is not ordinarily resident with intent to be improperly included in that list;
  - (c) applies for a ballot in the name of some other person, whether that person is living, dead or fictitious;
  - (d) having voted, applies at another polling station for a ballot;
  - (e) votes more than once at the same plebiscite;
  - (f) votes or induces a person to vote knowing that he is for any reason not qualified;
  - (g) by intimidation, duress or any pretence or contrivance
    - (i) compels, induces or prevails upon any person to vote or refrain from voting at an election, or
    - (ii) represents to any person that the ballot to be used or the mode of voting at an election is not secret;
- and is liable on conviction to a fine of not less than fifty dollars or more than one hundred dollars, or to imprisonment for a period of thirty days, or to both fine and imprisonment. 1974(2nd),c.29,s.21.
- 22.** The Lieutenant Governor in Council may make such regulations as he may deem necessary for the better carrying out of the intent and purpose of this Act. 1974(2nd),c.29,s.22.
- Regulations

**G. URBAN MUNICIPALITY ACT  
OF SASKATCHEWAN - 1970**

Annexation  
of territory

**22.** When two-thirds of the adult inhabitants who are householders of and in any territory adjacent to a municipality desire annexation thereto, and present a petition to that effect to the council of that municipality, and that council agrees to the annexation or any part thereof, the Lieutenant Governor in Council may by order remove that territory or part thereof from the area to which it belonged, and annex it to and make it part of the municipality, from and after such date and on such terms and conditions as the Lieutenant Governor in Council may prescribe. 1970, c. 78, s. 22; 1971, c. 63, s. 2.

Alteration of  
limits of a  
municipality

**23.—(1)** The Lieutenant Governor in Council may upon the request of the council of a municipality, by order, include within that municipality any territory adjacent thereto that, from the proximity of streets or buildings or from the probable future exigencies of the municipality it may be deemed desirable to include therein or to annex thereto; but no request shall be made until the assessed owners of the land proposed to be added have been given the opportunity to be heard at a meeting of the council of which twenty days' notice has been given to each such owner by handing the notice to him personally or by sending it by registered mail to his last known address and, in every case, by publication of a notice of the meeting in at least one newspaper published or circulating in the municipality.

**(2)** Where it is satisfactorily shown that the limits of a municipality ought to be altered by adding thereto or taking therefrom any territory, the Lieutenant Governor in Council may, by order without any request therefor, but after the minister has consulted with the council, make the alteration and make due provision for the settlement and adjustment of all matters arising out of the alteration.

**(3)** Every alteration of the limits of a municipality takes effect upon such date, and on such terms and conditions, as the Lieutenant Governor in Council may by order prescribe.

**(4)** An order issued under this section shall provide that any territory added to or withdrawn from a municipality be withdrawn from or added to an adjoining municipality, local improvement district, rural municipality or other area.

(5) Notwithstanding section 38, where an order is issued adding territory to a city divided into divisions, the Lieutenant Governor in Council may, by the same order or by another order, alter the boundaries of the divisions by adding to one division or two or more adjacent divisions the territory that has been added to the city, but no order shall be issued under this subsection following the expiration of five years from the filing of the last report under section 34 until a boundaries commission files a revised report. 1970, c. 78, s. 23; 1971, c. 63, s. 3; 1976-77, c. 98, s. 2.

Powers  
under sec-  
tions 22 and  
23

24. The power conferred by sections 22 and 23 upon the Lieutenant Governor in Council to prescribe terms and conditions shall, for greater certainty but not so as to restrict the generality of those sections, include and be deemed always to have included the power to make any provision that may seem advisable as to assessment, taxation, total or partial exemption from taxation, construction of local improvements, adjustment of liabilities and all other matters affecting the common interests of the municipality and the territory concerned, or arising out of or in connection with the annexation or alteration. 1970, c. 78, s. 24.

## H. MUNICIPAL ACT OF BRITISH COLUMBIA

### Boundaries on incorporation

12. The Lieutenant Governor in Council, when issuing letters patent may vary the boundaries of the municipality or the proposed municipality from those set out in the request, or from those designated by the minister, to make them regular or conform with the boundaries of neighbouring municipalities, or to exclude or include an area.

RS1960-255-11; 1964-33-2; 1965-28-6; 1968-33-7.

### Letters patent

13. (1) Letters patent incorporating a municipality shall specify the
- (a) municipality's name, boundaries, area and class;
  - (b) qualifications for membership on the first council and for voters at the first election;
  - (c) time and manner of electing the first council;
  - (d) terms of office for first council members;
  - (e) returning officer, or provision to appoint him, at the first election.
- (2) The letters patent may specify
- (a) polling places at the first election;
  - (b) that the returning officer shall determine the day, time and place of the council's first meeting;
  - (c) the sum of money which may be borrowed for the municipality's current expenditure in its first year, and for the next year, if deemed expedient;
  - (d) dates which may be observed initially, and once only, in place of statutory dates;
  - (e) other matters and conditions, including the appointment of an interim council, deemed proper or necessary by the Lieutenant Governor in Council.
  - (f) provision for the transfer to the municipality of any asset, right, claim, obligation or liability of a municipality dissolved on incorporation.

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### Extension of boundaries

22. (1) On the recommendation of the minister, the Lieutenant Governor in Council may by supplementary letters patent extend the area of a municipality to include land not in a municipality.

(2) Before making his recommendation the minister shall have received from the council a request for the extension, or notify the council that he intends to recommend the extension. In either case the council shall give public notice of the proposed extension, once in the Gazette and in not less than 2 consecutive issues of a newspaper circulating in the municipality.

(3) The council may, or shall on receipt of the request of not less than 1/10 in number of the electors received within 30 days of the last publication of the notice, submit the question of the proposed extension to the electors for assent.

(4) If the minister is of the opinion that there is substantial opposition to the proposed extension by the residents in the area proposed to be included, he may direct that the question of including the area sought to be included in the municipality be submitted in the form prescribed by him to the residents of the area for assent.

1965-28-12; 1968-33-12; 1973-133-6.

### Redefinition of boundaries

**23.** (1) The Lieutenant Governor in Council may by supplementary letters patent redefine or alter the boundaries of a municipality where to his satisfaction it appears that

- (a) uncertainty exists in the boundaries;
- (b) the boundaries do not follow legal property boundaries;
- (c) the boundaries do not conform to those of an adjacent municipality;
- (d) the whole or part of a highway on or adjacent to the boundary should be included or excluded;
- (e) the whole or part of adjoining foreshore and any area below low water mark should be included or excluded;
- (f) the whole or part of the adjoining foreshore along a river, stream or lake, or the foreshore and land covered by water, should be included or excluded;
- (g) land adjacent to and owned by the municipality should be included.

(2) Before exercising the powers of subsection (1), the Lieutenant Governor in Council may direct that a notice of intention to redefine or alter the boundaries of a municipality be given at municipal expense once in the Gazette and once in a newspaper circulating in the municipality.

RS1960-255-22(1,2); 1968-33-13.

### Collection of taxes

**24.** (1) Where under section 12, 22 or 23 land is included in a municipality, all unpaid municipal or Provincial taxes previously imposed on that land shall be taxes of the municipality and subject to all remedies under this Act for the collection of taxes. The municipality may, prior to collection, pay the amount of the taxes to the municipality imposing them or, for Provincial taxes, to the Surveyor of Taxes. Otherwise the taxes shall on collection be paid to the municipality imposing them or to the Province, as the case may be.

(2) Where land shown on the records of a land title office as a single parcel of land lies partly in and partly out of a municipality and is, under section 12, 22 or 23, wholly included in a municipality, the taxes then unpaid on any part of the land are a charge as unpaid taxes on the whole land.

RS1960-255-22(3,4); 1964-33-4; 1978-25-334.

### Provincial taxes: payment

**25.** (1) Where land subject to assessment and taxation under the *Taxation (Rural Area) Act* is included in a municipality, either by incorporation of or by the extension or redefinition of the boundaries, the Minister of Finance may pay from the consolidated revenue fund to the municipality an amount equal to the current year's taxes levied under Part 2 of the *Taxation (Rural Area) Act* where the date of the letters patent defining or redefining the municipal boundaries is effective prior to July 1 or one half of that amount where that date is after June 30 in any year.

(2) The amount may include taxes levied on the land and improvements under any Act and due to the Crown. The taxes when collected by the municipality are municipal revenue.

(3) An amount to be paid under this section shall be paid in January following the year in which the taxes are levied or at another time deemed appropriate by the Minister of Finance.

# I. MUNICIPAL ACT OF MANITOBA - 1970

## DIVISION III

### MATTERS CONSEQUENT ON CHANGE OF STATUS, BOUNDARIES OR AREA

#### Settlement by board on alteration of territory.

**26 (1)** Notwithstanding anything in this Part, where by or under this Act or any other Act of the Legislature, any territory is transferred from one municipality to another, or a municipality is disorganized and its area transferred to one or more other municipalities, or where territory not in any municipality is included in a municipality, or where a new municipality is formed from the territory or part of the territory of one or more municipalities, or a portion of a municipality is disorganized, the board shall make a settlement as to the assets and liabilities, and any such order has effect as if enacted as part of this Act, but may be amended or repealed by a subsequent order of the board.

#### Approval of agreements.

**26 (2)** Where, in a case to which subsection (1) applies, the municipalities affected agree as to the apportionment between them of the assets and liabilities, they shall submit their agreement to the board for confirmation.

See R.S.M. 1954, c. 173, s. 40.

#### Discretion of board in making orders and awards.

**26 (3)** In making any order or award under this Division, the board shall give consideration to, and, in so far as practicable, shall be guided by, the principles set out in sections 27 and 34; but, notwithstanding these sections, it may make any award it deems just and reasonable, and without restricting the generality of the foregoing, it may give effect to any agreement made between the municipalities concerned.

#### Order re. special tax or relief from tax.

**26 (4)** It may be part of the order of the board made respecting a municipality to be disorganized that the territory of the disorganized municipality, or part thereof, be, for a time,

(a) charged with a special tax; or

(b) relieved of any tax, or part of a tax, imposed upon the rest of the municipality to which the territory of the disorganized municipality or part of it, is to be annexed.

S.M. 1970, c. 100, s. 26.

See R.S.M. 1954, c. 173, s. 37; am.

#### When municipality disorganized and territory added to another.

**27 (1)** Where a municipality is disorganized and one other municipality, whether newly created or not, receives the whole of the territory of the disorganized municipality, the new or increased municipality is liable to the creditors for the whole of the debts of the disorganized municipality and is entitled to all its assets.

#### When municipality abolished and its territory divided.

**27 (2)** Where a municipality is disorganized and its territory is divided between two or more other municipalities, the increased municipalities are entitled to the assets, and are liable to the creditors for the debts of the disorganized municipality in the proportion settled by the board.

#### Where territory taken from one municipality and added to another.

**27 (3)** Subject as herein provided, where territory is transferred from one municipality to another, but the municipality first mentioned is not abolished, the diminished municipality remains liable to the creditors for the whole of its indebtedness and is entitled to its assets.



**Valuation of assets.**

**27 (4)** A valuation of the assets and liabilities of the diminished municipality shall be made; and if the assets exceed the liabilities, the diminished municipality is liable to the increased municipality for the proportion of the excess of assets belonging to the transferred territory on the basis of assessment; but if the liabilities exceed the assets, the increased municipality is liable to the diminished municipality for the proportion of the excess of liabilities chargeable to the transferred territory on the basis of assessment.

**Provisions as to lands sold for taxes.**

**27 (5)** Where any lands, being part of the transferred territory, were sold for taxes before the transfer, and have not been conveyed or redeemed at the time of the transfer, the municipality by which or on behalf of which the lands were sold or, if the order or award of the board so provides, the municipality in which the lands are situated after the transfer, shall make the required returns to the district registrar, and shall receive the redemption money and grant redemption in respect thereof, unless the municipality has been abolished, in which case the returns shall be made and redemptions granted by the municipality receiving the territory that includes the lands.

**Provisions as to arrears of taxes.**

**27 (6)** Except as to lands sold for taxes, the arrears of taxes upon lands that are part of any such transferred territory belong to the increased municipality and, for the purpose of collecting the arrears, those taxes shall be treated as if levied by the increased municipality.

**Provisions as to money advanced**

**27 (7)** Where money has been advanced to a municipality under any Act of the Legislature, in the event of a division of the municipality subsequent to the advance of the moneys, the board may, subject to subsection (8), divide and make a settlement of the assets and liabilities of the divided municipalities with respect to those moneys on the same principle and basis as in the case of local improvement debentures or on any other principle or basis, and on such conditions and subject to such restrictions as it deems proper.

**Saving.**

**27 (8)** Nothing in subsection (7) or anything done thereunder, impairs, alters, minimizes, or affects the securities issued by any municipality for the repayment of moneys so advanced, notwithstanding that the whole or any portion of the territory comprising any such municipality has been added to, or embraced within the limits or extent of, another municipality or other municipalities, whether newly created or not.

**Transfer of municipally owned land.**

**27 (9)** Where part of a municipality is transferred from one municipality to another, if the municipality from which the part is transferred is the owner of lands situated in the part transferred that are not in use for municipal purposes, the title to those lands shall be transferred to the municipality to which the part of the municipality is transferred, subject to such terms and conditions as are prescribed by the board.

S.M. 1970, c. 100, s. 27.

See R.S.M. 1954, c. 173, s. 43(1) (part).

**Power to proceed with local improvements upon lands annexed to another municipality.**

28 (1) Where a local improvement has been undertaken by a municipality, and after it has become liable for carrying out the improvement, any lands liable to be specially charged therefor become a new municipality or are annexed to another municipality, the diminished municipality may complete the local improvement and may enter upon and acquire land within the new or other municipality, and may pass all by-laws, borrow money, issue and sell debentures, fix the special and other charges to be levied by the new or other municipality under subsection (3), and do all other acts and things necessary for the purpose of the completion as if the lands so liable had not become a new municipality or been annexed to another municipality.

**Municipality to which territory annexed to indemnify municipality undertaking work.**

28 (2) The diminished municipality so undertaking a local improvement shall be indemnified by the new municipality or the municipality to which the lands are annexed, against all debts and liabilities incurred by it in respect of any such work before or after the transfer of the lands to the new or other municipality, to the extent to which the lands lying within the new or other municipality are specially charged; and in adjusting the assets and liabilities consequent on the detachment of the lands, the debts incurred by the diminished municipality, for its share of the cost thereof, shall be taken into account.

**Assumption of debt where all of land specially charged is detached.**

28 (3) Where the lands specially charged for any local improvement or service are wholly within the new or other municipality, it is liable for the entire debt in respect of the work or service; and the clerk of the diminished municipality shall furnish the clerk of the new or other municipality with certified copies of all the by-laws relating to the work or service, and the special and other charges to be imposed by those by-laws as provided in subsection (1) shall be collected by the new or other municipality, and that municipality shall pay the principal and interest of the debentures issued in respect of the work or service as they become due and shall indemnify the diminished municipality against them.

**Collection of special rates, etc., where part only of land specially charged is detached.**

28 (4) Where part only of the land specially charged lies within the new or other municipality, the clerk of the diminished municipality shall furnish the clerk of the new or other municipality with certified copies of the by-laws; and the new or other municipality, in each year in which a special tax upon that land is payable, shall collect the special tax and shall pay over the sums collected to the treasurer of the diminished municipality, when and as they are collected; and in the adjustment of the assets and liabilities consequent upon the detachment of any such lands, the debt incurred by the diminished municipality for its share of the cost of the work or service shall be taken into account.

S.M. 1970, c. 100, s. 28.

See R.S.M. 1954, c. 173, s. 42; am.

Note: Contingent Liability of Municipality for Improvement — See sec. 645.

**Municipality receiving evidence of indebtedness empowered to sue thereon.**

**29 (1)** Where the board has apportioned to any municipality any instrument or other evidence of indebtedness, that municipality may institute and maintain in its own name all actions and proceedings necessary for the due collection of the debt or any part thereof; and, for that purpose or any other purpose, has all the powers possessed by the municipality to which the instrument or other evidence of indebtedness was originally given under any Act or law pursuant to which the consideration for the debt was supplied.

See S.M. 1961, (1st Sess.), c. 40, s. 3; am.

**Certificate of evidence.**

**29 (2)** In any such action or proceeding a certificate signed by the board that the instrument or other evidence or indebtedness has been apportioned by it to the municipality suing or proceeding thereon, is admissible in evidence as conclusive proof of the apportionment.

S.M. 1970, c. 100, s. 29.

See S.M. 1961, (1st Sess.), c. 40, ss. 3, 6; am. R.S.M. 1954, c. 173, s. 43; am.

Note: Notes for See Grain or Fodder Advances — See sec. 487 et seq.

**Added territory liable to increased municipality for amount of its debt.**

**30 (1)** Where a municipality has been increased by territory taken from another municipality, the increased municipality may open an account with respect to the added portion, in which shall be entered the amount of the liability the municipality is to assume in respect of the portion by the apportionment made by the board, and the moneys realized from the assets of the portion; and it may levy in each year upon the portion a tax sufficient to pay the liability or part of the liability to be paid in that year after giving credit for the amount realized from the assets.

See S.M. 1961, (1st Sess.), c. 40, s. 3.

**Surplus of assets.**

**30 (2)** Where, after payment in full of the liability, the amount realized from the assets exceeds the amount so paid, the excess shall be placed to the credit of the portion as a payment on account of the general municipal tax.

**Saving.**

**30 (3)** Nothing herein limits the liability of the whole municipality to the board for the payment of its share of the liabilities of the portion added.

See S.M. 1961, (1st Sess.), c. 40, s. 3.

**Debentures in case of transfer of territory.**

**30 (4)** Where, by the terms of any apportionment, a municipality is required to pay any money to another municipality or other municipalities or to the board, the council of the municipality may, by by-law, authorize the issuing, and accordingly issue and sell, debentures for the raising by way of loan on the credit of the municipality such money as is necessary for the purpose.

See S.M. 1961, (1st Sess.), c. 40, s. 3.

**Amount of debentures.**

**30 (5)** The amount for which the debentures are to be issued shall be determined by the board, which shall give its certificates accordingly.

See S.M. 1961, (1st Sess.), c. 40, s. 8; am.

**Terms of debentures.**

**30 (6)** The debentures shall be for a term not exceeding twenty years and shall bear interest at a rate determined by the board; and the by-laws authorizing the debentures are valid and binding upon the municipality passing the by-laws, without being submitted to, or receiving the assent of, the electors thereof.

S.M. 1970, c. 100, s. 30.

See R.S.M. 1954, c. 173, s. 45; am.

Note: Authorization of Board Required — See sec. 457(6).

**Detached land becoming unorganized territory.**

**31** Where, by or under this Act or any other Act of the Legislature, any territory is detached from a municipality and put into unorganized territory, the diminished municipality or the collector of taxes in the detached territory, as may be provided by the decision, award, settlement, or apportionment made by the board, may collect all tax charges and debts owing to it and outstanding at the time the territory is detached, levied or charged on, or in respect of, lands situated within the territory so detached or on, from, or by persons residing therein, and may exercise all rights and institute, carry on, and complete all remedies and proceedings for the collection of those taxes, charges, and debts as if the territory had not been detached.

S.M. 1970, c. 100, s. 31.

See S.M. 1961, (1st Sess.), c. 40, s. 3; am. R.S.M. 1954, c. 173, s. 46; am.

**Board to get in moneys belonging to abolished municipalities.**

**32** Where any municipality is disorganized, and its territory divided between two or more other municipalities or added to another municipality, and it has to its credit in any bank, or in the hands of any person, a sum of money, or any money is owing to it on an account, the board may demand and receive the money; and its receipt given therefor operates as a discharger to the bank or person paying over the money; and the money when received shall be applied by the board in a manner consistent with the principles set out in sections 27 and 34.

S.M. 1970, c. 100, s. 32.

See R.S.M. 1954, c. 173, s. 41; am. S.M. 1961, (1st Sess.), c. 40, ss. 3, 5.

**Recovery of sums apportioned by board.**

**33 (1)** The amount settled by the board as being due from one municipality to another under this Division is a debt, and may as such be recovered with costs in any court having jurisdiction, by the municipality so found entitled thereto from the municipality found to be indebted.

See S.M. 1961, (1st Sess.), c. 40, s. 7.

**Payment subject to conditions proscribed by board.**

**33 (2)** In settling an amount due, as provided in this Division, the board may provide that the amount shall be paid by the municipality indebted in such instalments, payable at such times, as the board may fix, or subject to such conditions as the board may prescribe; and the municipality indebted shall pay the amount due in the instalments, and at the times, so fixed and subject to the conditions, if any, so proscribed.

See S.M. 1966, c. 38, s. 2.

**Judgment payable subject to conditions fixed.**

**33 (3)** Where, as provided in subsection (1), a municipality recovers judgment against another municipality for an amount settled by the board as due, the judgment, notwithstanding any other Act or law, is payable in the instalments, and at the times, if any, so proscribed by the board.

See S.M. 1966, c. 38, s. 2.

**Evidence of apportionment.**

**33 (4)** In any suit or action the production of a copy of the apportionment or statement of apportionment, showing the amount so found or settled as due and purporting to be certified as a true copy by the board, is evidence of the debt.

See S.M. 1961, (1st Sess.), c. 40, s. 7.

**Saving powers of board.**

**33 (5)** This section does not take away any rights or powers of the board for compelling payment of the indebtedness.

S.M. 1970, c. 100, s. 33.

See S.M. 1961, (1st Sess.), c. 40, s. 3; R.S.M. 1954, c. 173, s. 44; am.

**Rules for guidance of board.**

**34** In exercising its powers and authority and discharging its duties under this Division, the board shall, in so far as practicable, be guided by the following rules:

(a) The board shall decide all questions as between the original territory of an increased municipality and newly added territory, taking into consideration the financial position of the municipality as formerly constituted and the assets and liabilities acquired or assumed in respect of the newly added territory; and it shall make an equitable settlement, if necessary, by providing, for a certain term of years, a difference in the rate of taxation between the original territory and the newly added territory.

(b) In ordering a payment by one municipality to another, or to itself, the board may make the amounts payable at times to correspond with the times of payment of the debt on account of which the payment is to be made.

(c) In making settlements the board shall take into consideration any disposition made of arrears of taxes pursuant to subsections (5) and (6) of section 27.

(d) The board may employ any assistance that it requires in connection with any settlement, award, or decision under this section, and may charge the cost thereof to the municipalities interested, in such proportion as it decides.

(e) Where a new municipality is formed out of territory from one or more municipalities, and in any case for which provision is not expressly made in the section, the board shall settle the matters for which provision is made in this section on the principles provided in this section or as nearly so as circumstances permit.

(f) The board may, in its discretion at any time, upon the application of a municipality or person interested, re-hear and re-open any such decision, award, settlement, or apportionment, whether made before or after the coming into force of this Act, and amend, alter, vary or supplement it upon such ground, and in such respects, as to it seems expedient, and may order and direct any of the municipalities interested or affected with respect to the levying, raising, collecting, using, or expending of any money required or collected under or by reason of the original or amended settlement, award or apportionment.

S.M. 1970, c. 100, s. 34.

See R.S.M. 1961, (1st Sess.), c. 40, ss. 3, 4; R.S.M. 1954, c. 173, s. 40 (part); am.

**Powers to be exercised over all municipalities.**

**35** The powers given under this Division may be exercised, except where expressly otherwise provided in another Act of the Legislature, and apply to all municipalities.

S.M. 1970, c. 100, s. 35.

See R.S.M. 1954, c. 173, s. 40(2); am.

**Appeal.**

**36 (1)** Any order or award made by the board under this Division is final and binding and not subject to appeal except as regards matters respecting which an appeal may be taken under subsection (1) of section 58 of The Municipal Board Act; and in respect of those matters that section applies.

**Saving.**

**36 (2)** Notwithstanding subsection (1), in any appeal the decision of the board as to the principles upon which its order or award should be made is not subject to review, reversal, or amendment by The Court of Appeal.

S.M. 1970, c. 100, s. 36.

**When change effective.****37** Where, by or under this Act,

- (a) territory is changed from one municipality to another; or
- (b) any municipality or any part thereof is disorganized; or
- (c) territory not in any municipality is given to a municipality; or
- (d) a new municipality is incorporated; or
- (e) a village is re-constituted as a town under section 20; or
- (f) a town is re-constituted as a village under section 20;

the change takes effect at the end of the fiscal year of the municipality next following the issue of the letters patent or supplementary letters patent under section 24 whereby the change is made, or on such other day as the Lieutenant Governor in Council specifically otherwise provides; and the other day last mentioned may be a day that is past, so that the change takes effect retroactively thereto.

S.M. 1970, c. 100, s. 37.

See R.S.M. 1954, c. 173, s. 47; am.

**Officers of municipalities to assist in carrying out settlement.**

**38** The officers of each municipality affected shall, without charge, do all things necessary for the purpose of carrying out any settlement made under this Division; and, on the application of any municipality interested, the minister may order any such officer to do any such thing; and, if he refuses to carry out the order, the minister may dismiss him and appoint another person in his place.

S.M. 1970, c. 100, s. 38.

See R.S.M. 1954, c. 173, s. 48; am.

## **J. municipal boundary adjustment guidelines of manitoba**

### INTRODUCTION

The purpose of this report is to provide a number of guidelines for any municipality planning to request the annexation of land from an adjacent municipality.

A municipal request for a boundary extension will generally entail the preparation of background information. It is in the best interests of all involved parties that unplanned, premature annexation or urbanization be discouraged. This means, in essence, that it is desirable for municipalities to possess a planned program for development and expansion. Proposed boundary extension should then be compatible with this program.

A further point to be stressed is the need for co-operation and coordination between the involved municipalities. An equitable solution for both is most likely to be obtained when each understands the needs and concerns of the other.

### PART I

As a general first step, the municipality considering annexation attempts to demonstrate a genuine need for additional land. The reason or reasons for requesting the boundary adjustment will usually fall within one or more of the following categories of need.

- 1) To meet the realistic land needs of an urban centre--  
If the existing supply of land within the municipal limits is deemed to be inadequate to accommodate the predicted growth of an urban centre over a specified number of years, the urban centre may feel that it is justified in requesting an annexation. The time period being considered will vary from case to case but will generally fall between 10 and 25 years. A guideline commonly followed is that the annexation area should include a sufficiently large acreage to provide the prospective users with a selection of site alternatives.
- 2) To obtain control over a predominantly rural area which is experiencing urban-related development pressures--  
If uncontrolled, such development may (a) impede the realization of the urban centre's long term development goals, and (b) become a financial burden to the urban centre. Nonetheless, the existence of fringe development need not always lead to annexation. If the scale

of development is relatively modest and a spirit of co-operation exists between the urban centre and the rural municipality, the formation of a joint planning district and/or the adoption of an equitable cost-sharing agreement for the joint use of urban services and facilities are alternative courses of action to be considered.

- 3) To obtain a more uniform boundary where an isolated parcel of land from one municipality is nearly surrounded by the land area in another municipality and where a boundary adjustment would ease servicing problems for both the parcel and adjacent areas in the adjoining municipality.

## PART II

Outlined in Part II is a suggested procedure to be followed by a municipality considering an annexation consistent with one or more of the categories of need discussed in Part I.

### CATEGORY 1: TO MEET THE REALISTIC LAND NEEDS OF AN URBAN CENTRE

#### The Need

An urban centre's realistic land needs for a specific number of years in the future may be determined by:

- 1) Preparing an estimate of the potential expansion of the urban centre's industrial and commercial sectors and the land needed to accommodate potential growth.
- 2) Preparing a population and housing needs estimate for the urban centre.
- 3) Preparing an inventory of vacant residential, industrial and commercial land in the urban centre (serviced and unserviced).
- 4) Comparing the inventory with the need for land as determined in sections (1) and (2).

#### The Size and Location of the Annexation

Assuming it is concluded that there is insufficient suitable land within the municipal limits to meet the requirements of an urban centre, the next logical step would involve determining the appropriate acreage and the location of the land to be requested.



The discrepancy between the land needs of the municipality and the amount of suitable land available within the municipal limits provides the approximate acreage to be requested. To determine the location of this land would involve an evaluation of each of the areas being considered in terms of such factors as feasibility of servicing, compatibility of land uses, and cost of the annexation to all of the involved parties. A suggested procedure to be followed is discussed in greater detail below. Upon completion of this step a municipality would be in a good position to know whether the submission of a specific annexation proposal is or is not justifiable.

1) Servicing

- (a) An analysis of several engineering issues appropriately precedes an annexation request. This would involve a study of the requirements for hydro and telephone services, transportation facilities, and water, sanitary sewer and storm drainage services--in terms of the total capacity of the system, the cost of extensions to proposed development areas, and the logical staging of the servicing. It is undesirable for a boundary extension to create areas which are difficult to service.
- (b) An analysis of the urban centre's social, protective and educational services would determine where existing spare capacity could be utilized and where additional facilities would have to be provided if annexation was to take place.

2) Land Use

- (a) It is desirable that the land to be annexed form a logical extension of the annexing municipality not only in terms of servicing but also in the sense that proposed land uses be compatible with adjacent existing and planned uses.
- (b) It is desirable that the proposed uses of the annexation area be compatible with the existing overall land use pattern in the annexing municipality (e.g. that proposed residential areas have convenient access to the primary job and commercial locations).
- (c) An assessment of the value of existing land uses in the proposed annexation area is suggested. It is desirable that the use of prime agricultural land for urban purposes be minimized and that the proposal enhance and protect environmentally significant features and significant historical or architectural elements.

### 3) Financial

A third major aspect of annexation to be assessed involves the financial implications of the various annexation alternatives. The annexation costs can be divided into three groups: (a) the cost to the municipality ceding the territory, (b) the cost to the annexing municipality, and (c) the cost to the residents of the annexation area.

To determine these costs would involve estimating the tax revenue, the borrowing capacity and the per capita transfer payments under provincial-municipal tax sharing to be lost by the ceding municipality and to be gained by the annexing municipality. The fiscal capability of the annexing municipality to absorb growth would also be analysed. It is desirable that an annexing urban centre be financially capable of expanding the overall capacity of its water, sewer and transportation systems if required, supplying the annexation area with urban services, and maintaining both the new services and those which already exist in the annexation area. In addition, an analysis of the costs of annexation would involve estimating any changes in assessment or taxation to those people who operate farms, own businesses, or live in non-farm residences in the proposed annexation area. A basic financial fact sheet that could be prepared by municipalities applying for annexation is attached.

The most economical land to service is not always the land most suited to urban uses. When a conflict arises, the engineering aspects of each annexation alternative can be weighed against land use considerations and a compromise reached.

#### CATEGORY 2: TO OBTAIN CONTROL OVER A PREDOMINANTLY RURAL AREA WHICH IS EXPERIENCING URBAN-RELATED DEVELOPMENT PRESSURES

A thorough evaluation of the need for and consequences of an annexation directed at obtaining control over a predominantly rural area which is experiencing urban-related development pressures would involve an examination of the following issues.

- 1) An assessment of both the extent and the intensity of fringe development--noting especially the location and pace of recent development--would be desirable. Future development is likely to be most intense in those locations immediately adjacent to the current growth areas of the urban centre. It is therefore logical that these areas be given primary consideration for annexation.

- 2) An urban centre may theoretically be justified in annexing all development which for all practical purposes is part of the urban centre. Whether it is desirable to actually include all or merely part of the fringe development within the urban limits however would depend on the configuration and the pace of development and the degree of co-operation that can be attained between the two municipalities.

If the development is concentrated in the area immediately adjacent to the urban limits or if the pace of development is very rapid, it may be desirable to include all or nearly all of the fringe development within the urban centre. If the development is found in selected locations over a wide area or if growth is taking place quite slowly, it may be more reasonable to include only a portion of the development within the urban limits. Even though urban-related development is likely to extend further into the rural municipality along major transportation corridors than through the intervening areas, it is desirable that the new urban boundary be uniform rather than irregular in shape. This means that some fringe development may be excluded from the annexation area and that some undeveloped land may be included within the new urban limits. The greater the co-operation regarding land use controls that exists between the urban centre and the surrounding rural municipality, the less important it will be for the urban centre to annex all territory which is experiencing urban-related development pressures.

- 3) It is desirable that the urban centre be able to demonstrate how the annexation area fits into the urban centre's long term development plans or how further uncontrolled development could prove detrimental to the rational growth of the urban centre.
- 4) The financial implications of the various annexation alternatives to the rural municipality ceding the land, to the annexing municipality, and to the residents of the annexation area can be assessed utilizing the procedure outlined under Category 1.

**CATEGORY 3: TO OBTAIN A MORE UNIFORM BOUNDARY WHERE AN ISOLATED PARCEL OF LAND FROM ONE MUNICIPALITY IS NEARLY SURROUNDED BY THE LAND AREA OF ANOTHER MUNICIPALITY**

A thorough evaluation of the need for and consequences of annexing an isolated parcel of land would involve an examination of the following issues.

- 1) In the case of an annexing urban centre, the formulation of a staged development plan would enable one to determine whether land uses in the parcel are either incompatible with this program or adversely affecting the economic health of the urban centre.
- 2) An annexation may be desirable if the parcel requires specialized services that can only, or can best, be provided by the annexing municipality, or if the existence of the parcel is impeding the efficient servicing of the adjacent area.
- 3) Any evaluation of an annexation proposal would entail an assessment of its financial implications. Because only a small acreage would generally be involved, the procedure suggested under Category 1 may be simplified to suit the situation.

Financial Fact Sheet

Assessment

Rural Municipality (Total Existing)	\$ _____	Year Assessed	_____
Urban Municipality (Total Existing)	\$ _____	Year Assessed	_____
Annexation Area	\$ _____		

Population (identify source)

Rural Municipality (Total Existing)	_____
Urban Municipality (Total Existing)	_____
Annexation Area	_____

Cost of Services

Cost of existing service to annexation area	\$ _____
Cost of proposed services to annexation area	\$ _____

Debenture Debt

Rural Municipality	\$ _____	Per Capita	\$ _____
Urban Municipality	\$ _____	Per Capita	\$ _____

Mill Rate (current)

Rural Municipality	_____
Urban Municipality	_____

## K. MUNICIPAL GOVERNMENT ACT OF ALBERTA 1970

### MUNICIPAL GOVERNMENT (PART 2)

(3) The seal used by the municipality before the alteration of its name or number continues to be the seal, until changed by the council.

(4) No change of name or number affects any obligation, right, action or property, incurred, established, done or acquired prior to the change of name or number.

(5) No proceedings, agreements, notices or documents are invalid or defective because of any incorrect use of mistaken designation of the name of the municipality so long as the name used indicates with reasonable certainty the municipality in question. [1968, c. 68, s. 19]

Petition  
for  
annexation

**20.** (1) Where a petition is presented to the Local Authorities Board

(a) by a majority of the registered owners of any territory in or immediately adjoining a municipality, or

(b) by the council of a municipality with respect to any territory in or immediately adjoining the municipality, or

(c) by the Minister with respect to territory forming the whole or any part of an improvement district or special area that he desires to have annexed to a municipality,

requesting that the territory be annexed to the municipality or to another municipality, improvement district or special area, the Board by order may annex territory

(d) from a municipality to an improvement district, special area or another municipality, or

(e) from an improvement district or special area to a municipality.

(2) The Local Authorities Board may, without a petition and of its own motion by order and after notice, annex territory

(a) from a municipality to an improvement district, special area or another municipality immediately adjoining thereto, or

(b) from an improvement district or special area to a municipality immediately adjoining thereto.

(3) The order may be made subject to such terms and conditions as to the Board seem proper and, in particular, the order may

(a) contain directions that the annexed territory be or be not subject to debentures already issued by the municipality, with respect to the area annexed, or the rate levied to meet those debentures,

## MUNICIPAL GOVERNMENT (PART 2)

- (b) contain directions that the annexing municipality, improvement district or special area assess the land in the territory upon any basis or principle of assessment that seems proper to the Board and, if the order contains directions, the municipality, improvement district or special area shall comply with the directions for the fixed term of years specified in the order,
- (c) fix a maximum rate of taxation for the land in the territory and if a maximum rate of taxation is set, that rate shall be for the fixed term of years specified in the order, and
- (d) deal with and make any order respecting any by-law for the protection of any rights of any person in the annexed area.

(4) An order made pursuant to this section shall be published in the *Gazette* and becomes effective upon the date named in the order or in the absence of any date therein upon the date of the publication of the order in the *Gazette* and such publication is conclusive proof of the fulfilment of all conditions precedent to the making of the order.

(5) Any misnomer, misdescription, omission or error in any order may be corrected by subsequent order and the correction so made is effective upon such date as is specified in the correcting order and may be made effective upon the date of the original order.

(6) Where the Board has issued an order under this section, any municipality, improvement district or special area affected thereby that is of the opinion the order has imposed on it a financial hardship may request the Lieutenant Governor in Council to take such measures as he considers requisite to remove any resulting hardship.

(7) This section applies to new towns.  
[1968, c. 68, s. 20; 1969, c. 75, s. 3]

Effect of  
annexation

**21.** No order made under section 20 affects or abrogates any existing contract or any existing right of or held by any municipality or person for the production, transmission, delivery or furnishing of water, gas, heat, sewer service, light, power, telephone or transportation to or for inhabitants or businesses in the annexed or excluded territories, as the case may be, but the council of the area affected by the order is upon a renewal of the utility contract being proposed, subject to the provisions of this Act respecting utility renewal or purchase.  
[1968, c. 68, s. 21]

Effect of  
change in  
boundaries

**22.** Where all the lands within the boundaries of a municipality are annexed to or amalgamated with lands within the boundaries of another municipality,

## MUNICIPAL GOVERNMENT (PART 2)

- (a) the council of the municipality so annexed or amalgamated ceases to have or exercise any jurisdiction, power, duty or function, and
  - (b) the term of office of the mayor and councillors of that municipality terminate,
- upon the effective date of the annexation or amalgamation.  
[1968, c. 68, s. 22]

Rights and  
liabilities  
upon  
inclusion  
in another  
municipality

**23. (1)** When under this Act a municipality, or part thereof, hereinafter referred to as the "old municipality", is included in another municipality, hereinafter referred to as the "new municipality", either at the time of the formation of the municipality or subsequently thereto, the property, rights and liabilities of the old municipality or part thereof, including all taxes then due, pass to the new municipality and all remedies that were available for the collection of any such taxes due to the old municipality are available to the new municipality in all respects as though the taxes or arrears had originally been due to it.

(2) All questions arising over the division or apportionment of the property, rights and liabilities or otherwise of the old municipality, shall be decided finally and without appeal by the Minister, unless other provisions for the settlement or adjudication thereof have been made in this or any other Act or by order in council and the Minister may make such orders and directions as are necessary to give effect to his decision.

(3) Nothing in this section in any way prejudices the rights of the debenture holders. [1968, c. 68, s. 23]



**L. MUNICIPALITIES ACT OF NEW BRUNSWICK**

**14(1)** On the recommendation of the Minister and after the study of a feasibility report, the Lieutenant-Governor in Council

- (a) may incorporate the inhabitants of an area as a municipality;
- (b) may amalgamate two or more municipalities;
- (c) may annex to a municipality a contiguous area;
- (d) may amalgamate two or more municipalities and annex contiguous areas thereto; or
- (e) may decrease the territorial limits of a municipality.

**14(2)** The Minister may institute or a council may petition the Minister to institute

- (a) amalgamation proceedings with respect to the amalgamation of two or more municipalities,
- (b) annexation proceedings with respect to the annexation to the municipality of an area contiguous thereto,
- (c) both amalgamation and annexation proceedings, or
- (d) decrement proceedings.

**14(3)** Twenty-five or more persons qualified to vote under the *Schools Act*, and resident in an area contiguous to, but not within, a municipality may petition the Minister for the institution of annexation proceedings for that area.

**14(4)** The Minister may, and if petitioned by the council of a municipality shall, carry out a study to determine the feasibility of dissolving a municipality; but a municipality shall not be dissolved except by special Act of the Legislature.

**14(5)** Where a municipality created by an amalgamation or an annexation has the required population, the Lieutenant-Governor in Council may incorporate the municipality as a town or city. 1966, c.20, s.15; 1967, c.56, s.3; 1969, c.58, s.1, 2; 1973, c.60, s.3.

**15** On the recommendation of the Minister and after the study of a feasibility report, the Lieutenant-Governor in Council may incorporate a village having a population of one thousand or more as a town. 1966, c.20, s.16.

**16** The Lieutenant-Governor in Council may incorporate a town having a population of ten thousand or more as a city. 1966, c.20, s.17.

**17** Where a village is incorporated as a town or a town is incorporated as a city, the mayor and the council in office at the time of the incorporation are the mayor and the council of the new municipality until a new council has been elected and has taken office. 1966, c.20, s.18.

**18** An Order in Council effecting an incorporation, amalgamation, annexation, or decrement is conclusive evidence that all conditions precedent for the making of the order have been complied with and that the municipality thereby created, and enlarged, or decreased is duly incorporated. 1966, c.20, s.19; 1967, c.56, s.4; 1969, c.58, s.3.

**19** The Lieutenant-Governor in Council in every Order in Council effecting an incorporation, amalgamation, annexation or decrement may

(a) prescribe the name and boundaries of the municipality and the effective date of the incorporation, amalgamation, annexation, or decrement,

(a.1) divide the municipality into wards;

(b) make such adjustments of assets and liabilities between affected municipalities as they agree upon or, in default of agreement, as the Lieutenant-Governor in Council deems equitable,

(c) create, amalgamate or dissolve such local commissions and make such adjustments of assets and liabilities of local commissions as they agree upon, or, in default of agreement, as the Lieutenant-Governor in Council deems equitable.

(d) appoint one or more persons who have all the powers of a commissioner appointed under the *Inquiries Act*, to inquire into and report to the Lieutenant-Governor in Council upon the adjustments of assets and liabilities referred to in paragraphs (b) and (c).

(e) for the purpose of the first elections, provide for

- (i) the composition of the first council and local commissions,
- (ii) the holding of elections,
- (iii) the fixing of days for nominations, either before or subsequent to the effective date of the incorporation, amalgamation or annexation,
- (iv) the qualifications of candidates and voters,
- (v) the preparation of voters lists,
- (vi) the fixing of days for first meetings of councils and local commissions, and
- (vii) such other matters as the Lieutenant-Governor in Council deems necessary to provide for the effective administration of the new municipality or any local commission thereof, and

(f) provide for all matters necessary or incidental to the incorporation, amalgamation, annexation, or decrement. 1966, c.20, s.20; 1967, c.56, s.5; 1969, c.58, s.4; *Am.(a.1), 1974, c.33 (Supp.), s.1.*

20(1) The incorporation of a village as a town or a town as a city does not affect the by-laws then in force in the municipality and they remain in force until repealed by the council.

20(2) The amalgamation of two or more municipalities does not affect the by-laws then in force in each of the former municipalities and they remain in force in each former municipality until repealed by the council of the new municipality.

20(3) When an area is annexed to a municipality, the by-laws of the municipality extend to the annexed area.

**20(4)** When the territorial limits of a municipality are decreased, the by-laws of the former municipality apply to the new municipality. 1966, c.20, s.21; 1967, c.56, s.6; 1969, c.58, s.5.

**21(1)** Where

(a) the inhabitants of an area that includes two or more municipalities are incorporated or amalgamated under section 14,

(b) a village is incorporated as a town, or

(c) a town is incorporated as a city,

all the assets and liabilities of the former municipality or municipalities and its or their local commissions are assets and liabilities of the new municipality and the new municipality for all purposes stands in the place and stead of the former municipality or municipalities.

**M. MUNICIPAL ACT OF ONTARIO - 1970**

**PART I**

**FORMATION, ERECTION, ALTERATION OF  
BOUNDARIES, AND DISSOLUTION OF  
MUNICIPALITIES, ETC.**

**INCORPORATIONS AND ERECTIONS**

- 10.**—(1) In this section, "inhabitant" means a permanent resident or a temporary resident having a permanent dwelling within the locality.
- Interpre-  
tation**
- (2) The Municipal Board, upon the application of the Department or of not less than thirty inhabitants of a locality having a population of not less than fifty, may incorporate the inhabitants of the locality or a larger or smaller locality as an improvement district.
- Improve-  
ment  
districts**
- (3) The Municipal Board, upon the application of not less than seventy-five inhabitants of a locality having a population of not less than 1,000, may incorporate the inhabitants of the locality or a larger or smaller locality as a township or union of townships.
- Townships**
- (4) The Municipal Board, upon the application of not less than seventy-five inhabitants of a locality having a population of not less than 500, may incorporate the inhabitants of the locality or a larger or smaller locality as a village. R.S.O. 1960, c. 249, s. 10 (1-4).
- Villages**
- (5) The Municipal Board, upon the application of the trustees of a police village having a population of not less than 500, may incorporate the inhabitants of the locality comprising the police village as a village. R.S.O. 1960, c. 249, s. 10 (5); 1960-61, c. 59, s. 1.
- Idem**
- (6) The Municipal Board, upon the application of not less than seventy-five inhabitants of a locality having a population of not less than 2,000, may incorporate the inhabitants of the locality or a larger or smaller locality as a town.
- Towns**
- (7) An application may be made under subsection 2, 3, 4 or 6 with respect to a locality that includes, but is not composed of, a police village or part thereof, but no such application may be made with respect to a locality that includes an urban municipality or any part thereof.
- Locality  
interpreted**
- (8) No person is qualified to be an applicant under this section unless he is a British subject of the full age of twenty-one years.
- Qualifica-  
tions of  
applicants**

(9) The Municipal Board, before making an order under this section, shall hold a public hearing in or adjacent to the locality affected, after such notice thereof has been given as the Board may direct, for the purpose of inquiring into the merits of the application and of hearing any objections that any person may desire to bring to the attention of the Board. R.S.O. 1960, c. 249, s. 10 (6-9). Public hearing

11.—(1) Upon the application of an improvement district having a population of not less than 500, the Municipal Board may erect the improvement district into a village. Erection of improvement district, as village

(2) Upon the application of an improvement district having a population of not less than 1,000, the Municipal Board may erect the improvement district into a township. as township

(3) Upon the application of an improvement district having a population of not less than 2,000, the Municipal Board may erect the improvement district into a town. R.S.O. 1960, c. 249, s. 11 (1-3). as town

(4) Upon the application of a village or township having a population of not less than 2,000, the Municipal Board may erect the village or township into a town. 1966, c. 93, s. 1. Erection of village or township into town

(5) Upon the application,

(a) of a village or town having a population of not less than 15,000; or

(b) of a township having a population of not less than 25,000,

Erection of village, town or township into city

the Municipal Board may erect the village, town or township into a city.

(6) An application by an improvement district, village, town or township under this section shall be authorized by by-law of the board of trustees of the improvement district or the council of the village, town or township, as the case may be, and notice of the application shall be published in such manner as the Municipal Board may direct. Application to be authorized by by-law

(7) An application for the erection of a city or town under this section may include an application for the annexation of any locality adjoining the applicant municipality and, where the Municipal Board considers it desirable that the adjoining locality, or any greater or smaller area, be included in the city or town, the Municipal Board may annex the locality or any greater or smaller area to the city or town in the order erecting it and, where the locality to be annexed forms part of another municipality or municipalities, detach it therefrom. Enlargement of area of city or town to be erected

(8) Where it is proposed that an adjoining locality be annexed to the city or town to be erected, the application for the erection shall so state and shall designate the locality to be annexed, and Idem

the provisions of section 14 shall apply with respect to the part of the application, and the order thereon, dealing with the proposed annexation.

Name,  
boundaries,  
etc.

**12.—(1)** Where a municipality is incorporated or erected, the order of the Municipal Board shall direct the name that the municipality shall bear, its boundaries, and the date when the incorporation or erection shall take effect, and may provide for any matters that the Board considers necessary for the establishment and carrying on of the municipality.

County

(2) Where an improvement district, village, town or township is incorporated out of parts of two or more counties, it shall be annexed to and form part of that one of the counties which the Municipal Board directs.

Additional  
powers of  
Board

(3) Without restricting the generality of subsection 1, the Municipal Board, by any order made upon an application for incorporation or erection or by any subsequent order or orders, may exercise all the powers conferred on it in the case of an amalgamation or annexation by subsections 8, 11, 16 and 18 of section 14, the provisions of which subsections apply *mutatis mutandis*. R.S.O. 1960, c. 249, s. 12 (1-3).

Order of  
Board  
conclusive

(4) The order of the Municipal Board incorporating or erecting a local municipality is conclusive evidence that all conditions precedent to the making of the order have been complied with and that the local municipality has been duly incorporated or erected in accordance with this Act, and such order shall be registered by the municipality affected as required by section 67 of *The Registry Act* as soon as practicable after the effective date of the order. R.S.O. 1960, c. 249, s. 12 (4); 1964, c. 68, s. 1.

R.S.O. 1970,  
c. 409

#### ALTERATION OF BOUNDARIES

Interpre-  
tation  
R.S.O. 1970,  
c. 118  
Amalgama-  
tions and  
annexations

**14.—(1)** In this section, "local board" means a local board as defined in *The Department of Municipal Affairs Act*.

(2) Upon the application of any municipality authorized by by-law of the council thereof or upon the application of the Minister of Municipal Affairs authorized by the Lieutenant Governor in Council, or in respect of clause *d* upon the application of at least twenty-five inhabitants, being British subjects of the full age of twenty-one years, the Municipal Board may by order on such terms as it may consider expedient,

- (a) amalgamate the municipality with any other municipality or municipalities;
- (b) annex the whole or any part or parts of the municipality to any other municipality or municipalities;
- (c) annex the whole or any part or parts of any other municipality or municipalities to the municipality; or
- (d) annex any locality that does not form part of any municipality to the municipality,

and any such order may amalgamate or annex a greater or smaller area or areas than the area or areas specified in the application, whether or not the municipality, municipalities, or locality not forming part of a municipality, in which the area or areas is or are located, is or are specified in the application.

Assent of  
electors

(3) The Municipal Board, before proceeding with the application of the council of any municipality under subsection 2, may require that the by-law of the council shall receive the assent of the electors of such municipality who are entitled to vote on money by-laws.

(4) The Municipal Board, before making any order under subsection 2, shall hold a public hearing, after such notice thereof has been given as the Board may direct, for the purpose of inquiring into the merits of the application and of hearing any objections that any person may desire to bring to the attention of the Board. R.S.O. 1960, c. 249, s. 14 (1-4).

Public hearing to be held by Board

(5) If it appears that by reason of an application made under subsection 2 a municipality would, if an order were made granting the application, be left, in regard to size, assets, location or otherwise, in such condition that it would be desirable to annex the whole or part or parts of the municipality remaining after such order to some other contiguous municipality or municipalities, the Municipal Board may, after notice to such contiguous municipality or municipalities and a public hearing, order,

Annexation of remaining part of municipality following order

(a) that the whole or part or parts of the municipality so remaining be annexed to such contiguous municipality or municipalities; and

(b) in the event that the whole of the municipality so remaining is annexed to some other municipality or municipalities, that the municipality is dissolved. 1960-61, c. 59, s. 2.

(6) Where in a municipality affected by a proposed annexation or amalgamation an official plan approved under *The Planning Act* or a predecessor thereof is in effect and a by-law of a municipality is passed to authorize an application for an order of the Municipal Board under this section, and a certified copy of the by-law has been sent to the Minister of Planning and Development before the 1st day of April, 1960, or to the Minister of Municipal Affairs on or after that date and to the planning board or planning boards having jurisdiction in any municipality or area affected by the application, the by-law shall not be deemed to be or be held invalid on the ground that it conflicts with the official plan.

Effect of official plan R.S.O. 1970, c. 349

(7) If a municipality to which the whole or part of another municipality is annexed or a municipality created by an amalgamation under this section has the requisite population, it may by such order be erected by the Municipal Board into a city or town bearing such name as the Board may direct.

City or town may be erected

(8) The Municipal Board may order a division or redivision of a municipality into wards if, in the opinion of the Board, the annexation or amalgamation renders such division or redivision necessary or desirable.

Division into wards

(9) If a petition signed by at least 150 electors of a town, village or township, or 500 electors of a city, praying that the whole or any part of the city, town, village or township may be annexed to an adjacent municipality on such terms as may be stated in the petition, is presented to the council of the city, town, village or

By-law to be submitted on petition



township, the council shall, within four weeks after the presentation of the petition or within such longer period as the Municipal Board may fix, submit to the electors of the city, town, village or township for their assent thereto a by-law providing for such annexation on the terms mentioned in the petition, and if the by-law receives the assent of the electors the council shall forthwith make application for such annexation under subsection 2.

Inter-  
pretation

(10) In subsection 9, "electors" means electors who are entitled to vote on money by-laws. R.S.O. 1960, c. 249, s. 14 (5-9).

Further  
powers of  
Municipal  
Board

(11) The Municipal Board may, by any order made pursuant to an application under this section or by subsequent order or orders,

- (a) make all such adjustments of assets and liabilities as between the municipalities, including counties, affected by any such order as may be agreed upon or, in default of agreement, as the Board may consider equitable;
- (b) create, amalgamate or dissolve such local boards and make such adjustments of assets and liabilities of local boards as may be agreed upon or, in default of agreement, as the Board may consider equitable;
- (c) define special areas within the municipality as enlarged by such annexation or resulting from such amalgamation, having regard to the areas annexed thereto or amalgamated therein, and adjust the rights, claims, liabilities and obligations of the ratepayers of such areas and provide the extent to which the liabilities of such municipality shall be discharged by the imposition of rates upon the rateable property in such areas;
- (d) appoint one or more referees, who shall have all the powers mentioned in section 52 of *The Ontario Municipal Board Act*, to inquire into and report to the Board upon the adjustments of assets and liabilities and of rights, claims, liabilities and obligations referred to in clauses a, b and c, or any of them, the report to be filed with the Board within such time as the Board may from time to time allow, and the Board shall consider the report and may hear such representations with respect thereto as it may see fit and may adopt, vary or amend the report or refer it back to the referee or referees for further consideration, and the order of the Board adopting the report or varying or amending the report is final and conclusive and not open to question or appeal and is binding upon all municipalities and local boards affected thereby;
- (e) fix the remuneration and expenses of the referee or referees and declare by whom and in what manner the remuneration and expenses shall be paid;

R.S.O. 1970,  
c. 323

- (f) subject to section 20, require the transfer of real property from either municipality or a local board thereof to the other municipality or a local board thereof, and take any such transfer into consideration in the adjustments of assets and liabilities;
- (g) vest real property of either municipality or a local board thereof in the other municipality or a local board thereof and take any such vesting into consideration in the adjustments of assets and liabilities;
- (h) make all such provisions for the composition of councils and local boards, the fixing of days for nominations, either before or subsequent to the day on which the annexation or amalgamation becomes effective, the appointment of returning officers, the holding of elections, the qualifications of candidates and electors, the preparation of first voters' lists and assessment rolls, the fixing of days for first meetings of councils and local boards, and for such other matters as it may consider necessary to provide for the effective administration of the enlarged or amalgamated municipality or of any local board thereof;
- (i) direct the name that shall be borne by any municipality affected by any such order;
- (j) where the holder of an operating licence under *The Public Vehicles Act* is adversely affected by the annexation or amalgamation, R.S.O. 1970,  
c. 392
  - (i) authorize the municipality or municipalities to pay to the holder of the licence in respect of such adverse effect the amount of compensation agreed upon, or
  - (ii) direct what compensation, if any, shall be paid by the municipality or municipalities to the holder of the licence in respect of such adverse effect;
- (k) where by reason of any annexation order made under this section the taxable assessment of a local municipality is reduced by not less than 15 per cent as shown by the last revised assessment roll prior to the effective date of such annexation, authorize and direct the payment to such municipality or to a school board thereof by the annexing municipality or a school board thereof, to relieve such municipality or school board from any undue burden by reason of the loss of such assessment, of compensating grants during a period of not more than five years after the effective date of the annexation in such amounts and manner as may be agreed upon between the municipalities and the school boards and approved by the Municipal Board or, failing agreement, as the Municipal Board considers equitable;

- (l) where by reason of annexation orders made under this section within any three-year period the taxable assessment of a local municipality is reduced by not less than a total of 15 per cent as shown by the last revised assessment rolls prior to the effective date of each of such annexations, and no order has been made under clause *k*, authorize and direct the payment to such municipality or to a school board thereof by the annexing municipality or a school board thereof, to relieve such municipality or school board from any undue burden by reason of the loss of such assessment, of compensating grants during a period of not more than five years after the effective date of the last annexation in such amounts and manner as may be agreed upon between the municipalities and the school boards and approved by the Municipal Board or, failing agreement, as the Municipal Board considers equitable after a public hearing in each case;
- (m) where by reason of any annexation or amalgamation order made under this section a county will be deprived of not less than 15 per cent of its equalized assessment, authorize and direct the payment to such county by the annexing or amalgamated municipality, to relieve such county from any undue burden by reason of the loss of such assessment, of compensating grants during a period of not more than five years after the effective date of the annexation or amalgamation in such amounts and manner as may be agreed upon between the county and the annexing or amalgamated municipality and approved by the Board or, failing agreement, as the Board considers equitable;
- (n) where by reason of annexation or amalgamation orders made under this section within any three-year period a county will be deprived of not less than a total of 15 per cent of what its equalized assessment would have been except for such annexations or amalgamations, and no order has been made under clause *m*, authorize and direct the payment to such county by the annexing or amalgamated municipality, to relieve such county from any undue burden by reason of the loss of such assessment, of compensating grants during a period of not more than five years after the effective date of the last annexation or amalgamation in such amounts and manner as may be agreed upon between the county and the annexing or amalgamated municipality and approved by the Municipality Board or, failing agreement, as the Municipal Board considers equitable after a public hearing in each case;

- (o) do or cause to be done all such other matters, acts, deeds and things as may be necessary or incidental to the carrying out of the amalgamation or annexation provided for in such order;
- (p) after a public hearing, if the Board is of the opinion that the last revised assessment of an annexed area or any portion thereof is on a higher basis than the last revised assessment of the annexing municipality and is therefore not equitable therewith, direct what percentage of the rates for all purposes to be levied for taxation in the annexing municipality shall be levied in the annexed area or any portion thereof, provided that an order under this clause may be made only in respect of the rates to be levied in either the first or the first and second annual levies after the date of the annexation. R.S.O. 1960, c. 249, s. 14 (10); 1965, c. 77, s. 3; 1966, c. 93, s. 2; 1967, c. 55, s. 1 (1); 1968-69, c. 74, s. 2.
- (12) The Municipal Board may, by any order made pursuant to an application under this section or by subsequent order or orders, define urban services and cost of urban services and establish and, after establishment, alter one or more urban service areas within the municipality as enlarged by an annexation or resulting from an amalgamation and determine the manner in which and upon what lands or rateable property the cost of providing urban services is to be levied and raised by the municipality, and determine the manner in which and upon what lands or rateable property the liabilities, in respect of urban services of any of the municipalities as they existed prior to the annexation or amalgamation or in respect of urban services in whole or in part within an urban service area, shall be discharged by the imposition of rates in an urban service area. Urban service areas
- (13) An order under subsection 12 does not affect any exemption or partial exemption from taxation or rates or provision therefor in any general or special Act. Effect of order on exemptions
- (14) Section 29 of *The Assessment Act* applies to lands situated in an urban service area with respect to taxation or rates levied under or by virtue of an order made under this subsection as if the urban service area were the whole municipality. 1964, c. 68, s. 2 (1). Application of R.S.O. 1970, c. 32, s. 29
- (15) Where compensating grants are to be determined by the Municipal Board under clause *k* or *m* of subsection 11, the determination shall not be made until after one complete fiscal year of the municipalities has elapsed following the date of the annexation or amalgamation. Determination of compensating grants by Board
- (16) The Municipal Board may make such rules and regulations and issue such orders and directions in respect of any matter not specifically provided for in this section as it considers Municipal Board may make rules, etc.

necessary or desirable in connection with any such annexation or amalgamation and every such rule, regulation, order and direction is valid and binding upon all municipalities and local boards interested in or affected thereby.

No order if  
municipality  
in default

(17) No order of annexation or amalgamation of any municipality or any part thereof shall be made under this section at a time when the municipality is in default in payment of any interest or principal in respect of its debentures.

Provisions  
of this  
section to  
prevail

(18) The powers conferred upon the Municipal Board by this section may be exercised at any time or times notwithstanding any other provision in this Act or any other special or general Act and, in the event of any conflict between the provisions of this section and the other provisions of this Act or any other special or general Act, the provisions of this section prevail. R.S.O. 1960, c. 249, s. 14 (11-14).

Decision  
granting  
annexation  
of amal-  
gamation  
R.S.O. 1970,  
c. 323

(19) Section 94 of *The Ontario Municipal Board Act* does not apply to a decision of the Municipal Board providing for an annexation or amalgamation or refusing an application for an annexation or amalgamation and such decision,

- (a) shall be in writing;
- (b) shall identify the area to be annexed or amalgamated; and
- (c) shall fix the date when the annexation or amalgamation shall be effective,

and a copy of the decision shall be sent by the secretary of the Board by registered mail to the clerk of every municipality, including every county, affected by the decision, and to such other persons as the Board may direct. R.S.O. 1960, c. 249, s. 14 (15); 1968, c. 76, s. 1.

Notice of  
objection

(20) No order shall be made under subsection 2 until the expiration of twenty-eight days after the mailing of the copies of the decision under subsection 19 and, within such period of twenty-eight days, notice of objection to the decision may be filed with the Clerk of the Executive Council.

Idem

(21) For the purposes of subsection 20, the notice of objection means an objection in writing, giving reasons therefor, that, according to the certificate of the clerk of the municipality, is signed by not less than 10 per cent of the persons qualified to vote on money by-laws who are resident in,

- (a) the municipality that has applied for the order; or
- (b) the area that by the decision is to be annexed to or amalgamated with the applicant municipality,

and includes, where there are no persons qualified to vote on money by-laws who are resident in the area to be annexed, an

objection in writing, giving reasons therefor, authorized by by-law of the council of the municipality in which such area is situated.

(22) An objection filed under subsection 20 may be withdrawn by the filing with the Clerk of the Executive Council, at any time before the Lieutenant Governor in Council has made an order under subsection 23, of a notice in writing of such withdrawal signed by one-third or more of the objectors provided that the then remaining objectors constitute not more than 10 per cent of the persons who were entitled to sign the objection under subsection 21, or, where the objection was authorized by the council of a municipality, of a certified copy of a by-law repealing the authorizing by-law.

Withdrawal  
of objection

(23) Where an objection is filed in accordance with subsections 20 and 21 and is not withdrawn, the Lieutenant Governor in Council may by order,

Powers of  
Lieutenant  
Governor in  
Council

- (a) confirm the decision of the Municipal Board; or
- (b) require the Municipal Board to hold a new public hearing of the annexation or amalgamation application before such members of the Board as the Lieutenant Governor in Council may designate.

(24) The decision of the Municipal Board,

Finality  
of decision

- (a) where no objection is filed in accordance with subsections 20 and 21 or where the objections thereto are withdrawn in accordance with subsection 22; or
- (b) when confirmed by the Lieutenant Governor in Council; or
- (c) after a new public hearing ordered by the Lieutenant Governor in Council,

is final and not open to appeal, and the Board may thereupon make an order under subsection 2.

(25) Nothing in this section affects the application of section 95 of *The Ontario Municipal Board Act*. R.S.O. 1960, c. 249, s. 14 (16-21).

Application  
of  
R.S.O. 1970,  
c. 323, s. 95

(26) Where part of a local municipality becomes part of a local municipality in another county or territorial district, it thereafter forms part of that county or territorial district except for the purpose of representation in the Assembly. 1967, c. 55, s. 1 (2).

Adding  
parts to  
municipality  
in another  
county or  
territorial  
district

(27) When an order is made under subsection 2, it shall be registered as required by section 67 of *The Registry Act* as soon as practicable after the effective date of the order,

Registration  
of order  
under  
R.S.O. 1970,  
c. 409, s. 67

- (a) where the order is made upon the application of the Minister of Municipal Affairs, by such Minister;

- (b) where the order is for annexation, by the municipality to which territory has been annexed; and
- (c) where the order is for amalgamation, by the new municipality. 1964, c. 68, s. 2 (2).

Alteration  
of areas

**15.**—(1) Upon the application of a municipality to alter, enlarge, reduce or dissolve any fire, police, sewage, water or transportation area or local improvement area or street lighting area created under this or any other Act or any other area created for any municipal purpose, or to amalgamate any such area with any other area of a similar nature in the municipality or to divide any such area or areas into new areas, the Municipal Board may, on such terms as it considers expedient, by order make such alteration, enlargement, reduction, division, dissolution or amalgamation.

Public  
hearing

(2) Unless under all the circumstances affecting the matter the Municipal Board considers unnecessary and by order dispenses with a public hearing, the Board shall, before making an order under this section, hold a public hearing, after such notice thereof has been given as the Board may direct, for the purpose of inquiring into the merits of the application and of hearing any objections that any person may desire to bring to the attention of the Board.

Application  
of s. 14

(3) The provisions of section 14, except subsections 4 and 19 to 25, apply *mutatis mutandis* to an application under this section. R.S.O. 1960, c. 249, s. 15.

Union of  
townships

**16.**—(1) A union of townships shall consist of two or more townships united for municipal purposes and having in common, as if one township, all offices and institutions established by law pertaining to township municipalities.

Annexation  
of town-  
ships in  
unorganized  
territory  
to county

(2) The Lieutenant Governor in Council may, by proclamation, annex a township, or two or more townships lying adjacent to one another laid out by the Crown in unorganized territory, to any adjacent county, and may erect the same with another township in the county into a union of townships.

Separation  
of township  
from union

(3) Upon the application of a union of townships, authorized by by-law of the council thereof, or upon the application of at least seventy-five inhabitants of one of the townships included in a union of townships, the Municipal Board may by order on such terms as it considers expedient separate the township in respect of which the application is made from the union of townships and,

- (a) incorporate the inhabitants of the separated township as a new township; or
- (b) erect the township with an adjoining township into a union of townships.

(4) Where a township is separated from a union of townships, the order of the Municipal Board shall direct the name that the remainder of the union shall bear, the name that the new township or union shall bear, the boundaries of the municipalities, and the date when the order shall take effect, and may provide for any matters that the Board considers necessary for the establishment and carrying on of the municipalities. Names, boundaries, etc.

(5) The provisions of section 14, except subsections 19 to 25, apply *mutatis mutandis* to an application under subsection 3. R.S.O. 1960, c. 249, s. 16. Application of s. 14

**MATTERS CONSEQUENT ON INCORPORATIONS,  
ERLECTIONS, ALTERATIONS OF BOUNDARIES, ETC.**

**17.**—(1) The incorporation of a locality as an improvement district, township, village or town, or the erection of an improvement district into a village, township or town, or the erection of a village or township into a town, or the erection of a village, town or township into a city, or the separation of a township from a union of townships, does not affect the by-laws then in force in the locality or municipality, and they remain in force in the locality or municipality until repealed by the council of the newly incorporated or erected municipality. R.S.O. 1960, c. 249, s. 17 (1); 1968, c. 76, s. 2. By-laws to remain in force on incorporations, etc.

(2) Subject to subsection 4, the amalgamation of two or more municipalities does not affect the by-laws then in force in each of the former municipalities and they remain in force in each former municipality until repealed by the council of the new municipality. R.S.O. 1960, c. 249, s. 17 (2); 1964, c. 68, s. 3 (1). Idem

(3) Nothing in this section authorizes the amendment or repeal of a by-law that the council by which it was passed could not lawfully amend or repeal. R.S.O. 1960, c. 249, s. 17 (3). Proviso

(4) Where, on the date of an order of the Municipal Board providing for the amalgamation of two or more municipalities, there is a by-law, passed under section 2 of *The Municipal Franchise Extension Act*, in force in one or more of the municipalities, then, By-laws under R.S.O. 1970, c. 288

- (a) if the municipality or municipalities in which such a by-law is in force have more than 50 per cent of the population of the new municipality according to the last revised assessment rolls of the former municipalities, such by-law or by-laws shall be deemed to be in force for all purposes of the whole of the new municipality until repealed by the council of the new municipality; or
- (b) if the municipality or municipalities in which such a by-law is in force have less than 50 per cent of the population of the new municipality according to the last



revised assessment rolls of the former municipalities, such by-law or by-laws shall be deemed to be repealed for all purposes of the new municipality.

Dissolution of police village included in area erected into an urban municipality

(5) Where a township or part of a township in which a police village is situate is erected into an urban municipality, the police village or part of the police village within such township or part of a township is dissolved or detached, as the case may be, and clauses *d, e, f* and *j* of subsection 7 of section 25 and subsection 8 of section 25 apply *mutatis mutandis*. 1965, c. 77, s. 4.

By-laws in force in annexed territory

18. Except where otherwise ordered by the Municipal Board, where a locality or a municipality is annexed to a municipality, the by-laws of the latter municipality extend to the locality or annexed municipality and the by-laws then in force in the locality or annexed municipality cease to apply to it, except by-laws relating to highways, by-laws designating areas of subdivision control and by-laws passed under section 35 of *The Planning Act* or a predecessor of such section or which are kept in force by subsection 3 of section 13 of *The Municipal Amendment Act, 1941*, which shall remain in force until repealed by the council of the annexing municipality, and except by-laws conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by the council that passed them. R.S.O. 1960, c. 249, s. 18.

R.S.O. 1970, c. 349

1941, c. 35

Assets, etc., on annexations, amalgamations, erections

19.—(1) Where,

- (a) the whole of a municipality is annexed to another municipality;
- (b) two or more municipalities are amalgamated;
- (c) an improvement district is erected into a village, township or town;
- (d) a village or township is erected into a town;
- (e) a village, town or township is erected into a city,

all the assets and liabilities of the annexed or former municipality or municipalities and its or their local boards are assets and liabilities of the annexing or new municipality and its local boards, and the annexing or new municipality and its local boards for all purposes stand in the place and stead of the annexed or former municipality or municipalities and its or their local boards. R.S.O. 1960, c. 249, s. 19 (1); 1967, c. 55, s. 2; 1968, c. 76, s. 3.

Idem

(2) Without limiting the generality of subsection 1, the annexing or new municipality has the same rights and powers as respects the collection and recovery of all unpaid taxes imposed by the annexed or former municipality or municipalities, including those for the year in which the annexation, amalgamation or

erection takes place, as if such taxes had been imposed by the annexing or new municipality. R.S.O. 1960, c. 249, s. 19 (2).

**20.**—(1) Unless otherwise ordered by the Municipal Board, where a locality is incorporated as an improvement district, township, village or town, or is detached from one municipality and annexed to another, the real property belonging to the municipality from which the locality becomes or is detached and situated in the locality belongs to and is vested in the newly incorporated municipality or the annexing municipality, as the case may be, except a town hall and the land on which it is erected or which is used or enjoyed in connection with it, which shall remain the property of the municipality from which the locality becomes or is detached.

Disposition  
of real  
property,  
on incor-  
porations  
and  
annexations

(2) Unless otherwise ordered by the Municipal Board, where a township is separated from a union of townships, the real property belonging to the union of townships and situated in the separated township belongs to and is vested in the separated township and the remainder of the real property is the property of the remainder of the union. R.S.O. 1960, c. 249, s. 20.

on  
separation  
from union  
of  
townships

**21.**—(1) Except where otherwise provided by the Municipal Board, where a locality is incorporated as an improvement district, township, village or town, or is detached from one municipality and annexed to another, the taxes that were imposed by the municipality from which the locality becomes or is detached before the incorporation or annexation takes effect and are unpaid at the time the incorporation or annexation takes effect belong to the newly incorporated municipality or the annexing municipality, as the case may be, and may be collected and recovered by it as if they had been imposed by it.

Unpaid  
taxes

(2) The unpaid taxes, the right to collect and recover which is transferred to the newly incorporated municipality or the annexing municipality under subsection 1, shall be taken into consideration upon the adjustment of assets and liabilities consequent upon the incorporation or annexation. R.S.O. 1960, c. 249, s. 21.

Idem

**22.**—(1) Where,

- (a) a locality is incorporated as an improvement district, township, village or town;
- (b) an improvement district is erected into a village, township or town;
- (c) a village or township is erected into a town;
- (d) a village, town or township is erected into a city; or
- (e) a township is separated from a union of townships,

Jurisdiction  
of old  
council on  
incorpora-  
tions, etc.

**imposed by such by-laws shall be collected by the new or annexing municipality, and the latter shall pay the principal and interest of the debentures issued in respect of the work or service as they become due and shall indemnify the municipality from which the land was detached against the same.**

(4) Where only part of the land specially assessed lies within the new or annexing municipality, the clerk of the municipality from which it was detached shall furnish the clerk of the new or annexing municipality with a certified copy of the by-law imposing the special assessment, and the new or annexing municipality, in each year in which a special rate upon such lands is payable, shall collect the same and shall pay over the sums collected to the treasurer of the municipality from which such land was detached, when and as the same are collected, and in the adjustment of the assets and liabilities consequent upon the detachment of such land the debts incurred by the municipality from which it was detached for its share of the cost of the work or service shall be taken into account. R.S.O. 1960, c. 249, s. 23 (2-4).

Collection of  
special rates,  
etc., where  
only part of  
land  
specially  
assessed is  
detached

N.

**NOVA SCOTIA**  
CHAPTER 195

**Municipal Boundaries and Representation Act**

INTERPRETATION

**1** In this Act,

(a) "Board" means the Board of Commissioners of Public Utilities;

(b) "Minister" means Minister of Municipal Affairs;

(c) "municipality" means municipality to which the Municipal Act applies, city or town;

(d) "ratepayer" means person assessed with respect to real property as shown on the latest assessment roll of a municipality. 1964, c. 8, s. 2.

BOARD

**2** The Board of Commissioners of Public Utilities, as constituted from time to time under the Public Utilities Act, is the Board for the purpose of this Act. 1964, c. 8, s. 3. Board.

**3** Except where inconsistent with this Act or the regulations, the provisions of the Public Utilities Act relating to the constitution, powers, procedures and practices of the Board apply to and with respect to the Board when acting under this Act. 1964, c. 8, s. 4. Application  
of Public  
Utilities Act.

**4** The Board as to all matters within its jurisdiction under this Act has authority to hear and determine all questions of law or of fact. 1964, c. 8, s. 5. Jurisdiction  
of Board.

**5** The Board has exclusive jurisdiction in all cases and in respect of all matters in which jurisdiction is conferred on it by this Act or by any other general or special Act. 1964, c. 8, s. 6. Idem.

Subject  
matters of  
jurisdiction.

**6** The Board has jurisdiction to hear applications and to make orders providing for or relating to

- (a) the incorporation of towns;
- (b) the annexation of an area or areas to a municipality;
- (c) the amalgamation of municipalities;
- (d) the division of municipalities into wards or polling districts;
- (e) the determination of the number of aldermen or councillors for wards or polling districts;
- (f) the alteration or change of boundaries of wards in cities and towns, and of polling districts in other municipalities with a view to ensuring fair representation in councils having in mind, among other things, population densities;
- (g) the dissolution of incorporated towns;
- (h) the settlement or fixing of uncertain, unknown or disputed boundaries of counties, municipalities, wards or polling districts;
- (i) the adjustment of assets and liabilities, rights and obligations, between and among municipal bodies, ratepayers, and other persons affected by the exercise of any of the powers of the Board;
- (j) any other matter with respect to which jurisdiction is conferred upon the Board by or under this Act or any other general or special Act; and
- (k) any other matter or thing incidental to or consequential upon the exercise by the Board of any jurisdiction or power conferred upon it. 1964, c. 8, s. 7.

Application to  
other powers  
of Board.

**7** Nothing in this Act affects or applies to the exercise of any power or jurisdiction of the Board with respect to public utilities conferred upon the Board by the Public Utilities Act. 1964, c. 8, s. 8.

## ALTERATION OF BOUNDARIES

**18** (1) Upon an application to it, the Board may by Amalgamation and annexation.  
order

(a) amalgamate a municipality with any other municipality or municipalities;

(b) annex the whole or any area or areas of a municipality to another municipality or municipalities.

Persons entitled to make applications.

(2) Application under this Section may be made by

(a) the Minister;

(b) the council of a municipality; or

(c) at least fifty ratepayers in the municipality or area sought to be amalgamated or annexed where there are more than one hundred ratepayers in the municipality or area or by a majority of the ratepayers in a municipality or an area where the total number of ratepayers in the municipality or area does not exceed one hundred.

Contents of application.

(3) An application shall contain a description of the municipality or area proposed to be amalgamated or annexed and of its boundaries.

Area of amalgamation or annexation.

(4) An order under this Section may amalgamate or annex a greater or smaller area or areas than the area or areas specified in the application.

Division into districts or wards.

(5) Where the Board is of the opinion that the annexation or amalgamation renders a division or redivision of a municipality into wards or polling districts necessary or advisable it may order such division or redivision as it considers desirable.

Annexation or dissolution of remainder of municipality.

(6) If it appears to the Board that by reason of an application made under this Section a municipality would, if an order were made granting the application, be left in regard to size, assets, location or otherwise in such condition that it would be desirable to annex the whole or part of the municipality remaining after the order to some other contiguous municipality or municipalities, the Board after such notice and hearing as it considers desirable may order

(a) that the whole or part or parts of the municipality so remaining be annexed to a contiguous municipality or municipalities; and

(b) in the event that the whole of the municipality so remaining is annexed to another muni-

city or municipalities that the municipality be dissolved. 1964, c. 8, s. 20.

**19** (1) A decision of the Board providing for annexation or amalgamation

Form of decision of Board.

- (a) shall be in writing;
- (b) shall identify the area to be annexed or amalgamated; and
- (c) shall fix the date when the amalgamation or annexation shall be effective,

and a copy of the decision shall be sent by the Clerk of the Board by registered mail to the clerk of every municipality affected by the decision and to such other persons as the Board directs.

(2) No order shall be made under Section 18 until the expiration of twenty-eight days after the mailing of the copies of the decision required by subsection (1) and within such period of twenty-eight days notices of objection to the decision may be filed with the Clerk of the Executive Council.

Time for making order.

(3) A notice of objection referred to in subsection (2) means

Notice of objection to decision.

(a) an objection in writing giving reasons therefor that according to the certificate of the clerk of the municipality is signed by not fewer than ten per cent of the resident ratepayers in

(i) the municipality that has applied for the order; or

(ii) the area that by the decision is to be annexed to or amalgamated with another municipality; or

(b) an objection in writing authorized by resolution of the council of a municipality that is to be amalgamated or to have an area annexed to or detached from it.

(4) Where an objection is filed in accordance with this Section the Governor in Council may by order

Power of Governor in Council on objection.

- (a) confirm the decision of the Board; or
- (b) require the Board to hold another hearing respecting the matter.
- (5) The decision of the Board

Finality  
of Board order.

- (a) where no objection is filed in accordance with this Section; or
- (b) when confirmed by the Governor in Council after an objection has been filed; or
- (c) after a new hearing in accordance with the order of the Governor in Council;

is final and not open to objection or to appeal except on a question of law or jurisdiction, and the Board may thereupon make an order under Section 18. 1964, c. 8, s. 21.

#### RE-ESTABLISHMENT AND DETERMINATION OF BOUNDARIES

Establishment  
of uncertain  
or unknown  
boundary  
lines.

**20** (1) Upon the application of a municipality authorized by a resolution of the council thereof or upon the application of the Minister, the Board if satisfied that the boundary lines of any county, municipality, ward or polling district, are uncertain or that the traces of such boundary lines have disappeared and it is necessary to establish the same anew may by order establish and determine those boundary lines.

Form of ap-  
plication.

(2) The application shall specify the nature and cause of the uncertainty or need for determination of the boundary lines and shall contain particulars of the evidence and proofs that are known respecting the existence and location of those lines.

Finality of  
Board's  
finding.

(3) A finding or determination of the Board, upon an application under this Section, is binding and conclusive. 1964, c. 8, s. 22.

#### DISSOLUTION OF INCORPORATED TOWNS

Dissolution  
of town.

**21** (1) Upon application of the Minister or of a town the Board may by order on such terms as it considers advisable dissolve the town and fix the date upon which the dissolution shall take effect.



**(2) The Board may by order****Consequential orders.**

(a) declare that the area comprising the town dissolved shall be annexed to and form part of another municipality or municipalities;

(b) determine that the area shall constitute or form part of a polling district or districts or a ward or wards of a municipality or municipalities to which it is annexed;

(c) adjust, alter or vary the assessed valuation of the property in the town dissolved to the end that the property shall be assessed as nearly as may be in the same manner as other property in the municipality to which it is annexed;

(d) make such determinations, issue such orders and directions, and do or cause to be done all such other matters and things as in the opinion of the Board are necessary or incidental to the carrying out of the dissolution of the town.

(3) Upon an order of dissolution being made under this Section, the office of mayor, councillor, clerk, treasurer, and of every other officer of the town dissolved shall be abolished.

**Effect of dissolution on town officers.**

(4) When an order made under this Section annexes the area comprising the town dissolved to a municipality that is not a city or town and declares it to be an additional district of that municipality, the mayor of the town dissolved shall until the next regular election of councillors pursuant to the Municipal Act be deemed for all purposes to be a councillor for the municipal district so annexed to the municipality and the town dissolved shall be an additional polling district of that municipality which shall return one councillor to the municipal council.

**Addition of town to municipality.**

(5) Where the town dissolved is declared to be an additional polling district of a municipality the list of electors prepared under the Municipal Franchise Act for the town shall be the list of electors for that municipal district until a list of electors is prepared under the Municipal Franchise Act for purposes of the municipality.

**Use of town voters lists for municipal election.**

(6) Unless the Board otherwise orders the town dissolved shall for all purposes of the Education Act be a

**Town as a school section.**

school section and shall be designated by such name or number as the Board determines. 1964, c. 8, s. 23.

Assumption  
by Governor  
in Council of  
town highway  
debt.

**22** Where a town is dissolved under Section 21 and becomes part of a municipality that is not a city or town the Governor in Council is authorized and empowered to purchase or otherwise acquire any debentures issued by the town for the purpose of laying out, opening, constructing, making, grading or paving streets, roads, bridges, culverts or retaining walls in the town, or the Governor in Council may assume liability for the payment of part or all of the principal and interest of any debentures issued by the town for any of those purposes. 1964, c. 8, s. 24.

#### CONSEQUENCES OF INCORPORATION, ALTERATION OF BOUNDARIES, AND DISSOLUTIONS

Continuation  
of municipal  
by-laws in  
town.

**23** (1) Where a town is incorporated the by-laws of the municipality of which the area of the town formed a part before incorporation remain in force in the town until repealed by the council of the town.

Effect of  
amalgamation  
on by-laws.

(2) The amalgamation of two or more municipalities does not affect the by-laws then in force in each of the former municipalities, and they remain in force in the area of each former municipality until repealed by the council of the new municipality.

Effect of  
annexation  
on by-laws.

(3) Unless the Board otherwise orders where an area or a municipality is annexed to a municipality, the by-laws, ordinances and administrative orders and health regulations of the latter municipality apply to the area or municipality annexed, and the by-laws then in force in the area or annexed municipality cease to apply to it except the by-laws made under the Town Planning Act which shall remain in force until repealed by the council of the annexing municipality. 1964, c. 8, s. 25.

Vesting of  
assets and  
liabilities on  
annexation or  
amalgamation.

**24** (1) Unless the Board otherwise orders where

(a) the whole of a municipality is annexed to another municipality; or

(b) two or more municipalities are amalgamated;

all the assets and liabilities of the annexed or former municipality or municipalities are assets and liabilities of the

annexing or new municipality and the annexing or new municipality for all purposes stands in the place and stead of the annexed or former municipality or municipalities.

(2) Without limiting the generality of subsection (1), the annexing or new municipality has the same rights and powers with respect to the collection and recovery of unpaid taxes imposed by the annexed or former municipality or municipalities, including those for the year in which the annexation or amalgamation takes place, as if those taxes had been imposed by the annexing or new municipality. 1964, c. 8, s. 26.

Tax recoveries.

**25** (1) Unless the Board otherwise orders where a locality is incorporated as a town or an area is detached from one municipality and annexed to another, the real property belonging to the municipality from which the locality or area is detached and situated in that locality or area belongs to and is vested in the newly incorporated town or the annexing municipality, as the case may be.

Transfer of municipal property on annexation or incorporation.

(2) Unless the Board otherwise orders where a locality is incorporated as a town or an area is detached from one municipality and annexed to another the taxes that were imposed upon property in the locality or area by the municipality from which the locality or area is detached before the incorporation or annexation takes effect and are unpaid at the time the incorporation or annexation takes effect belong to the newly incorporated town or the annexing municipality, as the case may be, and may be collected and recovered by it as if they had been imposed by it.

Transfer of taxes and rights to recover.

(3) The unpaid taxes and the right to collect and recover which are transferred to the newly incorporated town or the annexing municipality under subsection (2) shall be taken into consideration upon the adjustment of assets and liabilities consequent upon the incorporation or annexation. 1964, c. 8, s. 27.

Consideration of taxes on adjustment of assets.

**26** (1) Where a locality is incorporated as a town and the council of the new town is not organized until after the time of the incorporation, the council and officers having authority in the locality at the time of incorporation shall, until the council of the new town is organized, continue to have the same powers as before the incorporation.

Preservation of powers of municipal officers on incorporation of town.

Authority of  
councils and  
officers on  
amalgamation.

(2) Where two or more municipalities are amalgamated and the council of the new municipality is not organized until after the time of the amalgamation, the council and the officers of each former municipality shall, until the council of the new municipality is organized, continue to have the same powers with respect to their municipality as before the amalgamation.

Effect of  
annexation on  
terms of  
councillors.

(3) Unless the Board otherwise orders where an area of a municipality has been annexed to another municipality or the boundaries of polling districts are revised any councillor holding office at the time the annexation or revision is made shall continue to be a member of the council until the expiration of the term for which he was elected notwithstanding that the polling district that he represents or any part thereof has ceased to exist or to be part of the municipality. 1964, c. 8, s. 28.

Effect on  
village commissions  
of incorporation  
of town  
or annexation.

**27** Unless the Board otherwise orders where a locality is incorporated as a town or an area is added to a city or a town any village commission or any service commission, as defined by the Municipal Affairs Act, having authority in all or part of the locality or area, ceases to exist and all real property of the commission situated within the locality or area vests in the town or city, as the case may be. 1964, c. 8, s. 29.

Vesting of  
town assets  
and liabilities  
after dissolution.

**28** (1) Subject to Section 22 and unless the Board otherwise orders, where a town is dissolved its assets and liabilities become assets and liabilities of the municipality of which it becomes a part and that municipality for all purposes stands in the place and stead of the town.

Tax collections  
after dissolution.

(2) Without limiting the generality of subsection (1), the municipality of which the town becomes a part, has the same rights and powers as respects the collection and recovery of unpaid taxes imposed by the town, including those for the year in which the dissolution occurred, as if the taxes had been imposed by the municipality. 1964, c. 8, s. 30.

Consequential  
powers of  
Board on  
incorporation,  
annexation,  
etc.

**29** In and by an order incorporating a town, altering the boundaries of a municipality, or of wards or polling districts in a municipality, providing for the annexation of all or part of a municipality to another municipality, or for the amalgamation of municipalities, or dissolving a town, or determining uncertain or unknown boundaries, or in a subsequent order or orders, the Board may

(a) make all such adjustments of assets and liabilities as between the municipalities, village commissions, service commissions, and other persons or bodies affected by the order as may be agreed upon or, in default of agreement, as the Board considers equitable;

(b) annex, amalgamate, continue or dissolve such local boards, village commissions and service commissions, and make such adjustments of assets and liabilities of them and of the municipalities as may be agreed upon or, in default of agreement, as the Board considers equitable;

(c) define special areas within a municipality as enlarged or diminished by annexation, amalgamation or dissolution, having regard to the areas annexed, amalgamated or dissolved, and adjust the rights, claims, liabilities and obligations of the ratepayers of the areas affected and provide the extent to which the liabilities of any municipality shall be discharged by the imposition of rates upon the rateable property in those areas;

(d) subject to the other provisions of this Act, require the transfer of property from a municipality, village commission or service commission to another municipality, village commission, or service commission, and take any such transfer into consideration in the adjustment of assets and liabilities;

(e) make all such provisions for the composition and membership of councils, village commissions, service commissions, and local boards and commissions, the fixing of days for nominations either before or after the day on which the incorporation, annexation, amalgamation or dissolution becomes effective, the appointment of returning officers, the holding of elections, the qualification of candidates and electors, the preparation of first voters' lists and assessment rolls, fixing of days for first meetings of councils, commissions and boards and for such other matters as are considered necessary to provide for the effective administration of an enlarged or amalgamated municipality, incorporated town or any local board, village commission, service commission or other municipal agency;

(f) where by reason of an order of incorporation or of annexation or an order altering or determining boundaries made by the Board the taxable assessment of a municipality is reduced, authorize and direct the payment to the municipality by the incorporated town, the annexing municipality or another municipality, to relieve the municipality from any undue burden by reason of the loss of that assessment, of compensating grants during a period of not more than five years after the effective date of the incorporation, annexation or alteration of boundaries, in such amounts and manner as may be agreed upon between the municipalities affected and approved by the Board or, failing agreement, as the Board considers equitable;

(g) do or cause to be done all such other matters, acts, deeds and things as in the opinion of the Board are necessary or incidental to the carrying out of the incorporation, amalgamation, annexation, change of boundaries, or dissolution provided for in such order;

(h) make such rules and regulations and issue such orders and directions in respect of any matter not specifically provided for in this Section as it considers necessary or desirable in connection with any such incorporation, annexation, amalgamation, alteration of boundaries and dissolution. 1964, c. 8, s. 31.

#### PRACTICE AND PROCEDURE

Rules of  
procedure.

**30** (1) With the approval of the Governor in Council, the Board may make general rules respecting practice and procedure in relation to matters coming before it under this Act.

(2) Except where inconsistent with this Act or rules of practice and procedure made under this Act the rules and regulations made by the Board pursuant to the Public Utilities Act regulating matters of practice and procedure apply to proceedings under this Act. 1964, c. 8, s. 32.

Public hearing  
by Board.

**31** (1) The Board shall not make an order incorporating a town, annexing a municipality or an area to a municipality, amalgamating two or more municipalities, altering the boundaries of a municipality or of a ward or polling dis-

trict, determining the number of aldermen or councillors for wards or polling districts, or dissolving an incorporated town, without first holding a public hearing in or adjacent to the locality affected after such notice of the hearing has been given as the Board directs.

(2) When an application has been made to the Board with respect to any of the matters enumerated in subsection (1), the Board shall fix a time and place for a public hearing of the application and shall give directions respecting the form and manner of notice of that hearing.

Time, place  
and notice  
of hearing.

(3) The Board may direct that a public hearing be held at a time and place fixed by the Board and after such notice as the Board prescribes with respect to any other matter or thing in relation to which the Board has jurisdiction. 1964, c. 8, s. 33.

Other  
hearings.

**32** Before giving a decision or making an order on an application for incorporation of a town, annexation of a municipality or an area to a municipality, amalgamation of two or more municipalities, alteration of the boundaries of a municipality, alteration of the boundaries of wards or polling districts, or dissolution of an incorporated town, the Board may direct that a vote of the ratepayers in the locality or area affected be taken in such manner and at such time as the Board prescribes. 1964, c. 8, s. 34.

Votes of  
ratepayers.

**33** (1) The Board may, from time to time, engage persons having technical or special knowledge of matters or subjects within the jurisdiction of the Board or in question before the Board to assist the Board in an advisory or other capacity.

Engagement  
of experts  
by Board.

(2) The Governor in Council on the recommendation of the Chairman of the Board may, from time to time, appoint as an acting member of the Board a person who, in the opinion of the Board, is specially qualified to assist the Board with respect to any particular proceeding or matter, and the person so appointed has all the powers of a member of the Board with respect to the proceeding or matter and is entitled to such remuneration as the Governor in Council authorizes. 1964, c. 8, s. 35.

Acting Board  
members.

**34** The person designated under the Public Utilities Act to be counsel of the Board may be counsel of the Board for the purposes of this Act but the Governor in Council may designate a person to be counsel of the Board for the pur-

Counsel of  
Board.

pose of any matter or proceeding before the Board under this Act. 1964, c. 8, s. 36.

Use by Board  
of Government  
staffs.

**35** For the purpose of any inquiry or examination conducted by it or in the performance of any of the duties assigned to it by this or any other Act the Board, with the consent of the Minister in charge of any department of the Government, may avail itself of the services of any officer or employee of such department and for any such purpose the Board may, with the approval of the Governor in Council, avail itself of the services of any member, officer or employee of any board or commission established by or under any Act. 1964, c. 8, s. 37.

Inquiries at  
request of  
Board.

**36** (1) The Board may appoint or direct any person to make an inquiry and report to the Board upon any matter, application or proceeding before the Board or upon any matter or thing over which the Board has jurisdiction.

Referees.

(2) The Board may appoint one or more referees to inquire into and report to the Board upon the adjustments of assets and liabilities and of rights, claims, liabilities and obligations of municipalities and ratepayers and other persons or bodies, and after hearing such representations with respect to the report, if the Board sees fit, may adopt, vary or amend the report or refer it back to the referee or referees for further consideration and report. 1964, c. 8, s. 38.

Payment of  
costs and  
expenses.

**37** The Board may direct that some or all the costs and expenses of any person performing services pursuant to Section 33, 34, 35 or 36 shall be paid by any party or parties to the application, proceeding or matter, in such amounts or proportions as the Board directs. 1964, c. 8, s. 39.

Inspection of  
municipal  
records by  
Board.

**38** The Board or any member of the Board or any person appointed by the Board for that purpose has the right upon demand to inspect the books, accounts, papers and records of any municipality and authority to examine any officer, agent or employee of a municipality. 1964, c. 8, s. 40.

Inquiries by  
Board at  
request of  
Governor in  
Council.

**39** Upon the request of the Governor in Council, the Board shall inquire into and report upon any matter referred to in Section 6 and for the purpose of making such inquiry and report has the same power as it has upon an application under this Act. 1964, c. 8, s. 41.



**40** Every municipality shall furnish to the Board whenever required by the Board in connection with any inquiry by the Board or any application or proceeding before it such accounts, reports and information as the Board requests. 1964, c. 8, s. 42.

Reports by municipalities to Board.

**41** (1) A document purporting to be certified by a member of the Board or by the Clerk of the Board to be a true copy of any plan, profile, book or reference or other document deposited with the Board, or of any portion thereof, is, without proof of signature or office of the person who purported to have signed the document, *prima facie* evidence of the original document, and that the original is so deposited and is signed, certified, attested or executed by the persons by whom and in the manner in which the same purports to be signed, certified, attested or executed, as shown or appearing from the certified copy, and also if the certificate states the time when the original was so deposited that it was deposited at the time so stated.

Proof of Board records.

(2) A copy of any regulation, order, plan or other document in the custody of the Clerk of the Board or on record with the Board, purporting to be certified by a member of the Board or by the Clerk of the Board to be a true copy and purporting to be sealed with the seal of the Board is *prima facie* evidence of the regulation, order, plan or document without proof of the signature of the person purporting to certify it. 1964, c. 28, s. 43.

Proof of Board orders, regulations, etc.

**42** (1) Except as otherwise provided the costs of and incidental to any proceeding before the Board shall be in the discretion of the Board and may be fixed in any case at a sum certain or may be taxed.

Costs of proceedings.

(2) The Board may order by whom the costs are to be taxed and to whom they are to be allowed.

Idem.

(3) The Board may prescribe the scale under which those costs shall be taxed. 1964, c. 8, s. 44.

Idem.

**43** A person who in accordance with a summons or subpoena attends before the Board or before a person appointed by the Board to make inquiry and report shall in the discretion of the Board receive the like fees and allowances for so doing as if summoned to attend before the Supreme Court. 1964, c. 8, s. 45.

Witness fees.

Board fees  
for copies, etc.

**44** The Board may charge and collect such fees as it considers proper for all copies of documents, maps or plans and all certificates relating to the same. 1964, c. 8, s. 46.

Administrative  
expenses of  
Board.

**45** The expenses of the Board in administering this Act and performing its functions and duties under it over and above costs and fees recovered by it pursuant to this Act shall be paid out of the Consolidated Fund of the Province. 1964, c. 8, s. 47.

Conditional  
or deferred  
orders.

**46** (1) The Board may direct in any order that the order or any portion or provision of it shall come into force at a future fixed time or upon the happening of any contingency, event or condition specified in the order or upon the performance to the satisfaction of the Board or a person named by it of any terms that the Board may impose upon any party interested and the Board may direct that the whole or any portion of the order shall have force for a limited time or until the happening of a specified event.

Interim orders.

(2) The Board may instead of making an order final in the first instance make an interim order and reserve further directions either for an adjourned hearing of the matter or for further application.

Grant of  
partial  
relief by  
Board.

(3) Upon an application to the Board the Board may make an order granting the whole or part only of the application or may grant such further or other relief in addition to or in substitution for that applied for as to the Board may seem just and proper as fully in all respects as if the application had been for such partial, other or further relief. 1964, c. 8, s. 48.

Finality of  
Board  
finding.

**47** Subject to the other provisions of this Act the finding or determination of the Board upon any question of fact within its jurisdiction is binding and conclusive. 1964, c. 8, s. 49.

Review by  
Board.

**48** The Board may rehear any application before deciding it or may review, rescind, change, alter or vary any decision, approval or order made by it. 1964, c. 8, s. 50.

Enforcement  
of orders.

**49** Sections 88 and 89 of the Public Utilities Act apply to decisions or orders made by the Board under this Act. 1964, c. 8, s. 51.

**50** The Board shall file or cause to be filed with the Minister a copy of every order made by the Board under this Act. 1964, c. 8, s. 52.

Filing of  
orders with  
Minister.

**51** Where the provisions of any other general or special Act are inconsistent with the provisions of this Act the provisions of this Act prevail. 1964, c. 8, s. 53.

Conflict with  
other Acts.

§ 4.—*Annexation of Territory*O. CITIES AND  
TOWNS ACT  
OF QUEBEC

**33.** The council of the municipality, <sup>Annexa-</sup> by the affirmative vote of the absolute <sup>tion.</sup> majority of its members, may make by-laws to extend the limits of the municipality, by annexing thereto for municipal purposes any other contiguous municipality or part thereof.

Such by-law shall contain a complete <sup>Contents</sup> description of the territory to be annexed, <sup>of</sup> and shall set forth the terms and condi- <sup>by-law.</sup> tions upon which it shall be so annexed, and shall determine whether the territory so annexed shall form a single ward or more than one ward, or be wholly or in part annexed to any existing ward or wards of the municipality. R. S. 1941, c. 233, s. 33.

**34.** Before the last reading and final <sup>Approval.</sup> passing thereof by the city or town council, such by-law must be approved by the council of the municipality to be annexed in whole or in part, and be sanctioned by the electors who are proprietors in the said municipality or part of a municipality, as the case may be, in the manner hereinafter set forth. R. S. 1941, c. 233, s. 34.

**35.** A copy of such by-law shall be <sup>Publica-</sup> published once a week for one month in a <sup>tion.</sup> French newspaper, if any, and in an English newspaper, if any, published in the municipality or part of a municipality to be annexed, and if there be but one newspaper published therein or if all the newspapers therein be published in the same language, then in both languages in one of such newspapers, and whether the by-law be published or not in one or more newspapers, such copy shall be posted up at the door of the city hall or town hall, at the door of the parish church of the municipality interested, at the door of the hall or building in which the council of such municipality usually holds its sittings, and in at least six other public places in the said municipality, or part of a municipality, as the case may be, with a notice signed by the clerk of the city or town, certifying that it is a true copy of the original by-law which will be taken into consideration by the council of the city or town, after the expiration of thirty days from the date of the posting thereof, as aforesaid, and stating that, on a day and hour and at a place in the said municipality or part of a municipality, fixed by the mayor of the municipality, and named and designated in the notice, such day being not less than fifteen nor more than twenty <sup>Meeting</sup> days after such posting, a general meeting <sup>of</sup> of the electors who are property-owners <sup>electors.</sup> in the said municipality or part of a municipality will be held for the purpose of considering such by-law and approving or dis-approving thereof. R. S. 1941, c. 233, s. 35.

**36.** At such meeting, the mayor of the municipality in which it is held shall preside, or, in his absence or refusal to act, some other person to be chosen by the meeting, who shall be a member of the council of such municipality, if any such be present at such meeting and willing to act.

The clerk or secretary-treasurer of such municipality shall attend such meeting and have with him the valuation rolls and list then in force of the electors who are proprietors in the said municipality, or a certified copy thereof, and shall act as secretary.

The only question to be determined at such meeting shall be whether the majority of the qualified electors being proprietors in the said municipality, or part of a municipality, present at the said meeting, do or do not approve of the by-law. R. S. 1941, c. 233, s. 36.

**37.** When the question has been put, the chairman of the meeting shall declare whether, in his opinion, the majority of the said electors approve or disapprove of the by-law.

His decision, if not appealed from within an hour, shall be final, and, within eight days thereafter, shall be communicated to the council of the city or town desiring to effect the annexation, by a certificate signed by the secretary of the meeting. R. S. 1941, c. 233, s. 37.

**38.** Any five of the electors present at any such meeting may appeal from the decision of the chairman, and may apply for a poll, and such poll shall be granted by the chairman of the meeting, and shall be immediately taken by him, the secretary-treasurer of the municipality acting as poll-clerk. R. S. 1941, c. 233, s. 38.

**39.** Each of the electors shall then present himself in turn to the chairman, and give his vote by "yea" or "nay", the word "yea" meaning that he approves of the proposed by-law, and the word "nay" that he disapproves of the same; but no person's vote shall be received unless he appear by the assessment rolls and electoral list to be an elector, duly qualified to vote as proprietor of immoveable property

in the said municipality or part of a municipality. R. S. 1941, c. 233, s. 39.

**40.** If, at five o'clock in the afternoon <sup>Adjourn-</sup> of the day of the meeting, the votes of all <sup>ment.</sup> the electors present have not been registered, the chairman shall adjourn the voting to the following day at ten o'clock in the forenoon, and the voting shall then continue as on the first day, and shall be closed at five o'clock in the afternoon of the second day.

If at any time, on the first or second <sup>Closing</sup> day, an hour elapse without a vote being <sup>poll.</sup> offered, the poll shall be closed. R. S. 1941, c. 233, s. 40.

**41.** At the close of the poll, the chair- <sup>Counting</sup> man shall count the "yeas", and the <sup>votes.</sup> "nays" and ascertain whether the majority of the electors who have voted approve or disapprove of the by-law.

He shall then make and sign a certificate <sup>Certif-</sup> stating the result of the voting, and such <sup>cate.</sup> certificate shall be countersigned by the clerk or secretary-treasurer of the municipality acting as secretary of the meeting, and shall be kept by him, with the poll-book, among the records of his office.

The clerk or secretary-treasurer shall <sup>Copy.</sup> send, to the clerk of the city or town desiring to effect the annexation, within eight days from the close of the poll, a duly authenticated copy of the said certificate and poll-book. R. S. 1941, c. 233, s. 41.

**42.** (1) Subject to the provisions of <sup>Procedure</sup> subsection 2, if the by-law be not ap- <sup>before</sup> proved, the council of the city or town, <sup>council.</sup> desiring to effect the annexation, shall not pass the same; but if it be approved, it shall be submitted to the council, with a preamble stating that it has been approved by the electors of the said municipality or part of a municipality, as the case may be, at a meeting called and held in conformity with the requirements of this act.

If, afterwards, the by-law be passed by <sup>Approval</sup> the vote of the majority of the aldermen, <sup>by Lt.-</sup> it shall come into force after approval by <sup>Gov. in C.</sup> the Lieutenant-Governor in Council.

(2) If the council of the municipal corporation of which the territory or part of the territory is to be annexed disapproves the by-law or refuses or neglects to decide thereon within sixty days of the transmission to it of a true copy of such by-law, the council of the municipal corporation desiring the annexation may, on petition received within the following sixty days, bearing the signatures of seventy-five per cent in number and fifty per cent in value of the electors who are proprietors of the territory concerned, pass the annexation by-law with the same validity and effect as if it had been approved both by the council of the municipality where such territory is located and by the electors who are proprietors according to the provisions of section 33 to 41. R. S. 1941, c. 233, ss. 42 and 42a; 8-9 Eliz. II, c. 76, ss. 8 and 9.

**43.** The Lieutenant-Governor in Council may require, from the council of each of the municipalities, all such documents and information as he deems necessary for ascertaining the expediency of such by-law, or of certain provisions thereof; and the officers of the council of each of such municipalities shall furnish the same.

The Lieutenant-Governor in Council may approve the by-law with the amendments which he deems suitable as to the conditions for annexation. The conditions for annexation provided by the by-law or those determined by the Lieutenant-Governor in Council shall have effect notwithstanding any inconsistent legislative provisions governing the municipal corporations concerned.

The Minister of Municipal Affairs shall publish a notice in the *Quebec Official Gazette* that such by-law has been approved, and such by-law shall come into force as from the date of the publication of such notice.

Such notice shall contain a precise description of the territory to be annexed. R. S. 1941, c. 233, s. 43; 7 Geo. VI, c. 37, s. 1; 8-9 Eliz. II, c. 76, s. 10.

**44.** So soon as any municipality or part of a municipality has been annexed to a city or town according to the provisions of this act, it shall remain subject to the

· provisions of the various acts, by-laws,  
 · rules and regulations in force at the time  
 · of the annexation or thereafter in virtue  
 · of the powers conferred by law upon the  
 · corporation of the city or town, except  
 · insofar as such provisions shall be incom-  
 · patible with the conditions of the by-law  
 · under the authority whereof the annexa-  
 · tion was effected.

Nevertheless, the electoral list of the <sup>Electoral</sup> municipality or part of a municipality <sup>list.</sup> annexed shall remain in force, insofar as it is concerned, until another list shall have been legally prepared and put into force in the city or town to which the municipality or part of a municipality has been annexed. R. S. 1941, c. 233, s. 44.

**45.** Any municipal officer or member <sup>Officer</sup> of a municipal council who neglects or <sup>refusing</sup> refuses to perform, or to join in perform- <sup>to act.</sup> ing, any official act or duty required of him for carrying out the provisions of this subdivision, shall be guilty of an offence and shall be liable to a fine of fifty dollars, <sup>Fine.</sup> which fine may be sued for within six months after the offence was committed. R. S. 1941, c. 233, s. 45; 13 Geo. VI, c. 59, s. 2.

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