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214 Va. 216

Vol. II (In Two Volumes) Pages 401-781

IN THE

Supreme Court of Virginia

AT RICHMOND

CITY OF ROANOKE,
Appellant,

RECORD No. 8095 v.

COUNTY OF ROANOKE, ET AL.,
Appellees.

COUNTY OF ROANOKE,
Appellant,

RECORD No. 8096 v.

CITY OF ROANOKE, ET AL.,
Appellees.

CITY OF SALEM,
Appellant,

RECORD No. 8097 v.

COUNTY OF ROANOKE, ET AL.,
Appellees.

BLANCHE WEDDLE, ET AL., AND ROY C. KINSEY, SR., ET AL.,
Appellants,

RECORD No. 8098 v.

COUNTY OF ROANOKE, ET AL.,
Appellees.

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Q And look at the third column. There are two districts that have two-man cars 24 hours a day. Both of those districts are in the present City, aren't they? A Yes, sir.

Q Looking down at the traffic supplement total, what does this amount to, Mr. Hirst? A This amounts to 30 police officers in the total complement of the traffic division, and these are 30 officers that are on duty over and above the district assignments that you have just commented upon. These are additional personnel in the total area over and above the district assignments.

Q Thirty officers? A Yes, sir.

Q How many of them are on duty at any one time? A This will vary, Mr. Fitzgerald. It depends on assignments, time off and time on duty and this type of thing. [968] It will range in the department, dependent also upon the day of the week.

Q Can you tell me some bracket of how many of these men are on duty at any one time? A It can range anywhere from five to 15.

Q Five to 15? A Yes, sir.

Q These 30 men have their days off, do they? A Yes, sir.

Q How many days a week do they work? A They work on a 40-hour basis as the rest of the department.

Q Five days a week? A Five days a week.

Q And they work eight hours a day? A Yes, sir.

Q So you say that out of the 30 men five to 15 will be on at any one time? A Yes, sir.

Q It is probably, out of 30 men with days off and working eight hours a day, nearer five men at any one time on duty, isn't it, sir? It would have to be, wouldn't it? A Well, it depends on what days you are calculating on, because under an overlaping—under an overlaping [969] assignment situation on Fridays, Saturdays and this type of thing where traffic is—the movement of traffic activity is perhaps the highest by an overlaping—in this situations we can run as high as 15.

Q These men would be spread all over the districts as shown? A Yes, sir.

Q But you don't know how many men are going to be in what districts, do you? A No, sir.

Q Because you don't know? A Because they are not pinned to specific districts. The nature of the work is such that—

Q Tell us why these districts are grouped underneath there, the districts 1, 5, 9, 10, 3, 4, 17, 18 and 20? A Well, these are the groups of districts to which traffic patrol officers would be specifically assigned as an area of responsibility. For example, when your traffic patrol personnel are distributed throughout the total City, we are indicating here that we can combine Districts 1, 5, 9 and 10 and work them as a single unit in traffic control work. We could combine 3, 4, 8, 17, 18 and 20 and work them as a single unit.

Q So you have no way of knowing how many of these [970] five men or more are going to be in what district at what time? A No, sir.

Q Moving along, you said you would not have precincts, that that was not in the plan? A Yes, sir.

Q You will get one headquarters. Where is that? A That would be proposed in the—As I stated, in the center, the municipal center.

Q In the present City of Roanoke? A Yes, sir.

Q Now, Mr. Hirst, if you take Districts 6, 7, 9, 10, 12, 13, 14, 19, 20 and 21 that have a one-man patrol in them—is that right? A Yes, sir.

Q And 1, 2, 4, 5, 11, 15, 16, 17 and 18 that have a one-man patrol during daylight hours—is that true? A As I am going through that, yes, sir.

Q What happens to law enforcement out in the County where there is a change of shifts and that police officer driving that car out in the Glenvar area or the Catawba area or Bent Mountain area comes in to turn his car over to the next man, when he comes all the way in to the center of the City of Roanoke? [971] A Are you ready?

Q Yes, sir. A This is handled by an overlapping shift assignment. The officer who comes on duty at 3:00 o'clock leaves the station and goes to his point of duty and meets the officer and the other officer comes in. This is a system we do not completely follow within the City

at the present time because we are not involved in the distances that are affected here.

Q As a matter of fact, you don't use that system at the present time in the City, do you? A No, sir.

Q Not at all, do you? A It depends on circumstances. There are circumstances where officers coming on duty—if there is some particular situation taking place—will go and take over from the other officer and the other officer comes in.

Q Yes, if there is an accident or a scene of a crime or something like that and one officer is there, he doesn't leave the scene and go on back to the station house until the other officer meets him there? A Surveillance, special activities, yes, sir.

Q But as a routine thing, the police officer when he gets through his eight-hour shift or how ever many hours it [972] is—they are eight hours, aren't they? A Yes, sir.

Q He goes to the station house and checks in his car and makes his reports and the officer coming on duty takes his car and goes into the area of patrol, doesn't he? A This is generally the routine. Now, it is not a standard routine. There are the exceptions that I stated to it. We try to avoid also in the scheduling of officers setting up a specific pattern on this type of thing because those who watch the movement of police officers don't assume that at 3:00 o'clock on every day there is no officer present in an area.

Q But my question is, Mr. Hirst, as the general rule this is the proposition and this is where the exchange takes place? A As a general rule this is the system under which we operate within the present City.

TRANSCRIPT DATED APRIL 28, 1971

[975] * * *

Q Mr. Hirst, when we ended yesterday I believe you were commencing to describe what was going to happen in the areas of the County where you have one man in one car patrolling and this shift changes. A Yes, sir.

Q Can you explain that, sir? A Yes, sir. Could I ask to have Exhibit F-3 on the board, please.

When I presented the matter of—In my initial testimony on the City's police department as a part of the broad coverage of the City government, I touched what I think was rather lightly on the subject of the police department. I did not go into details.

I think for the benefit of attempting to answer this question, and I think other aspects of police administration, and how we propose to service the County if it is annexed, I would like to develop this aspect of patrol districts because it is only one segment of the total policing program, [976] both for the City and the Town of Vinton and the County.

Q Before you do that, Mr. Hirst, can you answer my question about how the patrols that you have shown by your exhibit that are going to patrol these various districts—when there is a change of shift, how is it going to take place? A It can be done in two ways, sir.

The system under which we now operate and which would certainly be applicable is that a shift of a platoon, and we function by three platoons—a shift of a platoon, into headquarters. It is not released until the second platoon, or the ongoing or oncoming platoon takes over and assumes its duty and goes into the field.

Q But that— A Just a minute, sir. I haven't finished. May I—

Mr. Davenport: May the witness go to the board?

Judge Hoback: Yes indeed.

The Witness: These patrol districts are divided into 21 units, which means that there would be 21 service or patrol areas in the total division of the proposed City. The system that we now have, Mr. Fitzgerald, that I just referred to, represents [977] an area of the present City roughly described as I am circling the map with my pointer.

In view of these distances the system of bringing an off-going platoon into headquarters, having it to stand by until the on-going platoon takes over and goes into the field, does not present too much of a problem to us in distance. In fact, insofar as the present City of Roanoke is concerned, if there were to be a time when we would want this order to appear the most, or a time more suitable to us, that would be at the time when there is a shift change because we have two complete platoons available.

However, in the proposal that has been submitted at this division

there can be the question that if you were going to bring all of these people into the center point at one specific change hour such as 11:00 o'clock when we make a shift change at night or 3:00 o'clock in the afternoon, then perhaps the obvious question is, well, you are leaving the entire area uncovered.

The answer to that is that you make your shift change on a split basis. For example, sir, at 11:00 o'clock at night, District 13, District 14, District [978] 7, District 18, alternating districts, commune, make their shift change, go back to their posts 30 minutes later.

District 12, District 16, District 19, District 20, and in the same type of division.

The result of this is that with this size coverage you leave field coverage in this segment of the City—you leave field coverage in a pie fashion around and you are not in the point of having everybody in headquarters.

[979] By Mr. Fitzgerald:

Q Mr. Hirst, yesterday I thought you said something about having them go out there and switch cars out of the field somewhere. Isn't that what you started to say, or said yesterday, that they would change shifts, not come into headquarters, but change shifts in the field, leave that car and pick up the cruiser? Do you remember that? A I don't remember saying that. I remember going into the subject of where a patrolman in a district has an activity in progress, the man comes out in the field and replaces him. I don't remember talking about shifting cars.

Q You do not. All right, sir.

Then if at some time or other whoever is patrolling, the one man in the one cruiser in Area 20 is going to leave Area 20 and come into headquarters then between each eight hours sometime, whether it's 11:00 o'clock or 12:00 o'clock? A That's correct.

Q At that time, maybe there is one officer in 13 that will be still patrolling, is that correct? A Yes, sir.

Q Does he go over in District 20 and patrol all this area, go from the Poor Mountain area, Lost Mountain area, over into Catawba Valley? A I doubt if District 13 would pull into District 20.

[980] Q Would 19? A District 19 could pull into 20. Mr. Fitzgerald, 18, 19 and 20 are comparable to the districts the County now has one man in. The County has the same situation.

Q But they don't come into the City of Roanoke to change shifts, do they? A No, sir, they come into the City of Salem.

Q There are certain reports to make out when a shift change is taking place, a police officer has to come in and make reports, doesn't he? A Yes, sir.

Q So it's almost necessary if you don't have precincts in the total area, that the police officer has to come to headquarters, doesn't he? A That's correct.

Q How many cruisers do you have? You mentioned vehicles, but how many police cruisers do you have operable in the City of Roanoke, sir? A We have—one moment, sir.

We have 40.

Q And that doesn't include motorcycles, does it, sir? A No, sir, there are 11 motorcycles, three trucks, eight serva cars, making a total of 62 vehicles with the City.

Q You don't propose to put any motorcycles out in [981] these rural areas, do you? A It's quite possible that motorcycles would move into those areas, yes, sir.

Q You think that the present law enforcement officers of the County of Roanoke, when they get through their tour of duty, must come into Salem? A They have to come into Salem when they complete their tour of duty. They also have to come into Salem to bring prisoners to court for testimony, for records—

Q Yes, sir. We are talking about ending their tour of duty between shifts. Don't you know, Mr. Hirst, that the law enforcement officers of Roanoke County have individual cars that go home with them, they leave their homes and go to duty and go back to their homes, and are available at their homes? A Yes, sir, their cars are given to them as private cars, and they take them home.

Q In their community? A Yes, sir.

Q You realize they do not have to come back every shift? A I realize they do not have to come back every shift, but I think it would be good if they came in every once in a while.

Q Well, you just said they have to come in, you [982] realize they come in every once in a while, don't you? A Yes, sir.

Q Mr. Hirst, you would agree, would you not, that certain functions of government increase in per capita cost as the size of the municipality grows, wouldn't you, sir? A Repeat that, sir?

Q Would you not agree that the per capita cost of certain functions of government increases as the size of the jurisdiction grows, size of the municipality grows? A I would not agree with that as a universal statement, no, sir, applicable in all cases. I think in some instances.

Q You are familiar with the municipal yearbook, are you not, sir? A I know of it, yes, sir.

Q Who is it published by? A It's published by the International City Manager's Association.

Q You have a copy of the 1970 edition, don't you? A Yes, sir.

Q Have you looked at it? A From time to time, yes, sir.

Q You certainly have looked at the per capita cost evaluated by the International City Manager's Association showing [983] the per capita cost of police department salaries and wages from cities from 10,000 to 25,000 to over 500,000 graduated in various stages, haven't you, sir? A Not too deeply study this, no, sir.

Q All right, sir. Look at the column if you would, the per capita costs of police salaries and wages from cities of 10,000 to 25,000, and tell this Court what this publication shows the per capita cost to be? A This figure reads, that you have underlined, is $12.39.

Q All right, sir. Now, would you look at the cost, per capita cost of 100,000 to 250,000? A $14.66.

Q And as the population bracket of those municipalities go up, the per capita cost of the police and law enforcement went up, didn't it, sir, in every instance? A This column increases, yes, sir.

Q All right. Now, look, here, sir, is the same thing for fire departments, you will see Table 4. And you are looking at page 258 of the 1970 Edition of the Municipal Yearbook.

What is the per capita cost of municipalities from 10,000 to 25,000 for salaries and wages for fire services? A This reads $9.86.

Q Would you read the column for 50,000 to 100,000? [984] A $12.93.

Q And what does it go up from 50,000 to 200,000, what does it go up to? A It goes up to $13.18, which is an increase of 25 cents in a population range of 50,000 to 250,000.

Q But the fact of the matter is, Mr. Hirst, in all these six brackets of population, as the population bracket goes up, so does the per capita cost of service, doesn't it, sir? A One moment, sir.

Yes, sir, it goes up. But again, this—the increase from a population of 50,000 all the way up to a population of 250,000, according to this table that you are giving to me, is only 25 cents per capita in a range of over 200,000 increase. Twenty-five cents against $12.93 is about a half of one percent, I believe.

[985] Q But it is going up, not down, is that true? A It is going up but I would say the increase is relatively insignificant.

Q But there is no economy or savings in being larger, at least in those two instances, is there, sir? A Not if you go by that chart, but I don't think that that—Again, I have a 1 percent, if my mental mathematics at this point—25 cents increase in a jump from 50,000 to 250,000 to me is relatively insignificant.

Q The jump, Mr. Hirst, if you will use your mathematical ability, is between figures such as $12.93 and $13.18. That is more than half of one percent increase, isn't it? A It is 25 cents. It is a 25 cent increase from $12.93. I am mentally doing some division.

I don't think that is a significant jump from a City with a population of 50,000—in other words, the jump from a City the size of Lynchburg, Virginia, to a City the size of Richmond, Virginia, 25 cents per capita increase in police protection, considering the increased sizes in those two departments, to me is not a significant increase. In fact, I would think it would be a rather creditable difference.

Q Would you recognize the fact that costs of at [986] least these two very important services go up, whether it is a small increase or a large increase? They go up, not down, as you get larger, don't they? That is true, is it not? A I will accept generally that statement, yes, sir.

Q You are familiar with the fact that a considerable portion of the cost of law enforcement in Roanoke County is now being paid for by the State of Virginia, aren't you, sir? A Yes, sir.

Q Two-thirds? A Yes, sir.

Q Will the citizens of Roanoke County lose that revenue from the State if they are annexed to the City? A The citizens of Roanoke—Yes, sir, they would lose that revenue. Not totally.

Now, the impression should not be left that the total cost of the Sheriff's Department would be lost because, again, as I stated yesterday, a portion of the Sheriff's Department is assigned and is delegated to duties attendant to the courts, attendant to the jails. These personnel and their respective costs would still be participated in by the State as an affiliate to the Sheriff's Office.

The difference, sir, is in those who are assigned [987] to law enforcement.

Q And how many people did you say that was yesterday? A I used the figure of 30.

Q And how do you know how much— A Excuse me, I am sorry.

Q You used the figure of 30? A Yes, sir.

Q Do you know how much for those people the citizens of Roanoke County receive from the State in the two-thirds one-third allocation? A I don't at this moment. If I had about three minutes to do some fast multiplication, I think I could present you with an approximate figure.

Q Have you looked into how much the citizens of Roanoke County and the area will lose in State funds in that one category if this annexation is granted? A It is reflected in our budget and it would be a figure, Mr. Fitzgerald, of approximatley—I would use an approximate figure of $6,000, and this is a creditable figure to the County size, times 30 people times two-thirds, which will give me about $60,000.

Q About $60,000? A Yes, sir. Again that is assuming the [988] circumstances under which I am sitting here and multiplying.

Q Mr. Hirst, isn't 30 times 6,000 something like $180,000? A $180,000.

Q And two-thirds of $180,000 is $60,000? A I am sorry; $120,000. $60,000 is the cost to the County.

Q You would roughly figure it to be a loss of about $160,000 a year to the citizens of Roanoke County? A We used $120,000.

Q $120,000; I am sorry.

Would it surprise you to know that it will be $225,000 that the citizens will lose on this one State fund contribution? A Well, there still are the additional supplemental costs that are related to these 30 people. This is quite possible.

Q Mr. Hirst, you have testified that one of the advantages of this merging of the County of Roanoke with the City of Roanoke is that there is a savings in unification, I believe you said. Have you analyzed your budget that you submitted to the Court here to determine what the per capita cost from local funds is in the budget that you have presented, or the 1971-72 budget in the City of Roanoke? [989] A Let me, sir, go back to your interaction to that question. I don't think that at any point in the statements I had made to this Court I had contended that there are significant or major dollar measurable savings to the taxpayers by virtue of this annexation or by virtue of this merger. I don't think this can be reflected in any transitional budget of the comparison of the year prior to annexation and the year that would follow annexation.

In the preparation of these budgets and in the preparation of our case to this Court we considered this factor. We attempted to determine where we could point out to the Court that there would be conspicuous dollar savings as reflected in the budget of one year as opposed to the budget after there is annexation.

This cannot be done, firstly because there are factors relating to transition. Secondly, it cannot be done because we are dealing with units that are serving areas already existing and when you superimpose the governments that are in those areas on top—or combine them, I don't think there is any way that you can necessarily reflect savings.

I have indicated to the Court in my testimony two days ago that when we refer to duplication we don't claim and I don't think we can honestly say to the Court that [990] by the elimination of duplication we are going to, within a year or two years, reflect the savings to the taxpayers. This, Mr. Fitzgerald, cannot be contended.

I think you can save in duplication of effort and I think that ultimately—and it depends upon the category of which we are talking—

ultimately, in two years, three years, four years, the taxpayers of Roanoke Valley are going to save money.

Q Mr. Hirst, I am taking your exhibits here and examining you on what you have shown to this Court. My question is, have you made an analysis of the per capita costs of the government from local funds of the City of Roanoke in the 1972 budget and the per capita cost of the County's operation in its budget that has been submitted for the 1972 year and which you show the Court as the combined budget, not for the year after annexation but for the full year, the 1972-73 budget that you have compiled? A Yes, sir. We did this. I do not have the figures with me.

Q Let me see if I could remind you of these figures. We have done it, too. A We did it on the total budgets, on public assistance, comparing health budgets, we did it on police, fire and one other category that does not come to my mind in [991] attempting to analyze just what would be the effect of the combination of these units of government.

Again when you approach a budget as we have had to do in this case by taking County costs as they now exist and superimposing them on top of the City costs, there is little measurable difference that you can reflect.

Q Let's see if you can explain this, Mr. Hirst. Our calculations from your figures show that your City budget as you have shown it here without annexation for 1971-72 shows a net per capita cost of general fund activities of $12.46 per person. The County's 1972 budget shows a per capita cost of the same thing of $99.64.

If you combine those two and average them you get a per capita cost, a net per capita cost of $117.16 per capita. But your budget of 72-73 shows a per capita cost of $160.97.

Are you telling the Court that you can push that per capita cost up from an average of the two governments of $117.00 to $160.00 and bring it back down within two or three years? A You mean it down two years afterward?

Q Yes, sir. A I think this is possible, yes, sir.

I would also say that if you are dwelling upon [992] the fact that if these budgets increase or the per capita costs increase— and I will subscribe generally to your figures without checking them, sir—what is

taking place is that there is being extended in the County areas and into the Town of Vinton area governmental services that they do not now have.

Q What? A And are not provided by the present form of government?

Q What? A What, sir?

Q Yes, sir. A Well, I will start back through the list.

Q Services they do not now have? A Yes, sir. I will start first with increased and more complete fire protection that would be afforded by the proposal that we have submitted to the Court. Secondly—

Q Let's stop right there a minute. You are still depending upon the same volunteer fire companies and firemen that the County depends on now, aren't you, sir? A We are depending upon the volunteer fire companies but we are also providing the stuffing for the stations. We are proposing a considerably improved communications system. We are proposing a unified organization within [993] the department.

Q I don't want to go back over all this you said you are going to do but— A I don't mind.

Mr. Davenport: If your Honor please, Mr. Fitzgerald asked him what would be the difference and why costs are going up. I think Mr. Fitzgerald asked him—

Judge Hoback: I think he can enumerate them without repeating every one.

Mr. Davenport: I agree with that.

By Mr. Fitzgerald:

Q What services are the people of the County going to have with this almost doubled cost of government from $99 per capita to $160 per capita? What other services are they going to get that they don't already have. A Which is not a double in cost.

[994] Q No, sir, I said almost. A We propose an increase in size of the Juvenile-Domestic Relations Court, an increase in the size of the Municipal Court.

Q May I just ask one question there:

There are now two judges of lower courts, both of the Juvenile-Domestic Relations and Municipal Court, are there not, sir? A Yes, sir.

Q And you are going to have two? A But we are proposing the two on a full-time basis. I do not think that prevails at the present time.

There is a significant increase in the budget in hospitalization. This is the State—local hospitalization program, participated in on a 50-50 basis by the State Government and City Government.

Q Is this the service the citizens of Roanoke are going to get? A Yes, sir.

Q All the citizens of Roanoke? A Not all the citizens of Roanoke, no, sir. But it is the service that you cannot deny to the community.

We are reflecting in the figures that you are using, a significant increase in public assistance. And I don't [995] want to dwell on that again, but we have projected the public welfare budget to increase from 1971-1972 from, if I may use the round figures, from $9,000,000 with a combination of the two, to 1972-'73 to $12,000,000.

Q This is because of— A And that is the figure over which I have no control at this particular point.

We are projecting an increase in the cost of law enforcement, this we are already into. This is a budget increase of slightly over $300,000.

And again, sir, I would repeat on this point, I think this is going to provide—I take out the word think, it will provide to the County better, in fact much better law enforcement than they presently have. And that is not in any way intended to be a critical reflection on the Sheriff or the Sheriff's Department, but it will provide a better law enforcement service that I am sure the Sheriff would like to have if he could have it, but he can't.

And it will present a unified law enforcement program for the town of Vinton, City of Roanoke, County of Roanoke. And it is going to cost more money to do it, but I don't think we are in a position where we necessarily can pinch pennies within a budget to try to reflect savings against crime.

Q Mr. Hirst, your statement was this would afford [996] services to the County that they do not already have? A Yes, sir.

Q I understand that you are proposing to do better than the county is doing, but all the things you are mentioning the County has. They have Welfare services, they have law enforcement, they have all these things.

Do you have anything that the County is going to receive it does not get right now which is not something you are going to do better than the Sheriff does or do better than the Welfare Department of the County does, but anything, any service they don't have already? A Certainly I cannot take this budget, or I cannot take the County Government and say that they don't have a service. Because I think the County has sought to provide this service, and I don't think that the contention that the City is making before this Court is that we are going out to the County and bring them a truckload of things that they do not have. They have them. The County has a certain number of park systems, we indicated yesterday the County has three or four, whatever the number may be, four parks. They exist, they are physically there. We can produce by combining these two governments or three governments, a better functioning park system. And I think that is the objective of the suit which the City is filing and proposing in this case.

[997] In the fire department, sir, the budget increases from $1,700,000 in the year that you are making the comparisons, sir, to $2,600,000.

Q Mr. Hirst, on all these increases, this provides increased services, just like your fire department, provides more increased fire service inside the existing city than it does in the County? A No, sir.

Q You have got more fire departments that you are going to build and operate in the City than you do in the County, is that true? A Give me that one more time?

Q You propose to build more fire stations in the existing City than you do in any part of the existing County? A In the way of fire stations. But your words are, "All these things," you are saying are more benefit to the City than to the County. And that was the statement I denied, no, sir.

Q Getting back to my question, and I will assume you intend to do more than is being done in these categories, but do you have

one single service you are going to provide the County that it does not receive now, to whatever degree it receives it? A Yes, sir.

[998] Q Will you tell us what that is? A We have on the fire department, we will provide the services to the County or a manned fire station.

Q You will agree that the County has a fire fighting service now? A Yes, sir. But you asked me are we going to provide any service. We are going to provide a man, and that man is not there now.

Q I see. That is your idea of providing a service to the citizens? A That is my idea of providing a service to the citizens.

Q We needn't pursue that further, then. A All right, sir.

Q Do you know what the crime rate is in the County and the City, with whatever law enforcement they both have? A Yes, sir. Not statistically at my fingertips though, no, sir.

Q Do you know that it's much higher in the City than in the County? A I would expect that the crime ratio or rates are higher in the City than they are in the County, yes, sir.

Q Do you know what the fire losses are in the City as compared to the fire losses in the County as they presently [999] exist, with whatever services they have? A No, sir, I do not.

Q You have made no analysis of that? A I have no information available to me as to what fire losses are in the County. We have no access to that information.

Q Mr. Hirst, you were asked on direct examination whether or not the City had done everything it was ordered to do in the last annexation case of Jefferson Hills or Jefferson Forest, one or the other, and you said yes.

How about the 1949 annexation case by the City? Has the City done everything it was supposed to do after that annexation? A I am not precisely familiar with all the specifics that may have been involved in the court order. I would assume, and I think it has to be a valid assumption, that if that case was tried in 1949, 20 years ago—excuse me, I am doing mathematics in my head, that 20 years later it has apparently—the City responded to it, or we would have been in court. I would say, yes, sir.

Q How about the drainage in the Williamson Road area, one of your, I believe your engineer, Director of Public Works, said there was still plenty of work to do there.

Wasn't that one of the difficulties that existed [1000] in the 1949 suit? A Yes, sir, I think drainage has existed as a problem. This is the Williamson Road area, the 1949 area, the problem has existed in drainage there, and I am sure it will exist for a great many years.

Q That has not been completed yet, the correction of that drainage problem, has it? A Yes and no, if I can answer it both ways.

The drainage in the Williamson Road area, and this has come up already, I would wish not to leave this unanswered or unexplained. The Williamson Road area is shaped physically as a saucer that one places a coffee cup in. There is no natural drainage area out of the Williamson Road basin. In general principle, it is shaped as a saucer.

This physical situation means that if, as I think, Mr. Fitzgerald, you are implying, if the City or any government were to seek to bring about a perfect solution to the Williamson Road, 1949 area, we are in the realm of talking about multimillion dollars. And I am not unreasonable when I talk in terms of 70, 80, 100 or perhaps even $150,000,000 to perfectly resolve this area.

Now there are step solutions to this, insofar as segment drains. Mr. McGhee testified before the Court the other day that as one segment of this, the City has under [1001] construction a bridge, I think in the neighborhood of $500,000 on Orange Avenue, which will take care of a segment of this. The City, three years ago, constructed a drainage network in a portion of the Williamson Road area, that took care of a segment of this.

Sometime in the 1950's, before I came to Roanoke, the City consulted with a recognized geologist at V.P.I. whose name slips me at the moment, and his recommendation to the City was that the best way, short of just this extensive cost program, the best way to resolve the Williamson Road area was to go into a drainage well situation.

The drainage well is best described as a boring through the earth, which transfers the water from the surface down to the underlayer, the crest of the earth or the dirt. It takes it down into the subterranean undersurface.

The City has, probably, I am guessing at this point, 150 to 200 wells in the Williamson Road area. Within the last two years, we have

constructed approximately 75 wells at a cost, I believe of between $250 and $350,000. These wells are successful within about five percent, they are successful in removing water from the surface and taking it below surface.

To the best of my knowledge, as I sit here, I know of only one area in the Williamson Road segment of the City where there could be a drainage problem. And this is an area [1002] of approximately ten acres, ten to fifteen acres where we have been unsuccessful in getting a drainage well drilled because of the nature of the undersurface. And we have had the individual consulting services of a geologist at V.P.I. to advise us on this.

The alternative to this is a drainage pipe that is estimated to cost between $450,000 and $500,000 for approximately ten to fifteen acres. The economics of this question, it is not developed land.

Now that, sir, is the story of Williamson Road.

Q Mr. Hirst, whatever situation exists there has existed for these 22 years since the 1949 annexation case, hasn't it? A No, sir.

Q It has not. All right, sir. A I have already stated the steps that have been taken.

Q I said whatever situation exists there now has existed for the 22 years since 1949 annexation case? A No, sir.

Q All right, sir. A Because the situation, insofar as drainage, is not the same as it was in 1949.

Q I did not say that, sir. I said whatever is [1003] there now has been there, whatever problems are left there now, have been left there for 22 years? A No, sir.

Q All right, sir, we will leave that. How about the Garden City area? A With respect to what, sir?

Q Drainage. Is there any problem there? A There is one street in Garden City that is a—excuse me, I can't think of the name of the street, I can refer perhaps to my files. This is a street in the southeast end of the Garden City area adjoining Yellow Mountain Road. The street is approximately 650 feet long, the water comes down off of the Mill Mountain—excuse me, not Mill Mountain, it comes down off the mountain area, I can't identify my mountain. It is south of the City.

Part of the area is in the County, part of the area is in the City and we have a washing situation in the event of a heavy downpour. We had it twice last year. This is a situation that can be solved either by curb and gutter for about 600 feet, or by drainage pipe. This is the extent, to my knowledge, of drainage difficulties in the Garden City area.

Q Can you tell us why it's taken 21 or 22 years to get to this solution? A The first time that I, as City Manager of the [1004] City of Roanoke, had this situation pointed out to me, and the first time we became conscious of it was last year. And I am of the opinion this was caused by some development of land to the south of the City and the County that brought this about.

Otherwise, up to that point, I did not know of any problem in the area. I don't know that it was a situation that necessarily occurred at the time of annexation.

[1005] Q You don't know of any drainage problem that existed there during the 1949 annexation case? A I cannot say that there was not a drainage problem, Mr. Fitzgerald.

Q Do you know whether the City promised to solve a drainage problem in that area if that area were annexed in 1949, proposed a solution? A I am not familiar with what might have been involved, no, sir.

Q Let's, if you would, use your pencil and do a little mathematics. You have told the Court that the assessment ratio in the City is 40 percent and the assessment ratio in the County, I believe, is 34.7 percent. Let's round that to a little higher figure of 35.

You have also said that the City is going to proceed forthwith to adjust the assessment ratio of the County area up to the City's ratio of 40 percent.

Let's take a piece of property worth $30,000. That is the fair market value. On the City's assessment ratio that would be the assessed value of that property? A May I have one moment, sir?

All right, sir; now.

Q The fair market or appraised value of the property is $30,000. What would the assessed value of that [1006] property be in the City? A $12,000.

Q And what would it be in the County? A $10,500.

Q Are you sure it is $10,500? All right, sir; I believe you are right.

Now, the tax rate that you have proposed necessary to balance this 1971-72 budget was, I believe, $4.57? A $4.53, I believe.

Q Tell us what the tax bill would be, a piece of property in the City. A I come to $543.60.

Q Now, the piece of property in the County—the County's proposed tax rate for the same period. It is $2.95. Would you use that rate and tell us what the tax bill would be on the same piece of property in the County? A I arrive at a figure of $309.75.

Q Tell us what the difference in those tax bills is, Mr. Hirst. A $233.85.

Q Mr. Hirst, you told Mr. Jolly that you or somebody met with officials of the City of Salem some year ago, I believe? A Yes, sir, I think I did.

[1007] Q And discussed splitting the County up or dividing it up or something? A Yes, sir.

Q Were these meetings held in secret? A There were two series of meetings.

Q I am talking about the ones that you told Mr. Jolly about in answer to his question. Was it a secret meeting you were talking about? A Well, I want to be accurate because there were two series of meetings and I am not—I don't want to tell you about one and then be accused of having told Mr. Jolly about another.

Q I want you to tell me about the ones you told Mr. Jolly about. A The meetings approximately a year ago—there were meetings about three and a half years ago.

Q I am not talking about the meetings three and a half years ago. I am talking about the meetings a year ago that you told Mr. Jolly about, and would you stick to them, sir. A All right, sir. They were closed meetings.

Q Secret meetings? A Yes, sir, they were not advertised, no, sir.

Q Who was there? [1008] A There were present the Mayor—

Q Of where? A Of Roanoke. I think the Mayor of Salem, a member of the Council of Salem, a member of the Council of Roanoke, myself, the City Manager of Salem and perhaps the engineer of Salem. I think that perhaps he may have been present. I am not sure.

Q Any official of the County of Roanoke? A Not at that particular meeting, no, sir.

Q That is the meeting I am talking about. A No, sir.

Q So the surgeons were there, so to speak, but the patient was absent? You didn't invite anybody from the County of Roanoke to attend this—whatever you wish to call the meeting? A Well, there have been meetings of all governments. We have met with the Town of Vinton and—

Q Yes, sir, but— A —two years ago when representatives of the County went out there.

Q We are talking about this meeting a year ago that Mr. Jolly talked about when the yellow line or something similar to the yellow line was discussed. That is the meeting we are talking about, Mr. Hirst. No officials from the County [1009] of Roanoke were invited to attend? A But I am not going to pick up on your question and say that was when the yellow line was discussed, sir.

Q I thought you told Mr. Jolly that a line similar to that was discussed at that meeting? A I don't remember such a statement, sir.

Q All right, sir, we will let the record speak for itself.

Mr. Hirst, if your theory is a good one you would recommend the City of Salem give up its Charter and become part of the City of Roanoke, wouldn't you, sir? A I have not said that.

Q But under your theory of a unified government, doesn't unify mean to make one of? A I don't think that theory can be developed to that point. The City of Salem exists. It is a fact. I think it would be presumptious to develop such a theory as to what might or might not happen if the City of Salem did not exist. The City of Salem exists.

Q Mr. Hirst, you haven't had the sensation or the feeling that the County of Roanoke exists? A Yes, sir.

Q Well, your theory is, I thought, to make one government of the Valley, to have one government in the [1010] Valley, so if that is your theory then it necessarily follows that the City of Salem should give up its Charter and become part of that one government, should it? A I would just as soon not get into a discussion as to how this comes about, but I think from a theoretical standpoint strictly, disregarding what present situations are, ideally it should be a single government within the Valley, yes, sir.

Q And if you could have found a way to have included Salem in this annexation case, you would have had Salem there, wouldn't you, Mr. Hirst, as a defendant, because that is your theory? A That situation does not exist, no, sir.

[1020] * * *

Recross-Examination

By Mr. Fitzgerald:

Q Mr. Hirst, this was directing you to appear before the State Water Control Board, or City representatives, to explain why they haven't done what they were told to do eight or nine months ago, why the City hadn't done what it was supposed to? A This was asking the City to present to the Board its projected plans on the sewage treatment plant.

Q That was what the State Water Control Board requested, I believe you said around nine months ago? A This was what was initially requested of us last September, I believe, sir.

Q All right. Did they say anything about banning connections until you worked it out, or anything of that sort? A No, sir. There was nothing in the letter with regard to banning connections.

The only thing I believe as to banning connections pertains to the County, and this was the information that I had in the correspondence that I got last week. Copies of the [1021] correspondence for the Water Control Board indicated that it was placing or had placed certain restrictions on the County because of what I would interpret in their communication, an inadequacy of sewer lines within the County operated by the Public Sewer Authority.

Q When the County appeared before the State Water Control Board some years ago to get permission to build its own sewage treat-

ment plant, did you appear before that Water Control Board in opposition to that? A I am not certain whether I personally spoke at that Board meeting. The City of Roanoke did appear before the Board, yes, sir.

Q And opposed the County of Roanoke constructing its own treatment plant to treat the sewerage from the County? A The proposal of the County at that time was to construct at least two separate sewage treatment plants. One was proposed on the Roanoke River, one on Tinker Creek.

Q Mr. Hirst, can you just tell the Court whether the City opposed the County doing that? A Yes, the City opposed that.

Q And did the State Water Control Board approve the sewage treatment plant, the County? A By the County, I am not sure technically, Mr. Fitzgerald, what the status of that is. And this is an attempt [1022] at an honest answer.

I don't know whether the matter was held in abeyance, whether the Board formally rejected their request, or what. I do not know technically what has been done with respect to the Board.

Q But you do know the City of Roanoke has opposed the County constructing its own treatment facilities? A The City of Roanoke opposed it.

Q Yes, sir, and does oppose it? A And does oppose it, yes, sir. This is the position of the City.

Q Mr. Hirst, yesterday didn't you tell the Court that the employees of the County that you would be absorbing into the City, would have the option of keeping on with their Virginia supplemental retirement program, or going with the City? A Yes, sir.

Q And today you say they don't have that opinion, or won't have that option, is that true? A No, sir. I say today, or have said today that they have the option. The change in what I said yesterday, and I acknowledge this change, was that as to what I said yesterday, inferred that they were going to be individual options at the present time. From what I have said today, it would be a group [1023] option subject to our efforts to get a recision to the charter or the statutes as we did with the State Health Department, to permit individual options.

[1024] Q As it stands now they all have to agree to one thing or the other? A As it would stand now, yes, sir.

Q You said if the amount of contribution returned to them would not be enough to buy into the system the City would put up the additional amount? A The City through its retirement fund would put up whatever amount would be applicable to the individual employees to be certain that they get the benefit of the same length of service, the same salary scale as to the position that they come in.

For example, if we were to bring a Deputy Sheriff into the City Police Department at a higher salary than he is now getting, there would have to be a difference made up, a dollar difference, in order that he could get the same retirement benefits based on that salary.

To state it another way, we would have to—we would make up not only the salary difference but we would make up the past retirement difference.

Q That is my question; you would make up the difference? A We would make up the difference.

Q We have looked through the work sheets of your [1025] budget and find no item in there to allow for that. Is that correct? A This is covered in two ways, sir. This is covered in the accounts on retirement on the budget. We attempted to evaluate as best we could the present retirement status of the employees on the extremely limited information we have.

Also insofar as the annuity that would accrue to these employees out of the retirement fund, this would be made up in the City's retirement fund which is not reflected in the budget.

Q All right, sir. Excuse me. Are you finished? A Yes.

Q Whatever the amount is, whether it is small or large, to have the State Forest Service, the Forest Warden Service, there is nothing in your budget for that, is there? A This would be carried under the City's fire department operating account.

Q We have looked in your work sheets and find nothing for that. Is that correct? A It is not an individual line item. We don't—this would not be broken down as an individual line item. It would be under operating expenses under the maintenance code.

[1026] Q Mr. Hirst, is it fair to say that until I asked the questions about it yesterday you hadn't even considered it? A No, sir, it is not fair to say that.

Q How is it you didn't know that it was available to the City and what the cost of it would be yesterday, then? A I say it is not fair to say that because we went through—in going through the County's budget as we did, we found no budgeted item for Forest Warden Service.

We did, however, find prior to yesterday an expenditure item of either $600 or $900. I forget which figure. We could not identify it as to what this applied to.

As to the specific procedure, yes, sir, that was developed after your question yesterday.

Q Mr. Hirst, you have mentioned this contribution the City has made of providing water to an industrial site. You sell that water to those industrials, don't you? A Yes, sir. The City sells water to those industries. At the same time I think we have to roll into this package that these industries are not major water users. They are not of the nature of a dye plant or the duPont Industry or this type of thing that is a large water user. These are primarily domestic users.

This is a situation comparable to the Ingersoll- [1027] Rand Plant where the City expended $100,000 to extend water service out there to that plant. I would say based on the consumption of that plant I think we calculated it would be 75 to 80 years before the City would get a return out of Ingersoll-Rand. These are domestic-type water users, not industrial users.

Q But this is the contribution you were speaking of that the City had made to the establishment of industry? A These are contributions made to the establishment of industries within the County. We also—

Q And you charge your 100 percent surcharge to these industries, don't you? A That is correct. Also at the Blue Ridge Park for Industry, the City underwrote the cost of a storm drain out of that park for which there is no financial charge or financial revenue.

* * *

Donald Zuchelli

* * *

Direct Examination

[1028] By Mr. Davenport:

* * *

Q I note that you are currently connected with the firm of Marcou, O'Leary and Associates in Washington, D. C., as senior associate, development plant. What is Marcou, [1029] O'Leary & Associates today? A It is an economic and planning consultant firm which is a directly owned subsidiary of the Westinghouse Electric Corporation.

* * *

[1032] Q Is your firm currently involved in a project for the City of Roanoke? A Yes, we are now evaluating the pros and cons of an application for redevelopment of the Gainsboro community which is that community contiguous or adjoining the N and W headquarters to the north of downtown. This would be a revitalization project, not a clearance-type project.

Q All right. Mr. Zuchelli, these studies and reports that you have just named and described appear to be largely concerned with redevelopment in the City of Roanoke.

Can you tell the Court why Roanoke has been so concerned with redevelopment in the last ten years, going back to 1963? A Well, in response to your question, Mr. Davenport, I think that the redevelopment process in a central city is a necessary commodity or action that has to be initiated in cities to renew the character and use of their land. Mainly because of change in highways and other access, land achieves a higher use capability than it's presently being put to.

Further, the people who are living in some of these close-in areas are living in conditions which create greater cost to the City than the benefit of living in those dwellings or whatever residential benefits. But that is, I believe, their key points. But resting behind that and [1033] critically important is that any artificially constrained city has to redevelop its only assets, and that is what is inside the boundary, to accommodate the regional oriented functions that are necessary to the survival of that community.

And in that case, this is a very frustrating, timely, time-consuming, costly process of regurgitating land and placing it into a better, more usable category.

Q Is it an economical way for the City to redevelop? A The potential return to the City through redevelopment, it's been demonstrated nationally, can only be achieved if there are significant Federal subsidies attached to it. Normally, it is not a pay-as-you-go situation without the Federal subsidy, unless you are in a highly intense area where you go up densely, then the value in improvement would match the cost of acquiring both the land and improvements on that land, and the redevelopment costs associated with that.

Q Have you studied the exhibits introduced into this case? A Yes, sir, I have.

Q Particularly those introduced by Mr. Zollman? A Yes.

[1035] * * *

Q Well, will you state what the impact of this deficiency of vacant land, which you have referred to, has had [1036] upon the City in the last ten years?

[1037] * * *

A But if you look at the last ten years of growth, you will see all this.

What I have done is taken the subdivision map and had made a population census map, and had them superimposed over the areas. As you recall, the yellow areas are the areas of development of platted land from 1950 to 1960, and the red areas from 1960 to 1970. And you recall that the metropolitan market grew by 14 percent. But let's go inside this and look at it, and look at the growth in relationship to the plotted land in the subdivisions.

You see the central city, which is the economic heart of the Valley lost 5.5 percent population, or approximately 400 people. If you looked at the area which is immediately north of the City, directly accessible by the Interstate spur 581, tied around the regional center of the Crossroads Mall, the airport complex and the developable land which sits in here, [1038] that area has grown by 120 percent, ten times the growth rate of twelve percent that the City of Salem grew by because of availability of land and the attractiveness of that land.

And yet if you move around and you look at what is commonly called the corridor, or the Peters Creek area, you will find very little post '60 development. Because like the City of Salem and the City of Roanoke, it grew by 14 percent, indicating that it was reaching saturation of development.

Now let's look to the south, another area, the Cove Creek area, Cove Springs area in relation to the downtown and the two central cities, you don't find a six percent loss in population, but you find that it grew by 140 percent in ten years.

And you move back around to the Starkey area, it grew by 108 percent in ten years. And you look at the Clearbrook area, that is basically unserved, and let's talk about the availability of utilities. Other than the Hunting Creek lagoon, this area grew by seven percent, even though it was available land, due to lack of facilities.

Let's look at the rest of the area, including Vinton, the area around Read Mountain, Catawba, the area out toward Lost Mountain, what has been proposed as a combination of both urbanized and rural area. This area grew by 24 percent, which is six times the level the central city grew by in the same [1039] period.

I think in conclusion, if you reexamine, if you look at A-16—

* * *

A. This is the residential lots created by subdivisions, which is the normal development process in the Valley. And you looked at the 1950 to 1960 trends, and you looked at the 1960 to 1970 trends and added them together, and you would find that the City of Roanoke in 1950-'60 had 60 percent of the population, and approximately 30 percent of the subdivision activity.

If you look at 1960-1970, you will find that there were 8,800 lots subdivided, of which 1,000 were subdivided in the earlier years of this previous decade, and the City platted eleven percent of the lots in this City.

I think in light of the population volume, the growth of said areas that I have related to you, and the indications of the permits on platted land, that the City of Roanoke has found itself in the situation in which it is not getting a fair share of the growth and development, development in the residential market of the Valley. And because of constrained [1040] boundaries, it has been denied its opportunity to participate, even though it is the heart of the region.

[1042] * * *

In my work with relocation programming it has become obvious to me, such as Smith Transfer's, Clover Creamery and others, that the availability of 3,300 acres, regardless of its location criteria, has not stopped the flight of expanding and relocating industrial industries.

So the City has not benefited, Mr. Davenport, from redevelopment. It has given up its precious land resources for public and semi-public use to serve the entire [1043] Valley and now its is losing its industrial base due to lack of land.

Q What is the economic impact of that, Mr. Zuchelli? A If I could have Exhibit A-19, please.

In answer to you, I think it has been pointed out that the City of Roanoke has gained $46,000,000 in true taxable real estate in the last eight years. That is about 5.7 million dollars a year. The County has gained, in the same period of time, $207,000,000 of real estate value on their lower valuations, or $26,000,000 a year, which is a rate of almost four to five times the Roanoke Central City's growth. I think that has been testified to.

But let's look at the true significance of what this means, in my judgment. If you took the dollar you have in your pocket right now and put it back to 1962 to spend it, you would find out that in essence you have got $1.27 in your pocket, not $1.00, because of inflation. So if you used the consumer price index that is nationally accepted and published by the Department of Labor and you multiplied and take the 1962 tax base, it is not worth $452,000,000 in today's dollars but it is actually worth $570,000,000 in buying power today because it is 27 cents less valuable.

So in essence the City has lost $72,000,000 in taxable real estate and still has to carry on its operations.

[1044] I don't believe anybody can say in eight years the public demand for services has not increased. So we have actually suffered a 13 percent decline in real dollar value of real estate. In other words, the City has $800,000 left available to it to do the job today in real estate taxes than it had eight years ago.

The conclusion, I feel, is that this government in its presently-constituted form and judicial boundaries can little afford in the future to support quality developments if these conditions are allowed to continue and are not properly addressed.

* * *

A. I think you can take exactly what I have talked [1045] about as negative assets, or negative conditions, and simply turn them around. If the annexation is approved the benefit to the City is a loss of a proportionate share of residential growth and will be recovered and will be fair and equitable. Industrial properties will have the opportunity to stay near their employment base and to cooperate with the City. Public facilities can be relocated without the drastic costs to the City involved in carrying out its true role in the Valley. Basically everything I say negatively will become positive, in my opinion.

Q What do you think is the future for the Valley as a whole within a reasonable length of time? A I would like if I may to have Exhibit A-12.

* * *

The Witness: If you will allow me, let's talk about the future of the Valley in the next 20 years. We have talked about the agonizing transition that all of the people of this Valley has gone through in the late 50's and early 60's to the point that it now has reached stability and is beginning to benefit from [1046] healthy growth.

I feel that this has a legitimate marketplace in the Virginia market, which includes part of the Carolinas.

All the work done by the Fifth Planning District, by the State Planning Agency, by private consultants and by my planning firm, indicates that we can anticipate in the Valley, in the defined urban area of the Valley, a growth of approximately 54,000 people in the next 20 years, or a rate approximately, if you divide it out, of 2,500 people a year or thereabouts if I have got my numbers right.

You make reasonably acceptable assumptions about the density in which this residential area is growing. You make projections on needed employment to support this population base and the ancillary commercial and public facilities necessary to serve that new population.

You come up with an acreage need in the next 20 years between 19,000 and 24,000 acres, depending upon how you want to plan your ratios. That is using standard acceptable principles of development as compatible with the present form.

Development in the next 20 years will occupy upward [1047] to 24,000 acres. If you examine the availability of land and you concede that maybe somehow these stream beds and other things can be developed, you have got 3,300 acres available that is less than 20

degrees slope. You have 18,500 acres in the rural area as defined. You have got a total asset of 21,000—

By Mr. Davenport:

Q In the rural area or the urban area? A The urban area, inside the urban market.

You have a demand for upward of 24,000 acres in the next 20 years. Clearly before 1990 urban growth will have extended throughout the entire Valley floors and will be pushing against the steep mountain slopes and that will be certainly within the foreseeable future. So we have one totally urbanized market to deal with in terms of economics.

Q Are you saying in another way that for practical purposes within 20 years the Valley floor, so to speak, will be pretty well saturated? A Yes, sir, I feel that the character of development that is indicated in the close-in areas of the County adjoining the City will prevail throughout the developable urban area of the Valley and unless this land, which is the most precious asset in this marketplace, is systematically and properly managed, you will not be able to maintain the quality [1048] of life in this Valley for its people and they will be drastically and negatively affected by it.

Q All right, Mr. Zuchelli. What, if anything, do you see as benefits that would be derived for the whole area—well, to the urban area, if this annexation is granted? A I think that an awful lot of testimony has gone in. I think certainly one of the principal benefits is in the form of improved services capable of serving what in essence is going to be an urban community. I think we dwelt on water, sewer, police, libraries and so forth.

I would like to concentrate, if I can, on the benefit to the urban area in relation to what I said was a critical land resource. It is not an amount of land that must be expended but one that must be expended with great care.

I feel the greatest problem and benefit that could come to this urban area is the ability to introduce systematic planning and development to protect this asset. The County faces massive new growth. There is at this time to my knowledge no professional planning and development staff as part of that County other than the appointed County Commission.

[1049] * * *

I feel that while we have a Fifth Planning District which covers eight jurisdictions of Botetourt, Craig, Allegheny, City of Roanoke, Salem, Covington, Clifton Forge, and the Town of Vinton, actually it is composed of two regional markets, the James River Basin and the Roanoke Valley.

Its purposes, in the way it was constituted—it was never intended to carry out local day-to-day planning operations. It is an over-view. It sees the big picture. Those are the guys that look up high. But it was not intended to run this Valley in a planning sense.

It cannot and should not be constrained or placed in the point of trying to do a job that it is not empowered to do.

[1051] * * *

Q All right, Mr. Zuchelli, you are talking about the urban area.

Now what about the rural area as depicted on the study area A-24, which was the map? Are you familiar with what I am speaking of?

A Yes, sir. If I have my statistics correct I believe we have a rural area—May I approach the board, if the Court please?

We have a rural area of approximately 110,000 acres with 11,000 people in it. It is my judgment because we have a fragmented market in that we have three physically separated pieces from the urban form that will be developed within 20 years, the area as described around Reed Mountain, the area down south of the Valley, the area in the Catawba Valley area. In my opinion it raises serious questions that this area has the economic capacity to survive.

It is generally ruralizing. By that I mean rural in character with some indications of urban-type growth where appropriate in the land. It is scattered. It has very [1052] little physical relationship to each other. In an economic sense these people are not self-sufficient.

Let's look at the purposes which the urban market serves in these rural areas. It was clear in our analysis of downtown retailing that 23 cents on the dollar in downtown came from outside the area defined area. So clearly a major amount of shopping is being done by these rural areas in the central City. They do not self-support themselves in that sense.

Medical and health services are obivously provided by what is one of the most outstanding regional medical complexes both in the County and the City. Their financing for their farms, their seeds, their truck services—everything is provided by eight of the 11 banks which

are located in the City of Roanoke. Their legal and business services and their job opportunities and specialized education.

So from an economic sense they are not self-sufficient. They are dependent on the central City for its service. They are not physically related together and while I think it is a touch and go situation as to their ability to eixst, I think you have a down-side risk involved with it.

Q Do you think any benefits will accrue to the rural area if it were annexed to the City of Roanoke as asked in this proceeding? [1053] A I think my point is that I don't know of anything the County does in governmental form that the City has not the capacity to do and the willingness to provide.

I think that the extension of the boundaries will certainly equate the level of service they have now and as this area begins to have a more urbanizing character to it, it will improve. So I don't frankly see this annexation involved with that rural area in that sense.

Q You have talked about the benefits of annexation to the City, the present City of Roanoke, and also to the area that lies in the County of Roanoke, primarily the urbanized area. What do you see as the advantage or benefit to the area as a whole? How do you get at that? Do you just add to the two together or is there some overall consideration involved here if they were put together in this annexation case? [1054] A In my opinion, sir, I think this is probably the key point in any sense as a professional, of what we are talking about. There are ultimately more important advantages to the entire community involved here than those of those benefits to the area of the City, and the areas being annexed.

I feel, and I have pressed this case, or a case of this nature since I have been involved in the Valley, that we are not dealing with an extra territorial acquisition, the hunger of the central city grabbing, but instead, we are really involved with the capacity of this Valley to survive as an economic entity, and to assert its capabilities. I do not feel that we can live through a 1958-1962 readjustment again. It has taken every bit of power, foresight and grace to come out of that economic impact. And we sit on a threshold of great improvement to the people.

So I view this annexation not as a land annexation, but as an

economic annexation that gives us the capacity to assert the natural forces available in this market.

There is a common interest in the community, in my opinion; the growths are derived from the two central cities, it's the heart of the economic development of this Valley. The County is solely dependent on the City for services and its livelihood physically. There is no separability in an economic sense between these juirsdictions and these boundaries that simply are artificially superimposed on one economy.

[1063] * * *

I feel, in summary, that this is a a very unique annexation. Previous annexations, to my knowledge, have little merit in this case from an economic sense. We are not dealing with land acquisition desired by a City, instead, we are dealing with the capacity and survival of the economic heart of this regional market.

The County cannot survive by ignoring the central city; such as a healthy leg dies the heart dies, and Roanoke has somewhat of a sick heart, and we, therefore, must install stable government and act in the interest of all the people in the Valley. And this is what I feel this annexation is involved in.

[1064] * * *

Cross-Examination

By Mr. Jolly:

Q Mr. Zuchelli, Mr. Davenport asked you some questions about the rural area, as those areas have been defined in this case, and you stated that in your judgment there was nothing about a City Government that couldn't provide, at least equal services to those areas that a County Government could provide. Is that substantially correct? A To my knowledge, I can think of no major functional deficiency in a City government that could serve a county.

Q You have heard at least most of the witnesses testify in this case for the City, have you not, sir? A Yes, sir.

Q And you heard Mr. Zollman testify as to the basic concept or theory of the City of Roanoke in this case, as to the rural areas? A Yes, sir.

Q And that is, is it not, that the City of Roanoke, in order to acquire by annexation, not title to the property but extend its boun-

daries into the areas it deems necessary for its future growth and development, it is willing to assume the responsibility of furnishing these governmental services we [1065] have just been talking about to the areas noted as rural. That is generally correct, isn't it, sir? A I think the statement as it stands ready to provide urban forms of services.

Q Yes, sir, to the rural areas which are admittedly beyond the immediate thrust of the urban development? A Yes, sir.

Q Isn't that correct, sir? A Yes, sir.

Q You are familiar also with what has been referred to as the yellow line math exhibit that has been introduced in this case? A Yes, sir, I am.

Q Insofar as the direct needs of the City of Roanoke are concerned, the areas north and west of that line don't figure in those plans, do they, sir? A Would you say what you mean by "figure in plans"?

Q In the immediate and for the reasonably foreseeable future growth of the City of Roanoke, the areas west and north of the yellow line don't figure in those lines, do they, sir? A I think, sir, I have tried to testify that from an economic sense, we have one people. And frankly, as closely as you can unify that, in light of practical situations is the [1066] posture from an economic—being an economic urban economist, that that is the ultimate form in which this Valley should be governed, in my opinion.

Q Well, have you tempered your opinions with the requirements of the Virginia State law as far as governmental boundaries are concerned, sir? A Frankly, I don't feel justified or capable of interpreting the law of this State. I am trying to tell you from an economic sense how it functions and what is important about it. The Court can lend judicial knowledge and interpretation of the law to it.

Q Then do I understand you to say from an economic standpoint all of the governmental lines in the Roanoke Valley should be done away with? A As far as I am concerned, the most efficient form of government is a single, unified government. But I am also a realist; I also realize that the City of Salem is incorporated, it's a political fact, it has somewhat of its own economic base because one

economy can go into one part, and it has a right to survive. And I feel it should be given its power to survive under the judicial law.

Q All right, sir. With reference to that right to survive, I will restate my question to the areas north and west of the yellow line, the City of Roanoke's direct interest [1067] in those area is not concerned, isn't that correct, sir, as of right now? A I think the answer I would give you is, if you are trying to measure magnitudes of interest, the City of Salem's interest in the areas to the west of the yellow line, by all economic evidence is stronger than the City of Roanoke. And it has an equal capacity as the City of Roanoke to service that area.

Q All right, sir. And you have referred in your testimony to the fact that Roanoke was, I believe you used the phrase, was an artificially constrained city. Am I quoting you correctly? A I feel in an economic sense, it is, yes, sir.

Q And by that, you refer to the extent of its present corporate limits? A Yes, sir.

Q And is it not true, sir, that if this annexation were granted as requested, Salem would not only be artificially constrained, it would be, as a matter of fact, permanently constrained under the present Virginia law? A As I understand the situation, yes, it would.

Q As far as the economic well-being of the Valley is concerned, Mr. Zuchelli, can't the best interest of the Valley and its citizens and the economic growth be served by [1068] two viable, progressive governmental units that do cooperate in the area of services, as well as by one, where the community of interests of the citizens are somewhat different? A I think in all fairness, my opinion is that the ultimate form of government is a single government. But in the wisdom of the court and of the political leaders, if this can be created (indicating) and truthfully maintained, I feel that there is parity to a two-city situation, it can exist.

But my frank opinion, I think if they don't get together, we will have continual problems in this Valley, then the people are suffering, and they are suffering now from this.

Q And this is the four-level concept that you referred to, as opposed to a two? A The simpler the better, keep it simple, not too complicated.

Mr. Jolly: I will quit on that.

Your witness.

[1069] Cross-Examination

By Mr. Fitzgerald:

Q You say the simpler the better. Are you telling the Court that the government of the City of Roanoke is more simplified than the government of the County of Roanoke? A No, sir, I said in any urban form, the government is very complicated. And when you have many local jurisdictions trying to govern by committees, and otherwise, it's complicated.

Q And planners tend to simplify things, is that correct? A I didn't say that. I said the simplest forms of government, as far as types of operations, is the best and most economic systems.

Q Mr. Zuchelli, where do you live? A Annandale, Virginia.

Q Where is that located? A Fairfax County, sir, about two miles from your house.

Q It's actually about eight miles, but that is all right. A O.K.

Q Where do you work? A I work in Washington, D. C.

[1070] Q You don't live where you work? A No, sir.

Q Under what government do you live, what type of government? A I live under an urban form of government, County government.

Q No City government? A No, there is no City there.

Q Annandale is not a City? A It's a town.

Q An incorporated town? Do you pay taxes in Annandale? A My mailing address is Annandale.

Q How long have you lived there, Mr. Zuchelli? A I have lived in Fairfax—do you want the present address?

Q In the area of Fairfax County? A About four years.

Q You know that Annandale is not even an incorporated town, don't you? A It's not an incorporated city.

Q town or city, it's part of the County, isn't it? A Yes, sir, it is.

Q Do you know what the population of Fairfax [1071] County is now? A Just in a rough magnitude, I guess, as a citizen.

Q 465,000 people? A It's in the three or four hundred thousand level.

Q Yes, sir. And it operates under an urban county form of government? A Yes.

Q And it has a combination volunteer fire department and paid fire department? A Yes.

Q Do you think urban renewal is a good thing, Mr. Zuchelli? A Would you say what you mean by a good thing, please?

Q Do you think it's beneficial to the City of Roanoke that you have this urban renewal that you have talked about? A I think it's beneficial to the people that the land be used to its most appropriate purpose. And the people, if they are not living in standard housing, be provided a means in which they can live decently.

Q Well, Mr. Zuchelli, would you tell us whether [1072] or not you think that the urban renewal projects that are going on now in the City of Roanoke are a beneficial thing to the City? A I think in an overall evaluation, unless you want to specify what categories you are talking about, that, yes, it is a good thing.

Q It has to be, because if it wasn't needed to be renewed, it would keep getting worse, wouldn't it, sir? A Yes, sir.

Q You say this is brought about by the restrictions of its boundaries? A Yes, sir, because if you would examine urban renewal projects in other cities, you will find that the thrust and emphasis of Roanoke is not on the redevelopment of housing projects like is normal in other central cities which the federal priorities call for, but they have tried to focus on trying to stabilize the economic base. This is unusual.

[1073] Q So that cities that have had their boundaries restricted have then resorted to urban renewal? A If you are not able to stabilize your basic economy generating the power, then you cannot attack the basic living problem.

What I am trying to say to you is by reagitating and reworking the economic foundation of the City, it then has the capacity to address the problem that is a cost problem of effective housing.

Q And if the City did not have its boundaries restricted as they are it would have less need to redevelop, less cause to redevelop? A It would have less pressures in the location of some of these critical facilities.

Q As a matter of fact, Mr. Zuchelli, the City of Roanoke was not really getting to redevelopment of the areas that need redeveloping until after 1960 or '61, was it? A As you know, the urban renewal program was started in 1949. As far as federal funding, it never reached any significant or appreciable funding until sometime after 1955. Further, the history of renewal projects has indicated nationally a 10-year completion program.

Q Mr. Henley, I believe it was, testified that the program really got underway after 1961, in the last 10 [1074] years, do you agree with that? A Yes, sir. Well, the Commonwealth project was in the late 50's and the other projects came in the 60's.

Q This Gainesboro project, you say, is a revitalization or improvement-type project? A Its emphasis is not for mass clearance but selective clearance and rehabilitation of residential housing.

Q And this area consists of some three to four hundred acres of land, does it not? A Yes, sir, although the final area hasn't been determined. It is a study area right now.

Q Is your firm studying this? A Yes, it is.

Q When you talked about making available vacant land in the City of Roanoke, you reduced it by whatever areas are located within the streams and rivers going through the City of Roanoke, did you, sir? A Yes, without putting a quantitative measure on it I stated that they were included as part of the land.

Q You reduced it by the area exceeding 20 percent slope? A Yes, sir.

Q And you said you were familiar with the City's exhibits, didn't you, sir? [1075] A Yes, sir.

Q Didn't you know that Mr. Zollman had already reduced it by an exact amount for streams, less land included as rivers and streams, and less land of 20 percent slope or better? A Would you give me the exhibit that is taken from, please?

Q That is Exhibit A-14. A I think if you will recall, sir, that I talked about the volume of vacant land as a total and then I talked about the land that was in 20 percent slope and then I talked about all the other land which would include, in this case, the vacant land in rivers and streams.

Q And you see by A-14 that Mr. Zollman has already taken that into account in arriving at his net vacant land, don't you? A Yes, I notice that in land that is vacant over 20 percent slope and land in streams and rivers and beds, per se, that that is 25 percent of all vacant land.

Q Did you also note that of all the land in excess of 20 percent slope in the City of Roanoke that roughly two-thirds of it has already been developed or used to some purpose? A I think you will notice—In fact, I remember [1076] that point of testimony.

Q You remember that, do you? A Yes, I do, and I feel it is unfortunate misunderstanding because that is not the fact.

Q The exhibit is wrong? A No, sir, the interpretation is wrong.

Q Mr. Zollman interpreted it wrong? A Yes, sir.

Q I see. A In fact, if you will notice the vacant land, if I may have the land use map that is on the board. You will notice that the vacant land is 3,600 acres, 3,672 acres, and includes areas of public—that is developed.

In other words what you are saying is 21 percent of the vacant land in the City is now vacant and then you go over and you look at your vacant land category and the comparison is like apples and oranges because in fact open land that is developed includes open space. In the land use survey it is considered developed. It reduces that and you will find that the relationship between 20 percent vacant land slope and 20 percent vacant land is the same.

Q You weren't here when Mr. Zollman explained about some of the slope in excess of 20 percent that was used for public purposes such as public parks? [1077] A Yes, there are some 20 percent slopes but I think you are inferring that significant developments occur on land over 20 percent slope, and I don't think that is true.

Q The exhibit doesn't show it? A No.

Q All right, we will let the exhibit speak for itself. A Very well.

Q Has there been any urban renewal on slopes exceeding 20 percent? A In the City?

Q Yes, sir. A Yes, sir.

Q Is that residential or commercial, or both? A You mean as far as the present use prior to redevelopment or after redevelopment?

Q No, sir, the redeveloped use. A No, sir.

Q What is it? A The Kimball Avenue Urban Renewal Project is intended to displace residential use. They have graded a slope, a sheer cliff, and made it usable at great cost.

Q We will get to that in a minute. We saw some redevelopment pointed out to us on the bus tour. Were you on [1078] that tour? A No, sir.

Q What appeared to be town houses or apartments built up on a rather steep slope, and they were said to be housing of some sort. A I think we have some semantic problems.

Q Is that public housing? A Well, I didn't see it so I don't know it was.

As far as redevelopment, as far as I am concerned, that is an urban renewal project and it is an initial conversion of raw land development and I call that straight development.

Q You have seen some development, building houses and businesses and industry on slopes exceeding 20 percent? A Yes, I think you can under circumstances build on land with over 20 degrees slope, but not intensive development.

Q It is happening in the County with considerable land available, isn't it, sir? A Yes, sir.

Q For some reason people want to go up on Sugar Loaf Mountain? A You can put up a house there, yes, sir.

[1079] Q For some reason? A In fact, I would like it kind of myself.

Q I believe Mr. Zollman liked it, too. A I think the point, sir, is that no intensive amount of urban development can occur in that manner. That is a select and customized form of construction.

Q You commented on the loss of population of the City in the last ten years? A Yes, sir.

Q Did you want the City to have more people in it than it had in 1960? Would that have been better? A I was trying to indicate the debilitating impacts that were, economically speaking, coming against the City and a loss of population is commonly accepted as one indication.

Q If the City had grown by 5,000 people you would have thought it would have been in better shape, is that correct? A I think in relation—if the densities were in control, I think that a growing population is a healthy climate, yes. A declining population I don't think is very healthy as far as the infusion of new blood, money and the diversity it creates.

Q Does a growing population require school [1080] services, police services, fire services, in addition to those the City already has? A Yes.

Q So there is some cost to a growing population, isn't there, sir? A I think since you have already built an economy capable of serving—you have already got a school system in 1960 capable of serving 98,000 people. It is rather inefficient to all of a sudden serve 92,000 with this same plant facilities.

Q Didn't you know that the school system was overcrowded at 98,000 and still is perhaps overcrowded? A I am sorry, I don't—I have no statistics on schools in '60 to '70.

Q You jumped right fast to that conclusion, didn't you? A I think I jumped to the conclusion if you have an existing population base and you are serving it and you lose a portion of that base then your facilities are not being utilized to the point they were prior to the loss of population.

Q Tell us, Mr. Zuchelli, did you want the City to stay the same, gain a bit or lose a bit, or what? A I don't think I can react to that unless you want [1081] to define what a bit is.

Q Well, 5,000. Did you want it to go up 5,000 or stay the same? You didn't want it to go down 5,000, as I understand. A I think I tried to indicate in my testimony, sir, that it is not volume that I am after. I am after a fair distribution of the quantity and quality of growth.

Q How much did you want to be in the City? A Are you willing to move the bonndaries back and forth or are you talking about a fixed set of boundaries?

Q Well, we are taking the City as it is. You said it was an indication in its present size that a drop of 5,000 people was a bad thing. A I agree. I think it is. It is indicative of what is coming.

Q So the alternative is either that it stays the same population or you get some more population? A As an investment, that it has boundaries where it can share in the total population.

Q Why do you need this population? A Because to have a sound development and a unified type of government you should take into one urbanized form of one government.

Q But you still have to make the exception for the [1082] City of Salem, don't you? A I have tried to be a practical man, sir.

Q Who controls the density of the City? A Now?

Q Yes, sir, who controls it now? A Density is controlled through the zoning mechanism.

Q And if the City wanted to be more dense it could add categories of zoning that allowed you to go up like some other cities have, couldn't it? A Yes, sir, some have but I would also like to point out that there are some rather unique life style forms in the Valley and that many efforts to develop apartments, other than garden-type, which is an acceptable form—the predominent living characteristics of the Valley people lean toward owning their own houses set on attractive land.

Q How many high-rise apartments have been built in the City of Roanoke? A High-rise apartments?

Q Yes, sir, above 12 or 15 stories high? A Twelve to 15 stories?

Q Yes, high-rise. A The only one I can think of is the 502 Project built on Jefferson Street in 1948.

[1083] Q. How high is that? A It is over eight floors or something like that.

Q There is no modern high-rise apartments anywhere in the City of Roanoke, is there? A No, I think there is a demand for a very small amount of them, yes, but they haven't been built yet.

Q We will see about that now. Is any of this urban renewal area slated to be devoted to high-rise apartments? A Yes, there is a high-rise apartment being proposed for what is now the site of the Trailways Bus Station, or was the Trailways Bus Station, immediately adjacent to Elmwood Park. It is tied to a very specialized market which consists of the nursing and medical profession tied around the redevelopment in the downtown renewal project; the downtown employment, which is 20 percent of the employment base in the immediate market; and the medical profession tied to the hospital complex. You orient a high-rise development that is normally smaller units, one or two bedrooms, and you have to go to a specialized market. You don't market in areas with families. Families don't normally live in high-rise towers. When they tried it in Chicago in public housing we had vertical slums.

Q Wouldn't you expect in a City of 92,000 people or 97,000, whichever it was, that there would be some [1084] development in high-rise type apartments? A No, I am not at all amazed. If you go back and look at some of the steel developments in the advent of apartments, you can trace Roanoke's history in comparison to other cities and it goes on a measurable track where they started with garden apartments and then came the town houses and then comes some very precious investments in middle-rise buildings. I think the market will support this in Roanoke but we have not reached this point and will just be reaching it in the 70's.

Judge Hoback: Suppose we adjourn at this point for lunch. The Court will adjourn until ten minutes after 1:00.

(Thereupon, at 12:05 p.m., the Court was adjourned to resume at 1:10 p.m., this same day.)

[1085] Afternoon Session

1:10 p.m.

Q Have I been pronouncing your name wrong, sir? A I haven't noticed.

Q I have been saying Zuchelli, it's Zuchelli, isn't it? A Zuchelli.

Q All right, sir, I apologize. Is it your theory, Mr. Zuchelli, that the City of Roanoke must continue to grow larger? A Are you referring in size, sir?

Q In any respect, in size, in assessibles, in population? A I think my answer to you, sir, in all frankness, is that being the dominant economic base of the community, it should have the ability to control the entities that make up this economy, in order that single and precise decision-making is responsible to that single group of people that it represents.

Q Well, then, I ask my question again. Is it your theory that the City of Roanoke must continue to grow larger and larger? A My answer is, I think it ought to be in relationship to the growth of the Valley. If the Valley grows larger, as I have stated, I would like to see, from an economic sense, [1086] a responsive government capable of serving one economic base. If that base grows larger, then I think the government ought to be able to respond to the growth.

Q If the Valley gets all developed, how many years will it be? A If you continue to develop at your present densities, as you are, you will use up the urban lands that are developable in the Valley in approximately 20 years.

Q Approximately 20 years? A I mean, that is a reasonable, I think, fair statement.

Q Do you consider the Catawba Valley a— A I don't believe we have defined Catawba Valley as being in the urban area.

Q So that will not be developed in 20 years, will it? A Well, as the charts show, it's having some population growth now, it will probably continue to grow. But I don't believe the Catawba Valley, which is physically separated by a great deal of mountains and rough terrain, I don't consider this being part of what is defined as the urban area.

Q Yes, sir, I understand that. And you are not saying that the Catawba Valley will be developed, really to [1087] any extent in 20 years, are you, sir? A No, I do not feel that all the developable land in Catawba Valley will be developed in 20 years.

Q Wouldn't you, sir, as a planner who has been familiar with this area for a number of years, say it's fair to say that within 20 years the Catawba Valley will still be mainly rural? A What has been defined as the rural area is growing at the rate of 600 housing units in the last ten years, and that is outside the urban area. Unlike the other rural counties, that are losing population, which we are all familiar with in this area and have been for several decades, our rural area is gaining in population because it's obvious that people find unique building sites in a rural area that they find attractive. They are not rural-oriented people, there are no new farms being developed. It's a stable agricultural economy superimposed with people who find the area attractive to live and raise their children in.

Q Can you answer my question now. A I thought I did. Would you ask it again?

Q Twenty years from now, the Catawba Valley will still be mainly rural? A Still have a rural character to it.

Q That is true of the Bent Mountain area? [1088] A Yes, sir.

Q And all of the other lands that have been designated as being in rural areas, for all intents and purposes, will still be rural? A Won't have the urban characteristics that the central city has.

[1089] Q You say that the urban lands will be used up if you maintain the present densities? A With some variations, yes.

Q Is it your recommendation that they maintain the same densities as exist now? A I feel that as the Valley population increases and as some of the life styles vary, the larger the population base of a metropolitan area, the more—

Q So you would expect to see some higher densities? A I would expect to see some apartments being constructed and eventually getting into some amount of high-rise construction.

Q After all the area is developed at whatever density, the City would still have to then enlarge its boundaries again, would it not?

A I think—I don't know about enlarging and I can't speculate on what they might want to do. I think it is fair to say that intensive development of the mountains is rather impractical and I don't think you will ever see it.

Q Then the City of Roanoke would look to Botetourt and Montgomery and Craig and Franklin? A I think the physical topography of the Valley orients it in a southwest-northeast direction.

Q Is Botetourt in a northeast direction? [1090] A Botetourt is the County up here.

Q To the northeast? Isn't that northeast. A Its topography—I think urban growth as it moves out and as it has in other metropolitan areas will follow developable land areas.

Q It would be your recommendation then that the City go out—A I didn't say that.

Q There is no reason to stop at that boundary, is there? If the same condition exists with that boundary as exists with the boundary of Roanoke County today— A I don't think that politics in the future will be able to judge what it is going to be.

Q The politics? A I said that I think in 20 years the defined urban area is going to be developed.

Q Is this matter of expanding the boundaries of the City a political sort of thing rather than a planner's dream? A Not being a planner, I don't know what a planner's dream is.

I think certainly it is a political-civic decision-making mechanism of annexation and I assume political considerations, which are to me positive in nature, would [1091] certainly go into the question of annexation.

Q Mr. Zuchelli, when you go to work in the morning from Annandale to Washington, D. C., do you go through Arlington County? A Yes, sir.

Q Has your firm ever done any studies in the area of Northern Virginia? A Yes, sir.

Q Have you ever done any with relationship to Arlington County or what is known as COG? A Are you talking about the Council of Governments?

Q Yes, sir. A We have never had a contract directly with the Council of Governments.

Q Are you familiar with Arlington County as it is developing? A As a resident, I am reasonably familiar. I have never worked, myself, on Arlington County.

Q Are you familiar with the fact that it is a county and cannot annex anybody? You are familiar with that, aren't you, sir? A I am familiar that it is a county, yes.

Q And you are familiar with the fact that it is a [1092] completely area, are you not, sir? A Yes, sir.

Q And you are familiar with the fact that in prior years it had been annexed by the City of Alexandria on two or three occasions and grew smaller in size, are you not, sir? A I am not familiar with the annexation cycle that the City of Alexandria has taken.

Q You know that the County has not grown in area? A I don't know of many counties that do.

Q And it provides, to your knowledge, all the urban services that any city provides, doesn't it? A Yes, but I think there is a very clear difference between trying to make that applicable to what we face in Roanoke.

Q Let's just get the facts first and then you can explain.

You do know that it does provide all the urban services of any city? A Could I answer the other question you asked me?

Q I would like you to answer that question, which is the question I asked you. A Ask me the question again.

The question is, do you know that Arlington [1093] County provides all the urban or municipal services of any city in the State of Virginia? A Yes, I am aware of that.

Q Has your firm or have you done any studies in the Hampton Roads area of the State? A Yes.

Q And are you acquainted with the redevelopment of the City of Norfolk? A Generally, but we haven't done a renewal project in the City of Norfolk.

Q Are you aware of the fact that for some ten or 15 years the City of Norfolk has not been able to annex? A Yes, sir, and I have seen the price they paid.

Q And are they renewing the old areas of the City? R Yes, and I believe I have testified that it is a very frustrating and expensive process they go through.

Q But it has gotten done since the process of annexation has stopped, hasn't it? A Yes, as the only alternative available to them, in my opinion, which is the reconversion of land.

In areas like urbanized counties, the counties that I am familiar with have no central city and are basically an urban bedroom of a central city located in another [1094] jurisdiction or another state.

Q Have you estimated the population of the City of Roanoke in your work here over the last 10 years? A Yes, sir.

Q And prior to the 1970 census figures coming out, what was your estimate of the population of the City of Roanoke? A I am sorry; I would have to have my reports to recall the exact figure.

Q Just give us the approximate figure. You didn't show that it lost 5,000 population, did you? A No, I didn't anticipate a loss in the central city of 5,000 people.

Q You thought it gained population, didn't you? A Yes, I did.

Q All the economic factors showed to you that it gained population or you wouldn't have said so, is that true? A That is true. The rate of abandonment of property because of the recording system in this City and the amount of conversion from residential to nonresidential is not—cannot be calculated but once every ten years. The trends were not readily evident at that time and the reporting process did not show the abandonment at the level it is going on.

[1095] Q All these economic factors you have at your fingertips and all the study you had made indicated to you that the City had grown in population? A Slightly. But I would like to correct one thing. I think if you will look at my reports that you won't find any forecast by jurisdictions. You will find the forecast for the metropolitan market.

So I have actually never projected, as far as number, the population of the City of Roanoke in the future, but I had actually talked about the population projections in the SMSA, which is the four jurisdictions.

Q I don't believe I asked you about population projections. I asked you about a population estimate.

You have said that the post office department was going to usurp so many acres of the land made available through redevolpment? A Yes, sir.

Q I didn't understand that from Mr. Henley. He said that they were negotiating with the post office department to make available to the post office department, I think, 11 inches. You don't think it is a good thing to have the post office there? A I think it is essential that the post office be centrally located and there is very little choice of where else [1096] to put it.

Q Would that post office go there if the City annexed the whole County? Is that your choice location? A I think the processes of decision-making in regard to the post office have gone pretty well done the pike to be reversed.

Q I am just trying to find out whether you think it is a good thing to have the post office located there or not. Do you think that is the location for it? A I think that site has the attributes necessary to serve that regional post office.

Q Is that where you think it should be? A In light of what was available at the time the decision was made, yes, I feel that is where it ought to be.

[1097] Even if the entire County is annexed to the City, you would still say that is the location for it, wouldn't you? A I think it has to have a central location.

Q And that would be central? A Yes, central to the road system which it is dependent on for distribution.

Q Isn't what Mr. Henley said true, that the redevelopment authority controls what goes on there, even the design of it? A The redevelopment authority has control of the reuse plan, which would control the design and the reuses that go on. An independent agency.

Q Yes, sir. So if they don't want the Post Office Department there, they can tell the Post Office Department to go to Salem or somewhere else, couldn't they? A They have a right to deny a user of property, although it's very touchy in the case of a public agency in this case. And I feel also they have been responsive to what is a demonstrated need of this regional market. And they have foregone what they could have, in essence, turned a profit over on in private redevelopment, for private purpose.

Q You think the redevelopment authority has made a mistake? A I didn't say that, they were faced with two [1098] decisions, both of them have attributes on both sides of the coin. In realizing it, they realized the needs of the Post Office Department and the needs of this Valley, and they responded to it. That was not the initial purpose of the project.

Q The Community Hospital, you say, is located or is to be located within the City limits? A It's already built, sir.

Q Already built within the City limits? A Yes, sir.

Q Was that on redevelopment land? A No, sir.

Q That was privately acquired, was it? A It was acquired through eminent domain.

Q I see. Didn't they already have a site outside the City? A Yes, sir.

Q To build that hospital? A Yes, sir.

Q Do you know how come them to change their mind and cause it to be put inside the City? A Yes, sir.

Q Was it because of the insistence of the Norfolk and Western Railroad? [1099] A I am not aware of that.

Q What are you aware of? A I am aware of a very, I felt objective evaluation of location criteria for central public facilities. When you evaluate it, that site, versus suburban sites, it was clear that the benefits of the people would be served by centrally locating it, and that was done.

Q And that would have been located just where you said it is? A Since I located it there, I feel that is a pretty good site.

Q Regardless of whether or not the City had acquired the whole County or not, that is the site you would have selected? A I would have selected a central site. As you recall, the hospital is contiguous to the 581 spur and the Elm Avenue interchange, which is the major north-south artery in the City. It is immediately contiguous to the CBD, central business district, and therefore has the availability of the work force there and was able to develop from it the medical profession, a central location that is responsive to the total population.

Q After that speech, Mr. Zuchelli, can you answer my question? Is it true you would have selected that site even [1100] if the City had annexed the entire County of Roanoke? A I think my answer to you, sir, is since I have never recognized—

Q Can you just say yes or no? A I can attempt to, if you will allow me.

Q All right, sir. Is the answer yes or no? A The answer is yes.

Q All right, sir, you did it. A May I qualify it?

Q If there is a qualification, go ahead, sir. A I feel in the work I have done, I have not recognized the artificial jurisdictional boundaries, and I didn't take that into consideration when I did the evaluation of sites. So I don't feel it bears on the matter.

Q So the fact that the City didn't annex the whole County didn't bear on it, played no part in it.

How about parking at that site, is it adequate? A No, sir.

Q Even with inadequate parking, you would still put it there? A No, sir. If you are familiar with the downtown east urban renewal project, you will know that Parcel No. 1 is a recommendation of a multi-level parking garage operation that is to be physically tied in by second level rampway into the [1101] hospital. And at the time of the development of the site, it was thought that the downtown east urban renewal project could be redeveloped in the same time relationship as the hospital, and would relieve its parking load.

But because of the lack of Federal availabilities of monies and bureaucratic red tape, the project has not come along with the speed it was first thought to be.

Q So the answer is there is adequate space for parking, and it will be provided? A It's planned for and will be provided. It's a short-term deficiency.

Q Do you know why the Lewis-Gale Hospital has been moved out of Roanoke on Electric Road in Salem? A No, I don't know the specific reasons, no.

Q You don't know that they found they couldn't get the parking with the requirements of the City? A Well, if I remember the Lewis-Gale Hospital, they were very concerned because of the evaluations going on in the extension of Franklin Road that would usurp or possibly take some of the properties they had envisioned to develop. The last time I spoke with the principals in that facility, it was very questionable about whether the land to the west that they had purchased would be available for a contiguous hospital use. And at that time, they evaluated leaving the [1102] central city because they could not find another site.

Q Mr. Zuchelli, did your study indicate, or these exhibits you have looked at indicate the amount of available—not available, or the amount of vacant land in the area sought for annexation? A I am sorry, sir, I don't understand the question.

Q Did your studies or perusal of these exhibits indicate to you the amount of undeveloped land in the area sought for annexation? A You are talking about the entire County area?

Q Yes, sir, that is what is being sought. A You are talking about the total vacant acres?

Q Yes, sir. A It's in the exhibit, if you will give me a moment, I will look it up.

Q Do you know what it is? A Not offhand, but I can find it very quickly.

Roanoke County has, at the present time, 101,000 acres of vacant land.

Q What page are you on? A I am on Exhibit A-13, sir.

Q And if you add the agricultural land to that? A It will reach 130,951 acres.

Q And how many acres of land did you say would be [1103] needed for development in the next 20 years, 19,000 to 24,000, as I wrote down, is that correct? A That's correct. If you recall, I also stated of this 130,000 acres, only approximately 18,500 was available for urban development.

And further, if you will note, sir, the land in excess of 20 percent slope consists of 104,000 acres in the County.

Q Some of that is being developed right now, isn't it? A Yes, sir.

Q You said something about the problem of having to deal with more than one jurisdiction in the approval of subdivision plans? A Yes, sir.

Q Or building plans. Subdivision plans. That is only the land right around the periphery of the City, isn't it, sir? A Yes, but that is the area that needs the zoning the worse. I don't think you will have many zoning problems on top of the mountains, I mean the zoning problems are areas that are going through conversion of land use, and that is in the urban area, sir.

Q Mr. Zuchelli, didn't your observation of the land [1104] use plan and all the other exhibits that have been produced here show that area is pretty well built up already, isn't it? A Yes, sir. But I think you can also take the fact that any city in Virginia, it's my understanding, under 100,000, has jurisdiction three miles beyond its border. The town of Vinton has the same thing.

I would say that you have an area of great conflict running around all your urban area.

Q My question was, didn't the exhibit indicate to you that the area around the borders of the City of Roanoke were almost fully developed? A Could you give me some distance? I don't know how to react to that, sir.

Q All right. A Could we have the subdivision exhibit?

Q Let's take a mile outside. A With your permission, sir, could we have the subdivision exhibit?

Q Don't you have it in your book there? A I don't have it in this form because of the overlay. I think if you look at the red, sir,

particularly in the Cove Springs area, which is recent subdivision activities that are fairly contiguous to the City of Salem and City of [1105] Roanoke, considering if you will look at the scale, and say that the City of Roanoke has a jurisdiction of three miles, if you will allow me to make a mark for you, you will see that from the City boundary three miles, if I am following the boundary, takes in the entire urban developed area, including Clearbrook.

You go three miles from the City here (indicating), you find out that the City has jurisdiction in the division for the area that grew 120 percent. If you overlap the City of Salem, you find out it has a great overlap in one of the greatest growth areas that is developing to the north of the City of Roanoke. There is, in the Cave Springs area, you run the boundary, you see the entire Cove Springs and Starkey area have overlapping jurisdictions.

Q My question was, this shows just the subdivisions in the last 20 years, doesn't it, that have been put to record? A Yes, sir.

Q It doesn't show older subdivisions, odesnt' show commercial development or industrial development, does it? A No, sir, it's residential development and subdivisions regulate residential development.

Q It doesn't show older subdivisions, doesn't show commercial and older subdivisions, it's pretty well developed, isn't it? A No, I cannot agree with that.

[1106] Q You can't agree with that. Whatever development is there, it has been taking place with this complicated situation you are talking about, hasn't it? A It has taken place in spite of it.

Q Yes, sir, it has taken place in spite of it. Have you ever built a home or any building in this area? A No, sir.

Q You made the comment that in your opinion the, what is classified or has been classified as rural area in this case, would not be able to provide for itself if left alone in its own jurisdiction, or words to that respect, that it was dependent upon the other area? A I think I tried to indicate through treating some of the functional areas of life, such as health, and medical, shopping, banking and other activities that are necessary to sustain any population, including rural populations, that they were dependent on the City and the other area for services.

[1107] Q Mr. Zuchelli, I thought you said that you were planning your testimony to say that the area that has been designated as rural could not subsist by itself now if the other area were annexed to the City of Roanoke. Wasn't that what you said? A I assumed in saying that we were talking about the governmental structure for these 11,000 people.

Q Is that what you said? Is that the intent of your testimony, that the rural area as designated by the City's exhibits could not exist by itself if the urban area that has been designated is annexed to the City of Roanoke? A I think I made the points and I would like to reiterate them if I may.

Q Can you answer my question? A I am trying to.

Q Did you make that point or didn't you? A I did and I want to make that point.

Q I want to ask you about the conditions and I will ask you if you will give me time. Would the people still be able to use the banks if that happened? A Are you talking about banks of land or what?

Q The banks you spoke of that the people in the Catawba Valley used. A Yes, they would.

[1108] Q Would they still be able to use the doctors and hospital facilities? A Yes, they would.

Q Would they still be able to use the lawyers' offices? A Yes, they would.

Q Now, I will ask you, sir, in your arriving at that conclusion, you did not take into account that rural area being compensated in any way, did you, sir? A I talked—

Q Through the annexation laws. A I talked about its present ability to generate expenditures and what it would need to support itself. It cannot do it.

Q Can you answer my question, sir? I asked you if you took into account any compensation to that area as a result of the application of annexation laws? A I did not.

Q All right, sir. A But by—

Q I haven't asked a question. A I was thinking about your other one.

Q You say that what you are talking about really is not the taking in of land but the taking in of economic [1109] base, I believe you said? A Yes, sir.

Q We are talking about taxes, assessibles, aren't we? A I think the word economic base is far better than the word taxes.

Q Isn't that the most important part of economic base of a government, its tax revenue? A I think when I talk about an economic base I talk about the human factors as well as economics. I talk about the total life style in this Valley.

Q The life style? A Everything that goes into making it. You can't boil it down and say—in anything as crude a measurement as taxes. That is the whole point I tried to get across.

We are not dealing with inhuman or inanimate objects. We are dealing with human beings trying to exist and maintain their way of life.

Q Is there a difference in life styles of the people of the County and those of the City? A In some areas, yes.

Q And you want to make them all the same? A I think through bundling them together you got a stronger base. I think if you take any group and try to [1110] isolate them and say you would be self-sufficient on your own, that you have destroyed the multiplying factor that brings people together in urban areas.

Q And you think that making the County of Roanoke a part of the City of Roanoke is going to change the life styles of these people to be all one? A The point I tried to get over is that we have one community in the central City that is responsive, to be a stable government capable of surviving.

I question seriously in the long-run, under present conditions, whether it can stand these dibilitating conditions. Further, I tried to point out that the County consists of 65,000 people, of which 11,000 people are rural and five times that amount are urban in character and live contiguous to those cities.

Q You don't think their life style is what it should be? A I would hope that everybody would like to improve their standard of living.

Q And where do you think that the life style of the people in the urban area of the County of Roanoke—how do you want them to improve their life style? A By having greater income, better job mobility, having a better return to the public of tax dollars that are [1111] being spent, and more cohesive government and not ruled by committee, and to have one single representation in government.

Q One single representation. These people that live out in the Catawba Valley and Bent Mountain are going to be represented in the halls of the Council of the City of Roanoke? A I believe we have a one-vote standard.

Q This merger of government, I believe you called it, is going to give them more for their tax dollar? A I think it is inescapable. It has got to.

Q Did you hear Mr. Hirst's testimony? A Yes, sir.

Q Do you think he is wrong, too?

Mr. Davenport: In what respect, Mr. Fitzgerald?

Mr. Fitzgerald: Mr. Hirst agreed that the cost of government was going to go up.

Mr. Davenport: Specify in your question.

By Mr. Fitzgerald:

Q Mr. Hirst testified that he agreed with the figures that the present per capita cost of government in the County of Roanoke is $99.64 of local money. The City's own exhibits shows that is going to jump to $160.97 per capita. A I think my answer to—

Q Is that economy? [1112] A If you will allow me to answer, sir. I think your answer to your question is just representing a per capita figure and does not indicate the intensity of service, the requirements of the people, the ability and willingness to pay for it, and as you go up in size you normally go up in the provisions of public facilities and services and if the costs go up they go up because a demand is being made by the people.

I feel that when you have got five-sixths of a county that is an urban form that is operating on the level it is operating to its people, you owe it to those people to bring about an improvement in the level of service.

Q And what we are talking about is putting those trash barrels in the rural area of the County and having a volunteer fire department continue in the County and all of those sorts of services and having their tax bills brought up— A Sir, it seems to me—

Q —go up considerably? A —if you have five-sixths of the people in the area we ought to be talking about the urban people and not the rural people.

Q You are not concerned about those people? A I am concerned that they have improvement in their [1113] standards, but the critical point is this urban area that everybody is forgetting about.

Q Are you telling the Court that the County of Roanoke has forgotten about its urban area? A I did not say that.

Q I thought you said everyone is forgetting about it. A I am saying I think the 11,000 people have a right to equal treatment in relation to the 56,000 people living in the urban area. I don't think we ought to be distorting what is necessary to serve a rural area. They are being served now and they will be served. The question is what are you going to do about the 56,000.

Q This Hershberger Road project, you said if this had been in the City something would have been done about it. Is that correct? A I am saying as long as it was—I am saying for these years that it was under the secondary Road system it was not improved even though there was a demonstrated need by the regional highway study. As the 581's was put in several years ago there was no improvement, and it was only when it came under the State primary system for whatever reason—and I am not assigning any reason—but when it came under that, then within a matter of a few months there was a substantial [1114] short-term improvement to provide signalization of turning movements prior to the actual widening of it.

Q You said it had become a thoroughfare, didn't you? A It is a thoroughfare.

Q And that is a pretty good reason for putting it in the primary system, isn't that true? A I said that I am not assigning a reason, but for 16 years it wasn't improved.

Q You are not telling the Court you don't know of any street in the City that for 16 years needed improvement and hasn't gotten it, are you, sir? A I am sure there are.

Q There are plenty of them, aren't there? A Yes, sir.

Q On the other hand, don't you know that the City's proposition is to leave that road in the State Highway System if this annexation is granted? A Will you repeat that, sir?

Q Don't you know that it is the City's proposition that that road stay in the State Highway System if this annexation is granted? A Yes, but it also comes under the urban fund program of the City and further I would like to reflect that the [1115] City maintains a capital improvement program and proper priorities are assigned to road improvements.

Q But this is going to be under the State Highway Department program where people pay their taxes to the State Highway Department to build and maintain? A The primary road in the urban area is under the City in cooperation with the State. The City pays 15 percent of it.

Q That is if it is under the City's system? A That is correct.

Q I ask you again, don't you know that it is the proposition of the City of Roanoke in this case to keep its streets under its present system and to leave the streets in the present County of Roanoke under the State Highway System? Don't you know that? A No, I don't know that, and I think they have the option that they can exercise when the true facts are in which ones to leave in the State and which in the City.

Q You haven't heard that testified to here, have you? A No, I don't think you have to answer every single question necessary to carry out an annexation. The subject is too complicated and we have an interim period in which these decisions—

[1116] Judge Hoback: I believe if you would just answer the question, sir, we would make better progress instead of volunteering

comments that have not been asked for. Everybody will get a chance to answer but let's don't launch off on a tangent. Let's proceed.

By Mr. Fitzgerald:

Q Even if the City took it over under its system the State would pay 85 percent of the cost and the City 15? A That is right.

Q And you told the Court that these improvements being postponed this year and costing the taxpayers dollar after dollar or 12 percent a year, didn't you say? A Approximately 12 percent a year in construction costs.

Q This is all types of construction costs, isn't it, not just roads? A Generally construction costs went up 12 percent a year.

Q Can you tell the Court how much the cost of building the courthouse has gone up in the last ten years? Do you know the courthouse I am talking about? A No, sir, but I would say that any public improvement over a 10-year period has probably averaged 7 or [1117] 8 percent a year on an average.

Q I thought you said 12 percent a year? A I am talking about today. I said today. Ten years ago the rates were different.

Q So if a $3,000,000 courthouse was needed 10 years ago it has gone up 70 percent or better? A Yes, sir.

Q Have you had any part of planning the location of the courthouse with the City of Roanoke? A No, sir.

Q And this would be true of the jail facility and the fire stations that have been testified to here that are needed? A Any scheduled improvement costs each year about 12 percent more.

Q You complained about the Town of Vinton building its own plant and saying that it was a waste of money. Do you know that the Roanoke Sewage Treatment Plant is at or over capacity now? A Yes, but I think it is very important that when it was built it was built for a 14,000,000 gallon capacity. It operated at 8,000,000 and had 6,000,000 unused capacity in 1951.

Q Can you follow the instruction the Court gave [1118] you and just answer the question? Do you know it is over capacity? A I know it is running at capacity now.

Q It has been under the same management all that time, hasn't it? It has been under the City's management? A Yes, it has.

Q The City's control? A Yes.

Q And would it have been true if the Town of Vinton had been discharging at that plant all this time that it would have gotten to capacity much sooner? A Yes, and I would assume the capital improvement program that is now being anticipated would have been built earlier.

Q But if it hadn't it would be much overloaded today, wouldn't it, sir? A They are processing about 20,000,000 gallons a day. 600,000 gallons is what would be coming into it, which is less than one-twentieth of the volume.

Q You have said that this matter of having two jurisdictions has caused duplication of effort? A Yes, sir.

Q That is not necessary, is it, sir? A No, sir.

[1119] Q You can have cooperative efforts, can't you? A Yes, sir.

Q Joint efforts? A Yes, sir.

Q And have your studies or your knowledge of the City of Roanoke indicated to you the fact that they have refused to go into regional and joint efforts in providing facilities? A If I may, I think that without assigning responsibility, I am aware that it hasn't occurred. I don't know who is responsible. That is the point I am trying to make.

Q You do know that the City of Roanoke had an opportunity to join with the County of Roanoke and the then Town of Salem to build a Civic Center, don't you, sir? A Yes, sir, I know the opportunity was offered.

Q And you know that the reason they wouldn't do it was because they wanted it located, again, in the City of Roanoke, didn't they, sir? A For very valid reasons.

Q But here were all the jurisdictions. What was the reason, sir, because it was the center of the City again? A No, sir, as you are probably well aware in the convention business, and particularly a

Civic Center, sir, [1120] about 40 percent of its income is derived from the convention business which has to be physically located near the major motel and hotel facilities so the guests can easily move in between them and a location there must be in relation to the Hotel Roanoke, the dominant function. That convention business is a $2,000,000 a year business of the City.

For every 50,000 people it brings in competing against Roanoke and Richmond—it must have its Civic Center related close to the downtown and the hotel and motel facilities of Williamson Road that serves it.

Q Does your planning and study show you that the Hotel Roanoke is going to be the major or is the major motel with that type of rooms available? A It has 425 rooms.

Q Do you know how many motel rooms are now available in Roanoke County? A I believe there are in the neighborhood of 2,300.

Q It has how many of those 2,300? A 425, but it has adequate exhibit space and space to serve them. The largest space they have is 15,000 square feet.

Q Doesn't the Civic Center have exhibit space? A That is the purpose of building it.

[1121] Q And if the City of Roanoke had joined into this effort of building a Roanoke Valley Civic Center, perhaps it could have been made a larger facility? A As you are probably aware, sir, some activities are related strictly to the community and not to the convention business and it is very appropriate that they be located in a facility operated—I see no problems of other local activities taking place in the facility, but the Civic Center is well capable of serving that. It is designed specifically to respond to lodge type events and to exhibition and exhibit space.

Q What you are telling the Court is you think it is a good thing to have two Civic Centers in the Valley? A I would rather have seen one, but I think two can co-exist together provided they are coordinated.

Q And that would have had to be in the City of Roanoke?

A It has to be closely related to the Hotel Roanoke, which happens to be in the City.

Q Have you been here prior to the time that the Roanoke Civic Center in the City of Roanoke was built and when the only Civic Center was the one here at Salem? Were you making studies during that time? A I have been making studies on or about since [1122] about '62, sir.

Q Have you had occasion to see that when that was the only Civic Center here—whether or not when some event such as the 1968 Democratic State Convention was held at that facility, whether or not the Hotel Roanoke was filled to capacity and overflowing? A Yes, in fact in that very case I talked to the people involved when I was doing my motel study and they indicated the great problems they had on transportation of moving all the delegates back and forth.

[1123] Q And that all the motels of the County were filled and overflowing? A Yes, sir.

Q And they were using the Civic Center at Salem, weren't they? A Yes, sir.

Q Were you privy to this yellow line a year ago, sir? A No, sir.

Q That is something new to you? A Yes, sir.

Mr. Fitzgerald: That is it.

* * *

Warner Dahlhouse

* * *

Direct Examination

By Mr. Davenport:

[1124] * * *

Q What is your business? A I am Senior Vice-President of First National Exchange Bank.

[1125] * * *

Q And have you been on the Board of the Roanoke Valley Chamber of Commerce? A Yes, this is my fourth consecutive year of relationship with the Chamber. I was on the Board for two years, then served as Vice-President one year, then this year I am President.

[1126] * * *

A It was taken from the taxable publication of the Commonwealth of Virginia, Department of Taxation, Richmond, entitled, "Taxable Sales in Virginia Counties and Cities Based on Retail Sales Tax Revenues." They are quarterly reports, and this is a compilation of the four previous quarters ending September 7, 1970.

Q That shows the population of Roanoke County and Roanoke City and what percent greater is Roanoke City than Roanoke County? A It shows here a comparison of population between Roanoke City and Roanoke County indicating that Roanoke City has a 36.8 percent greater population for that period.

Q Now, would you look through the statistics and state whether or not there is any single category of sales, taxable sales that is as small as 36.8 percent, looking at the group results? A No. As a matter of fact, there is none that even approaches that small a comparison. I believe the smallest would be 80.8 percent in the food group.

Q Well, looking at the third page, the final— [1127] what is the overall comparison? A The overall comparison shows 277 percent greater sales in the City of Roanoke than in Roanoke County. And as you go through the various categories of sales, apparel, automotive, food, furniture, general merchandise, lumber, building and material supply group, tools and machinery, there are quite dramatic differences.

For example, in the apparel group, it shows that 488 and a half percent greater sales in Roanoke City; automatic group, 435 percent; food group, 80.8; in the furniture, home furnishings and equipment group, 631.1 percent greater sales in the City than in the County and so forth throughout this compilation.

So that the total value is 277 percent more sales in the City than in the County.

* * *

Q All right, sir. Tell the Court, please, what composed the Roanoke Valley Chamber of Commerce? A The Roanoke Valley Chamber of Commerce is composed of a cross-section of the business, industrial and professional [1128] community. We have approximately 1500 members from all over the Roanoke Valley, from every political subdivision.

* * *

Q Yes, sir. Has the Board of Directors taken a position with reference to this annexation case? A Yes, sir. We have a resolution adopted by the Board of Directors.

Mr. Davenport: I would like to offer it in evidence, if the Court please, and have it marked Exhibit M-2.

(Document referred to above was marked City of Roanoke Exhibit M-2.)

[1130] * * *

Q Now, Mr. Dalhouse, you have civic interests or civically occupied at the moment. Do you consider yourself a concerned citizen? A Yes, I certainly do.

Q As such, do you have a personal view on the subject of this annexation? A It's difficult for me to have a personal view that is not colored by my relationship with the Chamber of Commerce. But my personal view is, at this moment, that the petition of the City of Roanoke to annex all or a portion of the County, is well-founded.

As a matter of fact, the position of the Chamber of Commerce and my own position is that any step that would reduce the number of political subdivisions within the narrow confines of this Valley would be a step in the right direction. The Chamber of Commerce is continually involved in industrial development activity. We have an industrial development group, and we work in concert with the Norfolk and Western Railway Industrial Development Section, and the Appalachian Power Company [1131] area industrial development group in those areas and relationships with potential industrial prospects. We have continuing frustrations brought about by the multiplicity of political subdivisions where negotiations and agreements between the several governments caused delay and confusion so that the corporate officials lose patience and go other places from time to time.

In my work as a banker, also, I come in contact with corporate officials in the same way because I am involved in, from the bank standpoint, in industrial development and the immediate reaction of people coming to this Valley from other places is of surprise that such a small geographic area has so many governments, generally creating a negative reaction.

It causes confusion in the way, if we are touring an industrial prospect throughout the Valley, which looks to him like a geographic

and economic unit, we quote him one tax rate in the County, another tax base in the City of Salem, another tax base in the City of Roanoke, then we complicate that further by explaining that his tax rate will be different even then if he is in the County and supplied with City water. Before long, he is very confused and causes us a good deal of frustration in attempting to explain that.

There is at least one good example that I can point to that took place in May and June, 1970, where this [1132] Valley lost in industry that had settled on this as the primary site, because of the inability of two of the political subdivisions to agree on the terms whereby sewerage and water would be supplied to that industry. The officials gave both the governmental units deadlines to reach an agreement. They were unable to do so, and eventually the industry, which was Amerase, Incorporated, settled in Piney Flats, Tennessee where that comparable situation did not exist.

* * *

Cross-Examination

By Mr. Jolly:

Q Mr. Dalhouse, the Chamber of Commerce is not in favor of doing away with the City of Salem, are they? Jack Smith hasn't said anything about that recently, has he? A No.

Q And any lessening of the number of governmental units in the Valley, the Chamber feels would be in the best interest of the citizens, is that correct? A Yes, sir, we do.

Q The Chamber hasn't gone on record as opposing Salem and the western end of the County being excluded from Roanoke's annexation; you said all or a portion of the County, I noticed? A Yes.

[1133] Q Was that what you had in mind when you made that statement, sir? A Yes, sir.

Mr. Jolly: All right, sir, your witness.

Cross-Examination

By Mr. Fitzgerald:

Q Sir, you have produced here for us the retail taxable sales in a twelve-month period for the County of Roanoke and the City of Roanoke. It shows, does it not, that the City of Roanoke is receiving

the purchasing power of the people outside the City, whether they live in the City or not? A Yes, sir.

Q They are not paying any attention to the City boundary lines to go shopping, are they? A No, they are not. Nor do people in the City of Roanoke pay any attention to boundary lines when they go to the County to make purchases.

Q Yes, sir. It doesn't restrict them at all? A None whatever.

Q This shows that the people of Roanoke County—or perhaps people from Botetourt too, wouldn't that be correct? A That is possible.

Q And Montgomery, and all the surrounding counties [1134] have come in to spend their dollars in the City of Roanoke? A Yes.

Q And you said they have come to the City to buy, they come to the merchants of the City to buy? A They come where the inventories are, where the variety is and where the best prices are, where the competitive atmosphere would create a suitable atmosphere to make purchases, both personal and business.

Q And then the City of Roanoke having been here for some years, that is where those things are located? A Absolutely.

Q This actually works to the advantage of the City Government, does it not, sir, the way—excuse me, doesn't it? A Yes.

Q Because a quick calculation of just three percent of those sales in a twelve-month period put $6,350,000 in the treasury of the City of Roanoke, didn't it, sir? A Yes, it did. I think that is a positive factor, but it does indicate without a question that the heart of the Valley, from the standpoint of an economic base, is the City of Roanoke.

Q They come to shop there? A And those people that live in Roanoke County, [1135] Botetourt and surrounding counties, depend on that concentration of assets.

Q Stores? A Stores on which to draw.

Q Yes, sir. A There would be very little to draw from, except for that.

Q Don't you think, sir, with the number of people here, that if you wiped out or moved every store out of the City of Roanoke, that they would develop somewhere else to meet the demand? A I have no idea.

Q You wouldn't think that if the demand of people here, if the stores weren't in Roanoke, somebody would think there is a demand, they would build them someplace else, or build them— A I think it's largely immaterial. They could be located in Catawba Valley, and that is where people would go.

Q If that is where the shopping centers were? A Yes, sir.

Q And the fact is it's where it is located now because that is the first area that grew up? A That's right.

Q And that is an advantage to the City, of course, [1136] to have more people coming in there and buying and paying their sales tax dollars, and besides the sales tax, if a business has customers and it prospers, it expands its shops and pays more taxes, real estate taxes into the City Government, doesn't it? A Yes.

Q And these people that come from outside, whether it's Roanoke County, we don't know, do we, we assume that a good many of them come from Roanoke County? A Yes.

Q Or Botetourt County, if they live out there and do their shopping, they are providing these tax dollars to the City while those counties are educating the children and providing the other services needed where they live? A All those people coming into Roanoke City to take advantage of the shopping facilities there that don't exist anywhere else.

Q We have established that, sir. But now I am talking about the advantage to the City. You said there was some? A Absolutely.

Q So I am trying to find out what all the advantages are. They are coming there, putting the tax dollar into the City while they live in another jurisdiction. That jurisdiction [1137] has to provide Welfare and other things of that sort, so that is a considerable advantage to the City of Roanoke, wouldn't you say? A Yes.

Q Now, you say that this matter of having two tax rates is a complicated thing? A Three or four.

Q Or three or four, and you would like it to be all one tax rate? A That would be ideal.

Q Have you been told what the tax rate is going to be if this annexation is granted? A Yes.

Q What is it going to be? A Substantially greater than it is now.

Q You want everybody to have a larger tax rate? A I don't think it will stay that way.

Q Do you think you will live to see it go otherwise? A Do you think you will?

Q No, sir.
(Laughter.)

Q And this metropolitan area you spoke of, does that include the Catawba Valley? A Yes.

[1138] Q That is part of the metropolitan area? A It's part of the area in this case, yes.

Q No, sir, you used the term in your resolution, I believe, and in your statement, metropolitan area? A Possibly not in that consideration. I am not sure that we discussed that particular area specifically, but I would say probably not.

Q Probably not. Bent Mountain wouldn't be part of the metropolitan area, would it? A Certainly not up the mountain.

Q No, sir. Is Salem part of the metropolitan area? A Yes.

Q How is it you don't want Salem with you? A Love to have them with us.
(Laughter.)

Q But they won't come, will they? (Laughter.) A That is their decision.
(Laughter.)

Q And you are perfectly willing to abide by their decision? A What we want—yes. As a matter of fact, we are forced to.
(Laughter.)
But what we want is to have a reduction in the [1139] multiplicity of subdivisions.

Q How many branch banks do you have in the Roanoke Valley, sir? A We have twelve. And they are all over the Roanoke Valley.

Q How many do you have in the City limits of the City of Roanoke? A I believe seven.

Q And the rest are outside? A We have one in Vinton, we have two in Salem, right.

Q Do you have any in the shopping centers of the County? A Yes.

Q Not in any City or town? A We have one in Roanoke-Salem Plaza, that is very close to the County.

Q It's in the County, isn't it? A I believe it is, yes.
Is not?

Q Well, we have got a bit of coaching going on. You have one in the Roanoke-Salem Plaza, anyway? A Yes.

Q And you have been able to put these branches out [1140] where you thought there was a need for a branch, true? A We got two in the City of Salem right under the change of the law. It is not possible now.

Q Can't do it anymore, can you? A No.

Q But in any event before you put a branch anywhere you have to talk to the people in Richmond? A No, somebody in Washington.

Q Oh, a national bank. The controller of the currency? A Yes.

Q And two or three others? A And the Federal Reserve.

Q Yes, sir, and the Federal Insurance people? A Federal Deposit Insurance Corporation.

Q You convinced all those people there was a need for the branch banks you put in? A They see it as we do, as an economic entity.

Q You have established these branch banks in those areas? A Yes, sir.

[1141] Q Without restriction by the City boundary lines, haven't you, sir? A Yes, sir.

Q You said that—and I believe your resolution here says something about due to the lack of coordinated effort. You realize that there can be cooperation and coordination between political subdivisions of the State, don't you, sir? A Of course.

Q Because you are familiar with northern Virginia? A Yes.

Q Are you not? A Yes.

Q Do you know that there are seven political jurisdictions in northern Virginia? I am speaking just of the Northern Virginia area from Fairfax County in. Seven political jurisdictions. A I wasn't aware of that, but I am not surprised.

Q And a lot of the problems that you are speaking of, to be perfectly fair, would not be problems if there had been cooperation between the political jurisdictions here? A That is very true.

Q If the three political jurisdictions or four would get together and coordinate their efforts and cooperate, [1142] much of the reasons proposed in this annexation suit would not exist? That has to be true, doesn't it, sir? A It certainly does have to be true. It is highly improbable, as we are all aware.

Q Can you tell me, as a matter of interest, and the Court, why the jurisdictions here—for whoever's fault it is—have not been able to cooperate and coordinate their efforts? A I am not sure that anybody can answer that with any accuracy, but I have an opinion. I am a Roanoke native, a Valley native. I went to school here and came back here to start a career.

Q You have grown up with it? A I certainly have, and have a vested interest here, my family and I. This has been the subject of conversation and speculation and debate for as long as I can recall having lived here.

The things that happened to this Valley since the end of World War II and particularly since the closing of the Viscose Plant in 1957 or 1958 have been dramatic and upheaving. I think—and the Chamber of Commerce officials agree—that we are probably on the threshhold of considerable development and a great future for this Valley. It is a nice place to live. I has a good population mix. It has [1143] educational facilities and so forth and so on. It is one of the few places left that is a nice place to raise a family.

You wonder in that atmosphere why can't those four Valleys cooperate. But I think this rapid and dramtic expansion, industrial expansion, that is taking place has changed the atmosphere from a community that could get along with just the basics and could live with the provincial attitudes that some of our people have had and now put us in a posture where we must begin to look to the future in a more sophisticated and more cosmopolitan way than we may have in the past. I say we as a Valley resident.

So I think that that native provincialism, brought about because we have had a good deal of rural area—we are fed here. Our population is largely people from western Virginia where we have a large rural and mining population. I think we haven't been ready, up to now, to face the fact that we are in fact an urban and sophisticated and cosmopolitan community that can no longer pay the price of provincialism and of failure to cooperate.

I think the extravagance of parallel governments to the degree we now have them is something that we can't continue to pay and grow in the way we need to grow. We are now a major city, a major community in the State, particularly if you look at us as the whole Valley, and we are [1144] not operating in a vacuum. We compete daily with cities like Knoxville and Charlotte and Durham and Richmond and Norfolk and Atlanta for industrial development purposes and we also compete as a community where people of intelligence and progressive thought want to live.

Until we can show that we are in a posture to live and think progressively, those people are not going to look on us with favor and will go someplace else.

Q I have enjoyed your remarks but I believe you lost my question in the dissertation.

My question was, do you know why they have not been able to cooperate? A Yes, I did answer that but perhaps weaved it in without spelling it out specifically.

Q All right, sir, if you have answered that question. A Would you like me to—

Q No, sir. A I don't blame you.

Q Do you think the fact that there have been successive and almost continuous annexations suits pending in this Valley has hurt the

chances of the jurisdictions to get together and cooperate? A It may have contributed to it, but I doubt that [1145] it has been a significant factor.

Q You don't think that the fact that a City has an annexation suit pending has an effect on that City cooperating with the County and trying to annex it? A No, I think it has an effect.

Q You don't subscribe to the theory that there should be two difference Civic Centers here, do you? A I certainly do not.

Q There should have been one? A I think so.

Q And it really doesn't make any difference whether it is inside the City limits of Roanoke or Salem or the County area as long as it is properly located with adequate access and parking facilities and such as that? A You are exactly right.

Q I have one question left on this. Piney Flats, Tennessee. Isn't that served by the Tennessee Valley Authority? A I expect it is. It is in the Tri-Cities—yes, I am sure it is.

Q And that could have been a significant factor in any industry locating there, couldn't it? A But we were already the site. This place was chosen pending only provision of sewage and water to the [1146] plant.

Q And it was lack of cooperation that didn't get it that time, too, wasn't it? A Yes.

Mr. Fitzgerald: That is all.

TRANSCRIPT DATED APRIL 29, 1971

Court's Ruling On County's Motion To Strike City's Evidence

[1213] * * *

Mr. Jolly: May it please the Court, I think the City of Salem owes to the Court a duty to state its position in this matter at this time, and the City of [1214] Salem has never been hesitant to take a position at any time or anyplace.

Before doing so, I would ask the Court's indulgence in order for the City to clarify its status in the proceeding with which we are dealing today and to which the County of Roanoke's motion relates.

Back in March at a pretrial conference which the Court held in this matter the procedure that was to be followed was the subject of discussion between the Court and counsel. At that time the Court

indicated—and I am now reading from Page 13 of the record in that pretrial conference—"In other words, the suggestion of the proceeding is that the City of Roanoke could put on the entire case for the entire County and then, of course, the County would have the right to cross-examine and put on evidence," referring back to the City of Roanoke, obviously, "and put on any evidence against the entire County. And the City of Salem would also have a right to put on a case, whatever they are contending for, which naturally would be a defense to the entire County."

Based on the language used by the Court, Salem at that point was under the impression that the initial trial involving the City of Roanoke's annexation [1215] Ordinance would also place Salem in a position where if it established to the satisfaction of the Court that it was entitled to annex any portion of the County, that would be considered.

When the trial started, and upon my cross-examination of some of the witnesses as to services which we contended could be best furnished by Salem, as to what is now known as the yellow line area, counsel for the County objected on the grounds that the questions were irrelevant and immaterial, that Salem was not annexing anything in the proceeding with which the Court is now concerned, and that whether Salem could or could not better serve any area of the County was not an issue before this Court.

The Court sustained the objections on more than one occasion and in response to a question directed by me to the Court as to whether or not the Court was indicating it intended in its rulings to cut off Salem from putting on any evidence, the Court indicated it was not.

I do feel I must establish a premise for Salem's position relative to the County's motion. I don't want mother to come back later on and say that we have conceded anything or given up anything.

[1216] If this motion only relates to the annexation Ordinance proposed by the City of Roanoke and if Salem in the hearing that we are having today and that we have had for the past two weeks is not in an annexing position, this Court is not now considering, but is waiting until the corridor case or the Glenvar case or the petition cases, if they ever come up, are presented before Salem will be in a position to annex any territory, based on that premise then obviously we do not opopse the motion of the County as we have heretofore stated that Salem is unalterably opposed to the City of Roanoke annex-

ing any portion of the County west of the yellow line which, as has been also stated, Salem considers to be solely within its sphere of influence.

With the Court's indulgence, I must make that basic premise because I certainly would not stand here and not oppose a motion to dismiss the suit in which our client was the annexing party.

With that attempted explanation, Salem does not oppose dismissing what we have already stated we were unalterably opposed to insofar as what I will call our area is concerned.

[1225] * * *

Judge Hoback: This Court, after considering all of the evidence and arguments of counsel, is of the unanimous opinion that the City has not shown the necessity and expediency of annexing the entire County, and to that extent the motion of the County is sustained.

However, in view of the decision of the Court of Appeals in the Young vs. Salem case, directing that the Petitions involved therein be consolidated and heard together, and the subsequent order of this Court consolidating the various Petitions for Annexation either to the City of Roanoke or to the City of Salem, this Court is of the opinion that these Petitions should now be heard in the order in which they were filed before the Court reaches any decision as to what portions of the County, if any, should be awarded to either or both of said cities.

* * *

TRANSCRIPT DATED MAY 31, 1971

[1229] * * *

Judge Hoback: In order to get the record down to date, the Court is of the opinion that the first thing we should consider would be the order presented by Senator Fitzgerald; copies were sent to all parties on May the 4th, 1971. This Court is of the opinion to enter the order as presented, with this exception:

In the last paragraph and four lines from the bottom, we would add to the order, "Be and the same is hereby granted insofar and only insofar as it affects the annexation of the entire County to the City of Roanoke.

With that exception, the order is agreeable to the Court. If anyone wishes to call attention or object to any other portion of it, they may do so.

[1230] * * *

Judge Hoback: This is only relating to the City of Roanoke against the entire County of Roanoke.

Mr. Davenport: If the Court please, I would like the record to show that the City of Roanoke excepts as noted at the conclusion of the Court's pronouncement on April 29 for the reasons stated at that time, and I would also like the transcript to show that the City of Roanoke feels that the decision on this motion at this time is not consistent with what the City of Roanoke, at least, understood was to be the procedure after the March 20th pretrial conference. Also that it does not conform to what we understand to be the requirements of the statute in overlap cases with reference to hearing all the evidence before any rulings.

Judge Hoback: Well, the Court will hear the rest of the evidence starting today on the different petitions. This relates only to the City of Roanoke case against the entire County of Roanoke.

Mr. Jolly: May it please the Court, on behalf of the City of Salem, there is one error in the order. [1231] I don't know how significant it might be. The order recites that the City of Salem joined in the motion. This the record clearly shows is incorrect.

The City of Salem did not oppose the motion for the reasons stated in the record and based on the premises that I assume Mr. Davenport was just referring to, the procedure that was followed. Salem was not permitted to introduce any evidence in the Roanoke City case to show that certain areas of the County ought to be annexed to Salem.

This simply is not factually correct. I don't know that it has any great legal significance.

Judge Hoback: Then did Salem take the position that all of the Glenvar area that Salem was interested in should have been annexed by the City of Roanoke? That is what the Court asked you at the time. You should take a position one way or the other. You either oppose it or you don't.

Mr. Jolly: We did not oppose it, sir.

Judge Hoback: You say you did not oppose it?

Mr. Jolly: Yes, sir.

Judge Hoback: You suggest an amendment, then, Mr. Jolly, the way you want it.

Mr. Jolly: I don't know that I want anything. [1232] The Court asked about the order. I just said factually what occurred. I don't really care, may it please the Court, one way or the other.

Judge Hoback: Well, you had better suggest how you want it amended. That is on the top of page 2.

Mr. Jolly: Could it simply show not opposed by counsel for the City of Salem?

Judge Hoback: And not opposed by the counsel for the petitioners? The counsel for the petitioners is not Salem.

Mr. Fitzgerald: The next one.

Mr. Davenport: Three lines further down, Judge.

Mr. Jolly: Fine.

Judge Hoback: Where it says counsel for the City of Salem, it will say not opposed by counsel for the City of Salem.

Mr. Fitzgerald: May it please the Court, I am sorry I didn't understand Mr. Jolly's intent. I guess I was so anxious to hear a friendly word from the other side of the room that I took it for more than it was. I have no objection to that correction being made but I believe on the next line you would have to add, "And joined in by counsel for intervenors William S. Russell," because they did join in.

[1233] Judge Hoback: Is that correct, Mr. Chapman?

Mr. Chapman: Yes, sir, your Honor.

Judge Hoback: Are there any other suggestions? If not, we will ask counsel to endorse the order as presented and amended and we will get that in the record first.

And now, Mr. Davenport, you have also presented an order which you desire to have entered, copies have also been furnished counsel. And the Court is prepared to enter a portion of your order and deny a part of it.

In other words, the Court denies the continuance, but takes under advisement whether or not the City of Roanoke would be entitled to put on additional evidence, until we hear all the remaining petitions.

Mr. Davenport: I understand what you are saying, your Honor, but I don't know how we are going to be able to prepare for that, because you will recall that the reason we asked for the continuance was so we would have an opportunity to prepare additional evidence.

Judge Hoback: Well, you will have the opportunity before we finish all the petitions, in other words, the Court does not now rule whether the City will be entitled to put on additional evidence or not, until we hear all the petitions.

[1234] Mr. Davenport: I understand the ruling of the Court, sir. We have to take exception to that in the record.

Judge Hoback: All right, so the record will show that the City moved for a continuance, which motion was denied and the City excepts to the ruling of the Court. And that the Court takes under advisement the motion of the City to put on additional evidence for less than the entire County, until after the petitions are heard, at which time the Court will pass on that motion.

Mr. Davenport: All right, sir. Now so that the record can be perfectly clear, may I file with the Court Reporter a copy of the order I submitted?

Judge Hoback: This order will be put as tendered and refused, exceptions noted.

Mr. Davenport: All right, sir.

Judge Hoback: Now are there any other preliminary matters to come before the Court before proceeding with the Ivan Young petition?

Mr. Robrecht: May it please the Court, your Honor, since the Court's ruling that the City of Roanoke could not annex the entire County of Roanoke, there have been submitted to the Clerk's office these [1235] petitions here (indicating), which purport to be signed by original petitioners in several of these petition cases, which state that they now desire not to be annexed to any City. And we would offer these to the Court at this time.

Judge Hoback: Well, wouldn't it be more appropriate to offer them, perhaps as we hear each petition, insofar as they relate to the different petitions?

Mr. Robrecht: Yes, sir.

Judge Hoback: So any of you have now that relate to the petition of Ivan B. Young or Windsor Hills may be presented at that time.

Mr. Robrecht: All right, sir.

Judge Hoback: This Court, as Judge Matthews states, has heretofore ruled that the names on the petitions as originally filed, would be counted in arriving at the proper percentage. But that those who signed the petitions have a right to change their position if they so desire, when the case is heard on its merits.

[1258] * * *

Mr. Fitzgerald: It is my understanding, your Honors, that the Court will hear all of these petitions and at the conclusion of that we can save any motions we have relative to any one of the petitions until that conclusion.

Judge Hoback: And the County would at that time be afforded the opportunity to put on any evidence in opposition or whatever you wish to do in regard to all of the petitions.

Mr. Fitzgerald: Yes, sir.

E. Bryan Wright

Direct Examination

By Mr. Musgrove:

[1261] * * *

Q What was your reason for wanting to become a part of the City of Roanoke? A Well, Roanoke is some to me. I had my business in Roanoke.

* * *

Q And are there other reasons? A And we go to church downtown. We go to the bank down there and we shop down there. About the only business I have in Salem is paying my taxes up here.

Q What type of water do you have where you are? A I have my own well.

* * *

Q Do you find your own well sufficient there? A Well it is. You can't ever tell whether the water level is going down, I understand. There are thousands of people on it, and that is the main reason I want to get in Roanoke. I understand that some of the wells have

gone dry out [1262] there. I have neighbors that have driven another well. They can give us water and still let us keep our well for domestic use, you see.

Q Is there any other service that you do not now have? A Well, of course we pay for our sewerage, $15.50 a quarter. We pay $6 a quarter for garbage removal. The fire protection that Roanoke says we would have—A house caught fire over there about a half mile from me a few years ago and burned down. The County did a fine job with what they could do, but they couldn't get enough water to put it out. Roanoke has a good fire protection. I guess Roanoke is home to me. I have been there since 1923.

Q Are there any fire hydrants in your area? A No, sir.

[1263] * * *

Cross-Examination

By Mr. Fitzgerald:

Q Mr. Wright, according to my calculations, you have lived in this area either in your present house or next door to it for 34 years, is that about right? A That is right.

Q Did you ever live in the City of Roanoke? A Yes, sir, 14 years.

Q Prior to moving outside the City of Roanoke? A Yes, sir.

Q And when did you live in the City of Roanoke? A I came to Roanoke February 1, 1923, and lived there and moved out on April 14, 1937.

Q And all this time, this 34 years, you had your business in the City? A Yes. Well, I worked for the other fellow. I went to work for SMW selling automobiles in 1923. I went in business myself on May 1, 1931, in the used-car business.

Q And you pay taxes to the City in your business [1264] there? A Right.

Q And in 1937 you elected to live in the County? A I went out to the County. I didn't try to get out of Roanoke. I tried to get some room and I couldn't find it downtown. I understood that Roanoke was going to take us in and we thought sometime in the near future, which helped to influence me to go out there.

Q And for 34 years you have been believing you were going to be taken in by the City? A Well, I don't know. I have been hoping, put it that way.

Q When you moved there you had a well? A Yes.

Q And you have had it for 34 years? A Yes.

Q And you had a well at the other place you moved from next door? A Yes, sir, a well there.

Q These wells have given you satisfaction? A Well, that one at the other place is—when the water is low it has run dry a little bit.

Q There are no water lines anywhere near you? A No. About half a mile from where we live.

[1265] Q Has anybody promised you that they are going to run a water line down your street? A They did when this petition around in the beginning. They said they would get on it up in our section within a very short time.

Q Is this what they told you when the petition went around? A This is what I understood the Council to say.

Q Did anyone say why they couldn't sell you water now, run a water line in there and sell you water like they do to other places in the County? A I went to the Mayor a number of years ago to see about that and he told what it would cost at the time. I have forgotten.

I talked to the neighbors to find out if they would join me and they said if I would pay for it they would hook onto it when they needed it. I didn't want to do that.

Q You say a house burned down in the area because they didn't get there soon enough? A I don't know. They might have gotten there but it was over there about a half mile away. The house was under construction and hadn't been quite finished and it burned down.

Q Have you ever known in your observation of the City of Roanoke of any buildings to burn down in the City, too? [1266] A Oh, yes.

Q Some just very recently? A They have burned down all over the country. But they have bigger fires in the City of Roanoke than that one was right there.

Q They had bigger fires in the City of Roanoke? A There was a big building there.

[1267] * * *

Mr. Fitzgerald: That's all.

Mr. Jolly: No questions.

Mr. Musgrove: May this witness be excused, please, sir?

Thomas B. Johnson

Direct Examination

By Mr. Musgrove:

[1276] * * *

Q What do you mean about it being an impossible situation for your children? A Well, the Valley can't prosper unless the City of Roanoke is a viable government. I feel the present County Government has been doing an excellent job of providing me with the services that I need, in general. There are certain exceptions, I feel, but in general I think doing an excellent job.

But they have been doing so by becoming, as I see it, a third city in the Valley, providing urban services. I am getting urban services from a County Government, and I don't feel this is a healthy, long-range solution to the problem.

And I feel that being annexed to the City of Roanoke would be a step in the right direction toward solving this problem. I do not feel it is the ultimate solution by any stretch of the imagination.

Q Mr. Johnson, you say you moved out in this area in 1961? A '61, yes.

Q Where did you live prior to that? A In an apartment in the City of Roanoke.

[1277] Q Why did you happen to move to the County? A I was looking for a house. I have three children, and I was looking for a house for my family, and a neighborhood for my children that I could not find an equivalent in the City at a price that I can pay.

Q Did you look in the City for property? A Yes.

Q Comparable to what you have? A Yes, I looked at, oh, I don't know, quite a number. I don't know if I looked at as many as half a dozen different properties in the City, but quite a number of properties in the City that I looked at. And I found this one in the County at the time, frankly I was not particularly concerned with whether I was in the County or the City.

Q All right. Now, you say that you feel that the County of Roanoke has, to this point, furnished basically the services that you need? A Yes.

[1281] * * *

Cross-Examination

By Mr. Fitzgerald:

* * *

Q Well, you moved there at your present address in 1961? A Yes, sir.

Q This was just after the annexation case of that year was decided, wasn't it, sir? A Well, as I indicated, I wasn't too concerned with [1282] that kind of a thing at that time. I really don't know for sure, I know it was around that time.

Q You recall that the City had just been denied annexing this same area? A I recalled it later, I found out about it. At the time I didn't care about it, wasn't interested.

Q And you were interested for your children's sake, that the City of Roanoke be a viable government? A I would like my children to have an opportunity for good employment and to want to live in this valley. I like it here, and this, in my judgment, would improve the chances of it becoming a healthy valley 10, 15 years from now.

Q Do you think the City and Valley is healthy now? A Well, I don't know. It depends on what you call healthy.

Yes, the employment rate is very good now, yes.

Q And you say that you don't think that a County government should furnish urban services? A I think this is not a good, long-term solution. I indicated a situation becoming increasingly impossible. I haven't indicated that it's a bad situation as of right now. In

fact, I believe I specified that I did not feel I was particularly hurting in services right now.

Q Yes, sir. But you feel it would be bad for the [1283] County to go on furnishing urban services? A Yes, this is my opinion.

Q Is it your opinion that the County could stop providing urban services if this annexation were granted? A No, I also indicated I thought this was a step in the right direction, but not a solution to the problem.

Q You realize that the County, even in this area, will continue to provide urban services if the annexation is granted? A Yes.

* * *

Mr. Fitzgerald: No further questions.

Mr. Jolly: No questions.

[1284] Mr. Davenport: No questions.

Mr. Moore: No questions.

[1285] * * *

Edmund A. Damus

a witness herein, being first duly sworn, was examined and testified as follows:

* * *

Direct Examination

By Mr. Musgrove:

* * *

Q What led you to sign this petition and to want to become a part of Roanoke City? A Many factors, and they are all personal so I am not siding with Roanoke nor Salem nor the County nor anybody. I look for Edmund Damus here and this is how I see it.

Being in the County is a good thing. You have [1286] land and you have space. But we are no longer rural. We don't have any water system. We don't have any fire system. Our police is very, very limited. We have no street lights. Garbage left on the roads for six months—intentionally left over there. Nobody would pick it up there. These are just samples.

I look at things this way. I am close enough to be in the City but I am not in the City, so my fire insurance is too high.

Secondly, if a fire ensued, which I saw happen at the Candlelite Club—a property worth $100,000 was destroyed by fire and nobody was able to do anything because they were bringing the trucks, filling them, going to fight the fire for ten minutes, the truck is empty and they run for two hours to fill the truck again and then come back. A total loss. I saw these things.

I don't have any running water. I have a well. It will cost me, to replace the pump alone, at least $500. I would like to have running water.

The sewerage. There is a pipe in front of my home. It is going to cost me $300 just to connect and I understand now it is $4 and a half a month for service.

Garbage collection, $2.00 a month and it may go up again. The taxes. That is what people are afaid of, taxes. Well, the taxes are going up. I can see it in the County. It [1287] has to go up. I can see it coming to $4.00 and $4.50 before long, within the next three years.

But still if I am in the County, as I am, I am going to pay that extra tax without getting anything called fire—anything you want to call it—the service is not available to me. And I feel that is the only way I can get it, is being a part of the communily that provides the services.

I am closer to Roanoke so I go to Roanoke. If I am closer to Salem, believe you me I would go for Salem. I don't like the situation the way we are. They are good people, the board of supervisors. But they can't do everything for us. They can't do it. It is impossible. And the County can't provide these services and we need them badly.

I can lose my home. I can replace it with the fire insurance I have. But if there is a hydrant over there my fire insurance will be much less than what I am paying. So for the difference of money I can have more fire protection.

And second, I can pay easily a few extra dollars and get the benefits of all these services. I don't think anybody will complain to pay an additional $100 a year and get all these services. It is worth it.

[1289] * * *

Q Now, was there any particular reason why you bought this—did you buy an existing home, or did you buy a lot and build? A I bought and lot and built.

Q Was there any particular reason that you purchased this lot in the County, and built there? A To be frank with you, you may laugh, all of you why I say it, I wasn't born in this country, I was here three years. And my wife lived over there, so she said, "We will buy this lot and build here." That's all I knew.

But as time went by, I started growing older and knowing what is going on, I realized that it's beautiful to have a home and have a yard and have lawns, and have everything, but it is not proper just to depend on, say—well, as they say in a foreign language, "My mother threw me from the high wall and the Virgin Mary picked me up." It's wrong. We can't depend on just, "Almighty God, please don't let us have fire," we have to have protection.

Q All right. You say you had only been in this country three years? A Three years.

[1290] Q When you bought that lot. So you were not aware of the differences in the City and County? A No, I never knew anything. I thought Roanoke is Roanoke. As a matter of fact, the United States meant Roanoke to me, that's all there was.

Q Do you have children? A Two children.

Q Where do they go to school? A One goes to Oak Grove and the other one goes to Andrew Lewis.

Q Are you dissatisfied with the school system as it is, is that correct? A So far, so good.

Q You have no complaints as far as schools are concerned? A No, I have no complaints as far as the schools are concerned.

[1298] * * *

Mr. Fitzgerald: All right, sir.

Mr. Jolly: No questions.

Mr. Davenport: No questions.

Mr. Moore: No questions.

Mr. Musgrove: I ask that this witness be excused, your Honor.

* * *

Luther B. McPeck

a witness herein, being first duly sworn, was examined and testified as follows:

* * *

Direct Examination

By Mr. Musgrove:

[1302] * * *

Q What services are you presently receiving from the County? Do you have sewer hooked up to the County? A Yes, I am hooked up—

Q The Sewer Authority? A Yes, that is right, the Sanitation Authority.

Q Then I suppose you do have the garbage pick-up from them? A Yes.

Q You pay extra for that? A Yes.

[1304] * * *

Mr. Fitzgerald: That is all.

Mr. Musgrove: Does anybody else have any questions?

Mr. Jolly: No questions.

Mr. Davenport: No questions.

Mr. Moore: No questions.

Mr. Musgrove: I ask that he be excused, your Honors.

* * *

Direct Examination

By Mr. Musgrove:

Guy R. Carr

[1306] * * *

Q Was there any particular reason why you moved into the County? A Because I looked for a home in Roanoke City and I could not find one suitable within the price range and I did find one here and I took it.

Q Did you actually look in the City of Roanoke for one? A Yes, sir, very much sir. You can ask all the real estate people.

Q What kind of water system do you have? A We are on the Roanoke County Water Authority from wells. It used to be the Windsor Hills Water Works.

Q Wells within the area, is that correct? [1307] A Within the area, yes.

Q Is that water supply satisfactory? A As far as it is, except the price has gone up.

Q What are you paying for the water? A Well, my last one was $17. When I moved out there five years ago I was paying $11; so you can figure—

Q For what period of time? A In five years.

Q What period of time is this $17 for? A For two months.

Q And you also have sewers from the Roanoke County Sewer Authority? A No, I have a septic tank. The former owner had not connected and I haven't bothered to. It is working fine.

Q Is the sewer available there from the Roanoke County Sewerage Facility? A Yes, sir, it is running right through the back end of my lot.

Q Are there any services, additional services, which you feel the City of Roanoke could provide in the County that the County is not now providing? A Well, better police protection and better fire protection. It would be paid rather than volunteer.

Q Do you presently have within the area fire [1308] hydrants? A No, sir. We only have a four-inch main there. We don't have a main adequate enough to take a fire hydrant. Besides, we don't have water supply enough to take a fire hydrant.

Q Do you ever have any problem with the water supply there? A No, sir, except when everybody uses it at times the pressure goes down. Last year in the dry weather we had to curtail it.

[1310] * * *

Q When you moved there, you knew it was in the County, didn't you? A Yes, I did.

Q You knew what services were available? A I had an idea, yes, sir.

Q You knew what the fire department was? A Yes, sir.

Q And you knew what the water situation was and the sewer situation? A Yes, sir.

Q And the trash and garbage collection, you knew what that was? A Yes, sir, I did.

Q You investigated very thoroughly, didn't you? A Yes, sir, I knew all this.

Q And you determined to move from the City of Roanoke to the County? A Yes, sir.

[1311] * * *

Mr. Jolly: No questions.

Mr. Davenport: No questions.

Mr. Musgrove: I ask that this witness be excused, your Honor.

John P. Cone, Jr.

being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Musgrove:

[1312] * * *

Q All right. For what reason did you petition the Court to become a part of the City of Roanoke? A Well, when we moved here from Winston-Salem in 1963, we looked all over Roanoke City for a house and were unable to find anything suitable, and we picked this particular location because the real estate agent poitned out that it was near the City limits. And he told me that he felt sure that it would be annexed quite soon after we moved.

And this proved to be incorrect. But we have been hoping to be annexed ever since moving out there.

Q All right. For what reasons do you hope to be annexed? A Well, of course, the overwhelming reason that I hear everyone expressing, I must echo it, is the desire to see the Roanoke Valley develop in an orderly manner. We wish to see industry attracted to the area, we wish to see better jobs available to people, we wish to see healthy growth, not haphazard mushroom growth, but healthy building growth in the Valley.

We wish to see bridges, and additional bridges built in Downtown Roanoke. We all of us live in this area and [1313] work in Downtown Roanoke, and twice a day we join a long line waiting to get across the bridge because there is not enough bridges available.

We understand the reason for this, that the City of Roanoke is forced to provide services based on the very difficult tax base situation, and we wish to be of assistance in correcting the situation.

We need fire protection, as has been mentioned. We need fire hydrants, we are very lucky so far not to have been hurt worse by fire than we have been.

We need police protection, the County has provided much better police protection since the new sheriff was installed; however, it is still not adequate. We don't, as has been stated—we seldom see a patrolman coming down Gradin Road Extension, only about once or twice a year.

We need access to the libraries, City library. We have youngsters in school, and they need to do research and the County library is—we have found not to be adequate for this purpose.

We avail ourselves to the Ctiy parks; the County has one park in our area, but it has not had very much improvement done on it. And we find that the City has a fine recreation program, a professional staff of people. And we wish to take advantage of this.

[1314] Grandin Road Extension is a very dangerous road, it's very narrow, very winding and as you observed, very hilly. There are a lot of places where people can see traffic coming towards them because of dips in the road.

The gutters are cut very deeply on both sides of the road, and in the winter when it snows, we frequently see—in fact, every time it snows, we see cars that have slid off into the ditches and are unable to get out.

We would like to see our area become part of the zoning area of the City of Roanoke. The City of Roanoke has recently adopted a fine new Zoning Ordinance, and in the interest of protecting our property against devaluation, we would like to be included under this Ordinance.

Q All right. Mr. Cone, where do you work? A I am an architect with Thompson and Payne.

Q Is that— A In the City of Roanoke.

Q In the City of Roanoke? A Yes.

Q You mentioned use of the City library. Do you presently use the City library? A Yes, we do.

Q And where do your children attend schools? A My oldest boy graduated from Patrick Henry last [1315] year. And he's in college now.

Our younger son is at Patrick Henry, and we have a daughter at Woodrow Wilson who graduates from Woodrow Wilson this year.

Q All within the City of Roanoke, is that correct? A Yes, that's correct.

Q Do you utilize the City of Roanoke's parks and recreational facilities now? A Yes, we do. I like to play tennis with the children, and just about every weekend we play tennis in the City parks.

Q What parks are there; any in particular that you utilize? A The new one at Crystal Springs is one that we like very much, and South Roanoke Park.

Q Have you made any use of the new park that Roanoke County has just installed over there? A Yes, we have gone there several times.

Q In that area? A We don't like it quite as well, it's a very pretty area but the court is a little rough, and we just prefer the City-maintained one.

Q In comparison to the City courts, how many people can use the County courts as compared to the one that [1316] you used in Crystal Springs? A Well, I think there are just three courts in the County, in the County parks. And the Crystal Springs has got six, if my memory is correct.

Q Are there other parks or recreational facilities in the City that you utilize? A Well, we have been skiing on that ski tow that the City provided, and that is primarily those two things. The kids go play there once in a while, and fly model airplanes.

* * *

Cross-Examination

By Mr. Fitzgerald:

[1323] * * *

Q How far is the nearest County library branch to where you live? A In the City of Salem, I believe, within the limits of the City.

Q You are not aware of a new library nearer to you than that? A I understand that there is one planned but I don't believe it is opened yet.

Q Planned? A But I may say on that, that the City library has 170,000 volumes and for a child preparing himself for college it is essential not just to have a library but it is essential to have a big backlog of books for reference.

[1324] * * *

Q You participated in this program where the City allows you to send your children to school without paying tuition if there is a petition pending for annexation? A We did.

Q How did they get to school? A We take them.

Q By private car? A Yes.

Q You pick them up in the afternoon? A That is right.

Mr. Fitzgerald: That is all.

Mr. Jolly: No questions.

Mr. Davenport: No questions.

Mr. Musgrove: I ask that this witness be excused, your Honors.

* * *

Jack M. Goodykoontz

a witness herein, having been first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Musgrove:

[1325] * * *

Q Mr. Goodykoontz, did you have anything to do with the development of the Blue Ridge Industrial Park located just outside the

confines of the City of Roanoke? A I served as secretary to the Roanoke Valley Development Corporation which developed the park.

[1327] * * *

Q Are you still connected with this corporation? A Yes, I am currently secretary.

Q Do you know of any existing problems up there in the area from the standpoint of garbage collections, street clean-ups, police protection, or anything of that nature? A Well, I have been asked by tenants in the past recent years to assist them in interceding for better police protection. There has apparently been vandalism and misuse of the area.

On cleaning up the streets, there has been a problem and I have helped to intercede with the County to get [1328] services of that nature. There has been a problem of access at the intersection of the areaway drive with Lee Highway, where we have felt a trip light is necessary. The Highway Department has felt there is not enough traffic to warrant such a trip light at this time.

Q Is there a regular street clean-up in the area by the County of Roanoke or the State Highway Department or anyone? A I know of none, no, sir.

Q Do you know if there are any regular police patrols within the area? A I know of none, no, sir.

Mr. Musgrove: Witness with you.

Cross-Examination

By Mr. Fitzgerald:

Q Do you know of any improvement in the police protection in the last three or four or five years? A No, sir, I don't.

[1330] * * *

Q The County, on the other hand, installed or paid for the installation of fire hydrants? A I understand so.

Q But they also paid to maintain those fire hydrants, don't they? A I don't know about that.

Q And they paid for the street lights or having them put in by Appalachian? A Yes, sir.

Q And the County pays for those lights? A I understand so.

Q While the City is collecting its water and sewer fees? A That is correct.

Q You testified in the 1960 annexation case, did you, sir? A I can't recall. I possibly did.

Q For the City, in favor of annexation? A In regard to what suit?

Q In the 1960-61 annexation proceeding? A I can't recall, sir.

[1331] Q You don't know whether you did or not? A No, sir.

Mr. Fitzgerald: All right.

Mr. Jolly: No questions.

By Mr. Davenport:

Q Mr. Fitzgerald asked you about who paid for the street lights and so forth. To whom did the businesses in the industrial park pay taxes? A To the Counuty.

Mr. Davenport: Thank you.

Mr. Musgrove: May this witness be excused, your Honors?

Richard L. Barnett

Direct Examination

By Mr. Musgrove:

[1333] * * *

Q All right. What led you to take an active part to become a part of the City of Roanoke seeking annexation in the City of Roanoke? A I am a community man, and recognizing the value of Roanoke had to have a heart and had to have a hub, and I personally feel that the City of Roanoke is the center of this Valley, and it must grow and have territory and land it can grow and expand on.

Q All right. When did you move into this area? A I bought my lot in July, 1955 and I built on it in August, moved in August, '59.

Q Where did you live prior to that? A From '32 to '59, lived in the City.

Q In the City of Roanoke? A Right.

Q Any particular reason that led you to move into the County of Roanoke in 1959? A Yes, I was loking for land, looking for a lot that was suitable for my wife and I, the one we wanted. And we looked around the City in many places, and couldn't find what we desired.

So the real estate man took me out in that area, and we looked around, and after three months' time, we narrowed [1334] it down to three locations: one on Lee Hy Road, one on Windsor Road and one on Darlington Road. And I bought the one on Darlington Road.

Q You say prior to that you had looked at the lots in the City of Roanoke, is that correct? A Yes, sir.

Q Were you able to find any suitable for building in the City of Roanoke? A Not what we wanted.

[1335] * * *

Q Is the water supply that you have adequate for your needs? A It has been short at times. The pressure has been low at times and we have had some muddy or murky water several times. That happened just this past summer. But the water supply possibly is more than adequate for household use but not for any fire hydrants.

Q Do you have any fire hydrants in that area? A No, sir. We don't have water lines large enough to maintain or operate a fire hydrant on.

Q Do you feel there is need for fire hydrants in the area? A Very definitely so.

Q I believe during the tour of the area that you pointed out that the residents of your street had gotten together and put in curb and gutter? A Well, I didn't mean to take all of you people up there on that street just to show you, but that was on the tour this morning. But we are very happy that the homeowners on that street felt the need of having curb and gutter and we personally paid for it. We had a contractor put it in on the same specifications as the curb and gutters were being laid in the City of Roanoke.

Q Did the County in any way contribute to the cost [1336] of those curbs and gutters? A No, sir, we paid it individually by the frontage of our lots.

Q Who maintains the streets in your area? A The Highway Department.

Q The State Highway Department? A Yes.

Q Do you have snow removal in that area by the State Highway Department? A Have what?

Q Do you have snow removal? A Several years ago in one bad snow we had my street scraped on the third day.

Q Is that unusual, though, for them to— A It is always on the second day but this was on the third day.

Q Normally you get snow removal on the second day after the snow falls? A Yes, sir, in the center of the road.

Q And this is furnished by— A By the Highway Department.

Q From the State Highway Department, not the County of Roanoke, is that correct? A Right.

[1337] Q The County does not serve you in that respect? A Right.

Q Do you have street lights in your area? A We have one on our street.

Q And is that adequate? A And a few on Mud Lick. There are quite a few streets with no lights.

Q Is the lighting adequate, in your opinion, in that area? A For the area, no, sir.

Q Is your garbage removal satisfactory that you have in the County of Roanoke? A Well, I will tell you the truth, no.

Q In what way is it deficient? A It has been quite a few times that there has been two weeks at a time before we had a pick-up. We called and reported it and they said they were having labor trouble and shortages of crews. "We will get there as soon as possible." And it has been some half dozen times in the last couple of years that it has been two weeks' period before it was picked up.

[1338] * * *

Q Where do you do your shopping? A Most of it in the City.

Mr. Musgrove: Your witness.

* * *

Cross-Examination

By Mr. Fitzgerald:

[1342] * * *

Q And you are saying that from the time the petitions were first circulated, that the line was not changed, except to add an area? A That's right.

Q Would it surprise you to know that there is already testimony in this case to the contrary, that the line was changed to cut out areas where less than 50 percent of the voters wanted to be annexed? A I don't know anything about it.

Q You don't know anything about that. But an area was added subsequent to the circulation of the petition? A Taryn Hill.

Q And when did that happen; after you had all assembled back again? A No, sir, that was when we were just ready to close it out and file the petitions, when that area came to us and says that they would like to have petitions, because they wanted to join.

Q Mr. Barnett, there is some areas you can see from the map, like the area I am pointing to here (indicating), that would appear to have been left out. Weren't these areas taken out after you started circulating the petition? A No, sir.

Q How come those areas were left out of the area, [1343] then? A There is one area next to Mud Lick Road, one fellow went over there and made a few calls, we had no petitions over there. And they did not want it, so we did not take any petitions in there, and did not make any more calls.

Q But someone went over there and made a few calls again? A One man went over there, because he knew four or five people.

Q So you decided not to draw the line around there? A We didn't even have the line including them, to begin with.

Q Now, when you came back together with the petitions signed, what did you do with the petitions? A We filed them.

Q Who was we? All of you? A The attorney.

Mr. Fitzgerald: That's all.

Mr. Jolly: No questions.

Mr. Davenport: No questions.

Mr. Moore: No questions.

Mr. Musgrove: If your Honor please, the petitioners rest their case in the Blanche Weddle vs. the City of Roanoke and the County of Roanoke.

[1344] * * *

Mr. Fitzgerald: May I inquire if the City of Roanoke intends to put on testimony regarding the Weddle petition at some stage of these proceedings?

Mr. Davenport: Not at this time, if the Court please, in response to Mr. Fitzgerald's question, other than the testimony that has already been introduced which is before the Court and which pertains to this area, as well as other areas as to services.

Judge Hoback: Mr. Jolly?

Mr. Jolly: May it please the Court, I understood from the conference that the Court held with counsel after the Court adjourned here at the last session, that all of the evidence for the petitioners and also some intervenors, as I understand it, would be heard, then the City of Salem would have an opportunity to put on whatever evidence it wanted to put on relating to the petitions and areas in which it was interested. And then I assume, although we have no—the City of Roanoke would have a like right, and then the County of Roanoke?

Judge Hoback: That's right.

Mr. Jolly: All right, sir.

George S. Hudgins

Direct Examination

By Mr. Musgrove:

[1350] * * *

Q What was your reason for wanting to become a part of the City of Roanoke? A Well, as I reckon a lot of them around that area, I was desperate for a sewer line. I offered through Mr. Den-

nison—I think the figure was $5,000 to extend the sewer line over to me, the County line, and $50 per lot to hook to it, which would run into quite a bit of money.

They refused saying it was pending annexation. Well, it would have involved a pumping station and I can understand it would have been expensive. But at the same time I was desperate for it, so I went to the City and they came to my rescue and extended the sewer line out there. Actually I would have been out of business.

[1355] * * *

A One thing I might add that I explained to the people that lived out there, if we had fire hydrants closer and in the area, I think that even if you pay a higher tax in the City, I think that the insurance would be greatly reduced on them. I feel like it would.

Q Are there any other fire hydrants in this area? A No, sir. We have only to have them one time. That was a little small fire in one. But I had it out before they got there, actually.

Q From what you say, you do feel a need for a fire hydrant in the area? A I do, especially in the wintertime. I really do when they are running their furnaces.

* * *

Cross-Examination

By Mr. Fitzgerald:

Q How long have you owned your land there? [1356] A Since I moved in.

Q And who did you buy that land from? A Mr. Bass.

Q How many acres do you have? A About an acre and a quarter, I think.

Q Do you have all the trailers there you can get on the acre and a quarter? A No, you know I have to go on City property?

Q You have part of the trailers on City property? A Yes, sir.

Q How long have you had part of the trailers on City property? A I think it's been there maybe 25 years.

Q Twenty-five years? A Yes.

Q Did you have the trailers on the City property before you bought the acre and a quarter? A Yes, sir.

Q Did you have them on City property before this petition was filed? A Yes.

Q Did you buy the acre and a quarter after this petition was filed? A No, sir.

[1357] Q Just before? A Five years before. Five years ago, six years ago.

Q That you bought the property? A Yes, April, 1965.

Q Well, this petition was filed in 1966, wasn't it, sir? A I bought it in April of '65.

Q You bought the land about a year before this petition was filed, didn't you, sir? A Roughly.

Q Now, wasn't it prior to your buying this acre and a quarter that you talked to the City about sewer? A No, sir.

Q I mean while you had the trailer on the City property, you weren't concerned about sewer? A No.

Q Are they right adjacent to each other? A Yes, sir.

Q How many trailers on the City property? A Thirty.

[1358] Q Thirty? A Yeah.

Q Now how many on your property? A About fifteen or 18.

Q How many, 16? A Yes.

Q So you have 16 trailers on your property. A No, 18.

Q And the balance on City property? A Yes.

Q Do you have sewers serving the City property, too? A Yes, at our expense.

Q At your expense? A Yes.

Q When did you get the sewer service for the trailers on City property? A When?

Q Yes, sir. A At the same time we got it all.

Q At the same time? A Yes. They brought it to my boundary and I put it in for the balance of the way.

Q Did you go to the City and ask them about [1359] bringing— A I didn't. I sent a lawyer.

Q Who did you send? A Bill Ammen.

Q Was there any discussion between you and anybody else at the time you were seeing if the City would bring your sewer in there about annexation? A No, sir.

Q It wasn't mentioned? A This was after that.

Q That was after that? A Yes. I approached the City sometime after that, maybe a year or so. I am not sure.

Q About annexation? A No, no, about the sewer line.

Q You talked about annexation first, then? A Now, wait a minute. Let's start all over.

Q Yes, sir. I want you to be absolutely sure, now. A I am going to be sure.

Q Which came first, annexation or the sewer? A The annexation came first.

Q And you circulated the petition? A I did.

[1360] Q What kind of lease did you have on this City property? A I didn't have any lease. I am renting.

Q You are renting? A Yes, sir.

Q Is it a month-to-month proposition? A It could be.

Q What is it? A I don't know. It could be that.

Q You have no written lease with the City? A No, it has run out. But I do have it in the hands of a lawyer for another one. I don't know how it is coming out.

Q How much do you pay the City? A $100 a month.

Q Is that what you have been paying them all these years? A Since I have been there.

Q Did the City say anything to you prior to the filing of this annexation petition about getting the petition circulated— A No, sir.

Q I haven't asked a question yet. A You asked me did they say anything before the [1361] annexation.

Q Yes, sir, about canceling your lease. A No, the lease has never been mentioned.

Q It never has been mentioned? A No, sir.

Q And you say it has run out. What kind of lease did you have at that time? A Let me go back a little further. I have an agreement with the man I bought it from that will reduce itself by about $10,000 in case anything happens. It is not much, but it is something.

Q Let's get back to the negotiations with the City. You say you had a written lease but it has run out? A I never had one.

Q Didn't you just get through saying you had a lease but it ran out? A I never had one myself. There was one prior to me being there.

Q When you came there the lease had already run out? A It had run out.

Q And who did you talk with in the City about your taking over the trailer park? A It was handled—Let's see—It was handled [1362] through Mr. Bass, and the lawyer and a letter. I can produce the letter if I have to. I don't remember. Mr. Bass had the lawyer here in Salem that wrote him a letter, to Mr. Harris, and Mr. Owens, I believe, was there at the time and they accepted it.

Q Mr. Hudgins, who prepared the petition for annexation that you circulated? A I got it through the airport manager, Mr. Harris.

Q You are talking about the Roanoke City Airport manager? A Yes, sir.

Q Mr. Harris? A Yes. Bill Atkins asked me to work one day if I had been approached with it. This is in the deposition that we gave some time ago. He asked me had I been approached with it.

I said no, but I would like to know more about it and what is going on. So I called Mr. Harris and asked him about it and he said

he would let me know something about it and he brought it down to me, and a map.

Q And a map? A Yes, sir.

Q Did you circulate it just in your trailer court? [1363] A That is right.

Q You didn't go outside of it? A No, sir.

Q Did you tell these people in the trailer court they had to be registered voters to sign it? A Yes, sir.

Q As a matter of fact, most of them had to go and register to vote before they signed it, didn't they. A Yes, sir, they sure did.

Q And as it turned out you were not a registered voter, were you? A Yes, sir, I am supposed to be.

Q You don't know that the Commissioners found out you weren't a registered voter at the time you signed the petition? A I have been voting, so they must not have counted it. I know all the same registered voters helped this man and Mr. Osterhoudt and the Sheriff in office. We did that much.

Mr. Robrecht: Thank you.

By Mr. Fitzgerald:

Q Mr. Hudgins, for the 46 trailers in your court, you know all the people by name, don't you? A Well, I guess so, their initials or names or something.

[1364] Q Can you tell us if Charles A. and Linda A. Akers are— A They never did live there. They were transferred to Bedford soon after they came here.

Q But they signed the petition for annexation? A There were only about seven or eight that are there now. That has been six years ago. So you can serve some time. There is about seven of them.

Q Of the 46 original signers there is only— A There wasn't 46 original signers, was there? Wasn't it 22? I think a national survey shows that a family will move every three years, anyway.

Q The Commission's report shows, I believe, that there were 37.

Mr. Musgrove: I think that shows, Mr. Fitzgerald, 37 in the area. I don't think that shows 37 signed it.

The Witness: There was some that signed it that was not registered.

Mr. Musgrove: Some of those listed did not sign it, that you are counting there.

The Witness: And one signed it that was too young.

By Mr. Fitzgerald:

[1365] Q But you say you believe there are just seven people left? A Well, there are seven—

Q Of how many there were? A Counting myself and my wife.

Q There are seven of the occupants of the trailer park? A Is that what we counted?

Mr. Musgrove: Mr. Hudgins, I don't remember and if I did I couldn't testify. I couldn't tell you if I did. I don't remember.

By Mr. Fitzgerald:

Q Is that your recollection, sir, that there were seven people still remaining in the court that signed the petition? A Well, I will say seven.

Q You say you have somebody looking into obtaining at least for you for this City-owned property? A I will go back a little further. The County wrote recently, from Mr. Matthews' office, to the existing mobile home courts for extension. I sent him a possibility of some land and requested it and in about a week I canceled it because I have made other plans on something else I want to do. I canceled that but I did leave the request for a—Well, I [1366] would take most any kind of lease, a comfortable lease, to be safe. That has been maybe two or three months and I haven't heard anything from it and that is the end of it. If they don't do it that is the end of it. I will not bother them any more.

Q You have trying for several months to get an answer? A Well, I just turned it over to him three or four months ago. It could have been two months ago, I don't know.

Q What size spot do you have that you lease from the City? A 200 by 500, I think, in feet.

Mr. Fitzgerald: That is all.

[1371] * * *

Mr. Fitzgerald: All right, sir, that's all.

Mr. Jolly: No questions.

Mr. Davenport: No questions.

Mr. Musgrove: I ask this witness be excused, your Honor.

TRANSCRIPT DATED JUNE 1, 1971

[1375] * * *

Mr. Gochenour: Your Honor, as you know, I am counsel for the petitioners in the Willis case. Up until yesterday I have had one person from the Glenvar area contact me with respect to proceeding in the case or not. Yesterday afternoon, after Court adjourned, I went out to line up some of my witnesses whom I had talked to before because this case came up on a little earlier than I expected.

When I did so I found that in one subdivision where we had obtained about 180 of the original signatures, every person there except one wanted to stop and stay right where they were.

When I found that out I want into another area where we had obtained a substantial number of signatures and found the same condition.

Last night one of the original petition bearers had a Brunswick stew at his house, which is a traditional thing in his house, which is a traditional thing in his neighborhood, and I called and asked that he make a poll there. He called me back and said that 100 percent of the people in that area wanted to remain where they were.

[1376] When this thing started these people were faced with consolidation and an all-inclusive suit. Now things have changed and I think that people have changed their minds.

I feel that I no longer represent a majority of those people insofar as wanting to proceed in this suit. I could bring witnesses in here and proceed, but I don't think it would be fair to the Court. It is a matter of what, I think, would be dishonest. Ethically I just can't proceed in the matter, feeling that I now no longer represent a majority of people who want to proceed to come into Salem.

I am sincerely convinced that the great, overwhelming majority want to stay where they are. For that reason I move the Court that we be allowed to withdraw our petition and not proceed further.

Judge Hoback: Mr. Gochenour, yesterday you indicated that you might desire more time than the Court was apparently giving you due to the fact of developments of the proceedings. Would you desire any additional time? The Court doesn't want to be in the position of rushing you into making such a motion if you want more time to determine whether or not you wish to proceed. That is the first thing.

[1377] Mr. Gochenour: Judge, this came totally as a surprise to me. I think it developed over the weekend. Some of it was generated by these petitions that Mr. Robrecht attempted to introduce yesterday. I found that some of the original petition bearers carried those petitions.

While I am not completely satisfied in my own mind that the majority of the original petitioners want to stay where they are, the polls in three of the biggest areas indicate that. I would feel better about it, from an ethical viewpoint, if I had a chance to make more certain of it, but I think the result is going to be the same.

Judge Hoback: Does anyone wish to be heard either in opposition or in support of the motion at this time?

Mr. Jolly: May it please the Court, I suppose Salem is the entity most directly concerned with this development, which I learned of for the first time last night. I think the Court's suggestion is well taken.

As far as Salem is concerned, we would like a little additional time in view of this not only to determine what the real feeling of the people in the [1378] area is but also from our standpoint to find out what our client would want to do if the feeling is as Mr. Gochenour has indicated based on the very brief time he has had to investigate the matter.

As I understanding the ruling of the Court heretofore in petitionary suits it has always been that when the petitions were filed and it was determined that 51 percent of the qualified voters in the territory had filed a petition, that this suit was then pending. They could withdraw insofar as they were parties plaintiff. The Court has very properly ruled that. But the jurisdiction of the Court has attached once those petitions were filed.

It may well be that Salem, after we have had an opportunity to consult with counsel, may not want to put on any evidence. It may want to let the matter drop if this is the wish of the people there. Or, on the other hand, it may want to proceed as a party to this suit which is now pending.

But we do think it would be very appropriate, since the Court is going to reconvene on the 21st, if we could have this time in the interim to determine just what the situation is in the Glenvar area and just what attitude the Salem City Council would want us [1379] to pursue before the Court, and then announce to the Court on the 21st when it reconvenes just what the situation is.

[1380] Judge Hoback: All right, sir.

Mr. Fitzgerald: May it please the Court, I don't know that the City of Salem has such a position in this proceeding. It's true that this petition brings the City of Salem into the case as a defendant, as is the County. But they are, as a defendant and the petitioner is like a petitioner in any other case, the case can go no higher than the case the petitioners put on. If the petitioners have seen fit to withdraw their suit or to have a change of opinion and wish to withdraw the suit, I don't believe the City of Salem is in any position to insist the suit be tried.

The City of Salem especially since they are still within their time that they are barred from seeking annexation or pursuing annexation on their own, it seems like to me that if the moving party of the suit wishes to withdraw it, then the defendants, in a situation like this, could prevent it. And if the petitioners do not wish to put on any evidence, then certainly no order could be entered granting the relief sought by the petitioners, if no evidence was presented.

I found out about this this morning when I got [1381] to court, and of course it pleases the County very much. The County would like very much to get out from under all these threats of annexation, and if this can be dropped it's just one step in that direction and we can proceed with the others.

Judge Matthews: Senator, direct yourself a little bit to his position of a little more time to determine whether or not this is the desire and wishes of his people. I realize that this case must go on, but I can also understand a little bit about his position coming up in the manner in which it did, and as somewhat of a surprise to him.

Mr. Fitzgerald: Yes, sir, I certainly wouldn't want to put counsel in the position of having to act on premature or immature information. But your Honors know that this case has been pending for some time, like all the rest of them, and since from back several months ago, anyway, the schedule for trying these cases, the order trying these cases was known by all. And I am not talking about the attorney for the petitioners, I am talking about the petitioners in the area too. It's been well advertised in the newspaper, and as he said, during all that time, I believe he said only one person had come up to him [1382] about the matter.

Now the petitions that were sent in here and filed yesterday, or we had yesterday, they are being analyzed now, those in this area were pretty well analyzed by whoever got the petitions signed, and it showed that a goodly number of people, I believe it's 287 people that had signed the original petition to be annexed had signed this petition seeking not to be annexed.

If time would prove anything or it would look like it would show something different, or show this was the desire of the people, I think it would be in order. But for all the time we have been trying this case, the schedule has been known.

Mr. Gochenour: Judge, may I make another remark?

Judge Hoback: Yes.

Mr. Gochenour: As I indicated previously, it's a matter of ethics with me. If I don't represent the majority who started out in this suit and they want to withdraw from the case, I feel honor-bound to do that. For that reason, I would like a little more time to make certain of that. It looks like that way to me now, but I don't think it would be honest for me to come in before this court and put on a case [1383] purporting to represent a majority of the people, who don't want me to go ahead. I think it would be dishonest on my part.

Judge Hoback: Anyone else wish to be heard concerning the motion? If not, the Court will have a brief conference.

(The Court retired from the courtroom to confer.)

[1384] Judge Hoback: In order to bring the record up to date on the pending motion, counsel for the petitioners in the Glenvar area will advise the Court not later than June 8 if he wishes to proceed or

withdraw that decision. If the decision is to withdraw the petition, the order will be entered as of June 8.

* * *

Roy C. Kinsey, Sr.

a witness herein, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Musgrove:

[1385] * * *

Q What led you to sign this petition to have your area annexed to the City of Roanoke? A I thought that everything concerned would be advtantageous to everybody in that area.

Q You say everything. What in particular did you feel would be better? A I figured it would bring water and sewer. At [1386] that time I didn't have electric lights. It would bring electric lights and all of the conveniences that go along with the City.

Q Do you presently have electricity and sewerage out where you live? A Yes, sir.

Q What kind of water do you have? A Well, I had wells for a while but now since the City has put in the water system I joined onto the Roanoke Water Company.

Q You now get water from the City? A From the City.

Q Has this come about since you signed this petition? A Yes.

[1387] Cross-Examination

By Mr. Fitzgerald:

Q Mr. Kinsey, who furnishes your electricity, Appalachian? A Appalachian.

Q And you have sewer service, you say? A I have a septic tank.

Q You have a septic tank? A Yes.

Q That functions properly? A But the sewer has been put in recently.

Q But you have not hooked to it? A No, I have not hooked to it.

Q The sewer is there if you want to hook to it? A That's right. The water was there, they put in the water line, they put in all the services that were available from the City.

Q Yes, sir. So all the things that you wanted, you have gotten or are available to you now? A That's right, that's right.

Mr. Fitzgerald: No further questions.

Mr. Musgrove: That's all, Mr. Kinsey.

Mr. Jolly: No questions.

The Witness: Am I excused entirely?

[1388] Mr. Musgrove: May he be excused, your Honor?

* * *

Arthur F. Hoback

was called as a witness, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Musgrove:

* * *

Q What led you to seek to become a part of the City of Roanoke? A Well, I have a little strip of land in there that is getting too valuable to farm, and I felt like I had to do something with it. And to develop this land, I would have to depend on the City for sewers and water.

And I felt if I had to depend on them for sewers and water, probably I might as well be in the City.

[1389] Q Have you approached the County about furnishing you sewers or water there? A A few years ago, we put in a service station there and we asked the County for water and sewers. And they said they were sorry, but they had nothing to offer us.

And we went to the City, and they agreed to let us have sewers and water and the service station that is at my house.

Q And that is on Harshberger Road on the County side, is that correct? A Yes.

Q Mr. Hoback, what about fire protection, do you— A Well, we are right on the borderline of Roanoke City and Roanoke County. One incident here several years ago, we had a little fire next door, of course we called the County and we called the City. And the City got there and put the fire out and was leaving when the County got there. Of course the County had a little further to go.

Q You are closer to the City Fire Department? A That's right.

Q Than you are the County Fire Department? A That's right.

[1392] * * *

Cross-Examination

By Mr. Fitzgerald:

Q You say that you requested sewer and water service from the City for the gas station? A Yes.

Q And got it? A Yes.

Q And you paid them for it? A No, we didn't pay them for it?

Q You don't pay— A We pay the bills, yes. We pay the service charges.

Q You paid to connect to the line? A Yes.

Q And you pay a service charge? A Yes.

Q And you pay for the water that you get from the City every month? A Yes.

[1393] Q You don't need that at your home, you have a septic system and well water? A That is right.

Q How long have you lived there, Mr. Hoback? A About 38 years.

Q And the water and sewer are also available to this 28 acres? A Yes, it is there on Herschberger Road.

Mr. Fitzgerald: That is all.

Mr. Musgrove: May this witness be excused, your Honors?

* * *

Willie H. English

a witness herein, having been first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Musgrove:

[1394] * * *

Q Mr. English, do you own any property within the area that seeks to be annexed? A I purchased a lot in the area.

Q Is that a new subdivision in that area? A Yes.

Q You, of course, were not one of the petitioners in this case? A Well, I signed the petition for this at the Cross Roads Mall.

Q You did sign one? A When they were circulating it, I did sign one.

Q When did you purchase this lot? A Oh, about three years ago, two or three years ago. I can't remember exactly. The reason I bought it was because they had put sewer and water in there. Otherwise I wouldn't even have bought it.

Q Who put the sewer and water in there? A Mr. Wingfield, I guess.

Q Do you know where the sewer and water come from? A I am sure they come from the City of Roanoke.

Q What are your wishes regarding the annexation of [1395] this area? A I am 100 percent behind it. I want them to annex it because I make my living in the City. That is where I want to be, in the City.

Q What do you plan to do with this lot? A I am going to build a house on it.

Q Are you going to move in it yourself? A Yes, sir.

Q You plan to live in the area as soon as you build your house? A Yes, sir.

Cross-Examination

By Mr. Fitzgerald:

Q Mr. English, you say when you signed this petition you didn't live in the area? A I lived in the Boxley Hill area which is right at the airport.

Q Is that in the area sought to be annexed? Where do you live now? A I live in the Boxley Hills Section.

[1396] Q Is that in the County or the City? A The County.

Q And is the Boxley Hill Section in the area sought to be annexed? A I am not sure whether it is or not, really. I hope it is.

Q But you are moving from there to another lot? A I plan to build a house on this lot.

Q How long have you lived in the County? A Since 1950.

Q And you have lived at this same address in the County since 1950? A Yes.

Q And you bought a lot in the County? A Yes.

Q So you are moving from one place in the County to another place in the County and you plan to build a home there? A Yes, sir.

Q And sewer and water are available to that area, aren't they? A That is right.

Q You have that? A Yes, sir.

[1397] Q There is no problem with electricity, is there? A If I build a house there, there couldn't be.

Q All the utilities are available at your lot? A Yes, sir.

Mr. Fitzgerald: No further questions.

Mr. Musgrove: May this witness be excused, your Honors?

* * *

Warren T. Wingfield

a witness herein, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Musgrove:

[1398] * * *

Q What led you to become an intervenor in this case on behalf of your courporation, Mr. Wingfield? A In the early part of '65 I decided to develope a land development deal and a country club which

included a full-sized golf course and swim facilities and all the other things that go along with the development of a country club. We put together approximately 254 acres of ground between Interstate 581, Cove Road 117, and Herschberger Road.

I asked the County if this development were completed if they would be able to furnish me water and sewer. They advised me that they would be unable to furnish sewer and water for this size development, especially in this particular location.

In order to pursue my objective I went to the City of Roanoke and asked them the same question, and if they could furnish me sewer and water. The City advised me that they would be able to do it inasmuch as this area was not included in the resolution area of the County Water Authority. So I proceeded, with the blessing of the City, to put the package together, develop the lots and the golf course.

We developed and the map has been recorded, a [1399] 153 lot subdivision with a full 18 hole golf course. We built swimming pools out there. In fact, we have the only 50 meter Olympic swimming pool in Southwest Virginia out there. We would have had to have City water or water from some source for these facilities.

The water and sewer have been put in. They have been hooked to the City lines. We developed and sold off 10 houses out there, all of them with City sewer and water. We have sold off about 30 lots already. These purchasers would not have bought the lots had the sewer and water not been available.

That was the only way we could develop the entire subdivision, was with the City's help. As most of you know, this particular tract is adjacent to the City property at Herschberger. It is also adjacent to the airport property, and it was only natural that we would go in that direction. That is why the development took place, was for the simple reason that those facilities were available.

* * *

Cross Examination

By Mr. Fitzgerald:

[1404] * * *

Q What arrangements did you have with the City in putting the sewer and water in and tying it onto the City's line? A What do you mean by that question, what arrangements did I have?

Q Well, you must have had some arrangements with them, they gave you permission to tie into their lines? A That's right.

Q Did you install the water and sewer lines? A I did.

Q You did hook them onto the City's lines? A Right.

Q Did you pay them anything for them? A No, I deeded the water and sewer lines to the City of Roanoke.

Q At no cost to the City? A That's right.

Q You paid for the water and sewer lines? A That's right.

Q And gave them to the City? A That's correct.

Q And they sell the water to whoever is there to buy it? [1405] A That's right.

Q And they charge the sewer charges to whoever is using the sewer lines? A That's right.

Q So that the area is now provided with water and sewer service? A Yes, sir.

Q And all the other utilities available? A That's correct.

Q From whatever entity, whether it's Apalachian or whoever is providing it? A Gas Company, all utilities are available.

Q All available? A That's right.

Q And your zoning has been obtained through the County zoning process? A Through the County and the City.

Q Yes, sir, the City has approved your request too? A They both have to join in, as you know.

Q The City imposes jurisdiction for three miles outside its limits? A I am not that familiar with the State law as to how it's applied, but I do know you have to obtain the permission of the County and City on a deal like this.

[1406] Q You know you are in the County and not a City? A That's right.

Q And the County rezoned the land for you with the approval of the City? A That's right.

Mr. Fitzgerald: That's all.

Mr. Musgrove: May this witness be excused, your Honor?

* * *

Roy A. Alcorn

* * *

Direct Examination

By Mr. Musgrove:

Q Are you Dr. Roy Alcorn, Superintendent of Schools of the City of Roanoke? A That's right.

[1409] * * *

Q Dr. Alcorn, how long have you been a Superintendent of Schools? A I have been here two years in Roanoke City.

Q Since that time, when was the William Ruffner School built? Has it been built since that time? A Yes, it has. And it was occupied this school year, as of last September.

Q Do you know whether there was land developable in the City of Roanoke on which a school could be located to meet State requirements? A As far as we know, we knew of no land that would meet that requirement in terms of—also in terms of the needs for placing the school where the children density population may be.

Q Do you know of any advantages that may be to the school to have it located within the confines of the City of Roanoke? A I think there is a natural desire on my part to have the schools within the districts that they serve. And this, of course, is one of our concerns.

I think too we have had some problems with traffic control over the past ten years at that school site, particularly in terms of trying to get traffic light signals [1410] at Fern Cliff and Cove Road and Herschberger. There is three jurisdictions involved, and the PTA's in that area have found it extremely difficult to get the kind of traffic controls that they need to insure the orderly flow of traffic and the safety of the students coming and going at that school.

And of course, if it were in the City, I think this could be done much easier.

Q What about law enforcement, who patrols that area, the City Police, County Police, State Police? A We have all three of them to some extent.

[1416] * * *

Marshall Harris

a witness herein, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Musgrove:

Q Mr. Harris, state your name and address for the record, please. A Marshall L. Harris, Recess Lane North West, Roanoke, Virginia.

Q What is your occupation, Mr. Harris? A I am employed by the City of Roanoke as Airport Manager.

[1417] * * *

Q Do you know the acreage included within the airport area? A Approximately 755.

Q Does the City of Roanoke own this land? A Yes, sir, the City of Roanoke owns it all in fee.

Q Does the City lease part of this land out to other private individuals? I am not talking about the concessions and things inside the airport itself. What I am talking about is the clear zone areas such as maybe the Arrow Wood Country Club, Hudgins Trailer Court. A Yes, sir.

Q What amount of land is leased to Arrow Wood Country Club, if any? A I don't know exactly, but I would say it is approximately 60 acres.

Q What amount is leased to Hudgins Trailer Court? A Approximately two and a half.

[1418] * * *

Q Mr. Harris, would it be advantageous in any way to have the municipal airport within the City of Roanoke? A Yes, sir, I think so. I have thought so for many years. We are so close to the City and I felt that a uniform type of operation whereby the City

government, and its various departments that we come under and cooperate and work [1419] with—we would benefit by having a more uniform type of control.

Q What do you mean by having a more uniform type of control? A For instance, in the case of police protection we come under the one-mile rule, as I understand it. Some portions of the airport are within a mile of the City Limits and consequently the City police, as I understand it, can function within that limit to protect its property.

There are the departments that operate with permits and licenses and things, for instance building permits. We need that facility. We do not have that. We should be under the Department of the City Electrical Inspector, Zoning Inspector, Heating, these various things where permits are issued. We do not have that privilege at this time.

Of course, the City Fire Department has looked after the property for years. There could be others. For instance, there have been occasions when we have needed to confiscate and attempt to process for payment properties and equipment that have been left on the airport or are due the airport in fees. This has required us to go to the County in order to get the proper documents to proceed with the Sheriff's sale.

So there are a number of things of this nature [1420] that I have felt for years that we could benefit by having the uniform City of Roanoke Code apply to us.

Q Do you actually have any fire equipment stationed at the airport? A Yes, sir, we do.

Q Who owns that fire equipment? A The City of Roanoke has three pieces of equipment there that are operated on a volunteer basis and by the City Fire Department.

And of course we have the unified Roanoke Valley Disaster System which calls in all units from the County, the City, Vinton and Salem whenever the depth of disaster appears to need all of that equipment.

* * *

Cross-Examination

By Mr. Fitzgerald:

Q Mr. Harris, you were instrumental in circulating this petition for annexation, too, were you not? A Only to a degree.

[1427] * * *

Mr. Musgrove: Petitioners rest.

Mr. Fitzgerald: Your Honors, other than the [1428] Willis petition in which we are waiting until June 8 to determine our procedure, I would assume we have now taken all the evidence of the petitioners in the petition cases other than that. It would seem to me that we ought to have all the testimony of the proponents of the annexation if possible, before any defense to the annexation is embarked upon.

Judge Hoback: Is there any further evidence on behalf of the petitioners, either of the City of Salem or the City of Roanoke?

Mr. Davenport: Your Honors, until the City of Roanoke knows the position of the Court with reference to the motion pending, the City of Roanoke will not be in a position to decide what it will do.

I might add, however, that if the Court grants the City of Roanoke an opportunity to present further evidence it would include the petition aread and would present evidence in furtherance of those petitions.

In furtherance of what has transpired this morning in chambers, and specifically in response to the question Judge Matthews asked about what area or approximately what area might the City of Roanoke wish to direct its evidence to, I am prepared to submit a map and file it and ask that it be identified as a [1429] City exhibit, on the assumption that the City of Salem is not going to be permitted to pursue or present evidence in behalf of the Glenvar area. The Court can rest assured that this is approximately the area that is reflected on this map, the pink areas that are on here, that the City of Roanoke would like to address additional evidence to. If I may, I will present this to the Court and have it marked.

Judge Hoback: Before it is marked, suppose we consider any motion along with the tender of the map.

Mr. Fitzgerald: Your Honor, I don't know what map it is.

Mr. Davenport: You have the map there.

Mr. Fitzgerald: I didn't know it.

Mr. Davenport: I know you didn't, but you know it now.

Mr. Fitzgerald: I saw it last week for the first time.

[1430] Your Honors, we have to oppose the position of the City of Roanoke in its request to put on testimony concerning some annexation case that has never been filed by anyone. There are two ways annexation cases can be filed. One is by the petition of at least 51 percent of the qualified voters of the territory, and we have just got through hearing three of those suits or the evidence of the petitioners. The only other way an annexation case can be brought is by ordinance adopted after the procedures are followed, of public hearing by the City Council of the City, and that is the only way a City can petition for annexation.

With all due deference to counsel, they simply do not have the authority, they have shown no authority to come here and tell the Court. "This is what the City of Roanoke wants." You will recall when the City commenced its proceeding back a month or more ago, the first thing counsel did was introduce into evidence the Ordinance. Now there is a good reason for that, because that is the only authority they have to be here.

Now I asked the Court to ask the City where is the Ordinance duly adopted and served on the County and published in the newspapers so that the County [1431] could properly defend itself so that the people not only of the County but of the City know what is going on, and where is the Ordinance adopted by the City Council that says this is what the City of Roanoke desires and is necessary and expedient for the City to annex.

You are here without any such ordinance, no such ordinance has been advertised. The people of the City are in the dark, the people of the County are in the dark, and this Court I think is being imposed upon by saying, "We tried the case that the City Council of the City of Roanoke said was necessary and expedient." We tried that case and the Court has found that that case was not necessary or expedient. And now, as experts or counsel for that City, we have decided the City Council was all wrong and we don't need to advertise or adopt an ordinance, we have, for the case that we want to put on. And here today I am handed—I had seen the map before in another context, but today for the first time this late in the proceedings, we are shown a map that is supposed to be another annexation case to be presented to this Court.

I don't know of any statute, I don't know of any case, I don't know of any even practical thought that [1432] would permit such to happen. And we oppose it.

Judge Hoback: The Court will rule on the pending motion after first hearing from the other petitioners or intervenors. Mr. Rusher, we understand you represent certain petitioners or intevenors and Mr. Chapman, I believe represents some. Whichever one was first, you, I believe Mr. Chapman.

Mr. Chapman: I believe I am last.

Mr. Davenport: Your Honor, may I have this marked at this time, for identification?

Judge Hoback: Well, I think we would certainly have it considered, but until we rule on the motion, I don't think it would be proper to have it marked. You can have it marked as tendered, but not filed.

Mr. Davenport: Just for identification, but not as part of the transcript, I suggest it be marked M-3.

Judge Hoback: M-3 tendered but not received.

(Document referred to above was marked M-3 tendered but not received.)

Mr. Davenport: Your Honor, I don't wish to delay anything, but I just don't want to lose my place in the procedure. At this point, I want to make some motions on the petitions if all the people that are [1433] in favor or propose or support annexation in any of these petitions have been heard, that I don't want to lose my place in making those motions.

As I understand it, these gentlemen are not proponents of annexation necessarily, or their clients. So if it is determined that everyone has spoken and put on their testimony in favor of any of these annexations, I don't want to lose my place.

Judge Hoback: All right, sir.

Mr. Jolly: May it please the Court, I was waiting an appropriate time to get in the record, as far as Salem is concerned, I assume the County is not talking about the Glenvar area, that whatever right Salem would have to put on any evidence will depend on Mr. Gochenour's report to the Court on or about June the 8th. We would not be precluded at this point, depending on what happens in the Glenvar situation.

Mr. Fitzgerald: I am just talking about the petitions that have been presented, the three of them.

Mr. Jolly: With that reservation.

Judge Hoback: Senator, do you desire to make your motion before or after the City of Roanoke, as the defendant in some of these petitions is heard, [1434] at least to that extent, unless we decide they can put on additional evidence as well, or insofar as the City of Salem is defendant in the Corridor case?

Mr. Fitzgerald: As I understand the City of Salem in the Corridor case does not wish to put on any evidence?

Mr. Jolly: That's correct.

Mr. Fitzgerald: Now it seems like to me that we are at the juncture, the petitioner's evidence is in in regard to the Weddle case and the Kinsey case, that if there is anyone else that supports that position, that the evidence ought to be put in now on that side so we know what we are defending, and know where we stand in the way of the procedure.

Judge Hoback: The Court understood that the petitioners have rested in both those cases. If not, now would be the time to advise the Court.

Mr. Fitzgerald: And if there is anyone else that wants to present evidence, now is the time.

Judge Hoback: Mr. Musgrove, I believe you did, as attorney for each of the petitioners, rest on behalf of each petitioner?

Mr. Musgrove: Yes, your Honor, that's correct.

Judge Hoback: There is no further evidence to [1435] offer concerning those two petitions?

Mr. Musgrove: That's correct.

Judge Hoback: Mr. Moore, you rested insofar as the Corridor case is concerned?

Mr. Moore: Yes, sir.

Judge Hoback: Are these intervenors in any one of these petitions, Mr. Rusher?

Mr. Rusher: Yes, sir.

Judge Hoback: Which one?

Mr. Rusher: The Weddle case. We are intervening because there was an overlap in that case with what we are intervening, to not become a part of the City of Roanoke, but to become a part of the City of Salem.

Mr. Fitzgerald: Well, the petition of course in the Weddle case is to become a part of the City of Roanoke. And if he is not supporting that petition, then I suppose he is against that petition and wants to be annexed to some other area.

Mr. Rusher: That's right.

Mr. Fitzgerald: I would think his position, insofar as the annexation of the Weddle case is concerned, is the same as the County in that regard, that you do not wish the Weddle area to be annexed?

Mr. Rusher: That's right.

[1436] Mr. Fitzgerald: To the City of Roanoke.

Mr. Rusher: To the City of Roanoke.

Judge Hoback: That would be an opposition and not in support of that.

Mr. Fitzgerald: And I understand too, Mr. Chapman's clients are opposed to being annexed to the City of Roanoke. If that's correct, if they are to be annexed anywhere, they want to be annexed to the City of Salem, I believe they are in the Weddle too.

Mr. Chapman: Some of my clients, some of my intervenors, to use the proper word here, do live or reside on property in the Weddle area. We oppose annexation into the City of Roanoke.

Mr. Fitzgerald: I would assume there is no more evidence, then, to be presented in support of these petitions to be annexed to the City of Roanoke.

Judge Hoback: So far as the Court is advised, that's correct.

Mr. Fitzgerald: Or in the Young case, to be annexed to the City of Salem.

Then I would like to make some motions.

Judge Hoback: All right, sir.

Judge Matthews: Do you want to recess for a moment?

[1437] Mr. Fitzgerald: No, sir.

Judge Matthews: You are ready?

Mr. Fitzgerald: Yes, sir. We have here, then, three cases where the evidence in support of the petitions is in, and the cases are rested. Now I don't mean to make a lengthy argument here, or repeat things that I have said before, but to keep the record in order I would point out that if nothing else came before the Court at this point, in order to grant any of these petitions, the Court would have to have before it evidence upon which it could enter up an order, the Court would not only have to find that the annexation of all these areas, that the evidence shows it to be necessary and expedient.

Now let's just see, taking these cases one by one at this point, and taking the evidence in the most favorable light, as you must do, whether or not you have got evidence before you if no more evidence was put on, could the Court interrupt an order?

Well, the Young case, for instance, there were four witnesses who testified, and I think it's fair to sum up their testimony to the effect that they wanted to stay just where they are, stay put, that's all, and that is the testimony. Some of the witnesses [1438] said that if they had to be annexed, they wanted to be annexed to Salem. But really, they wanted to be left in the County where they were satisfied with the services. They wanted to continue as part of the County, they saw no need to be annexed.

Well, the evidence in that case is that there is no need to be annexed, the people have not testified that there is a need and there is no other evidence before the Court.

Even if the Court could, in any way find that it may be necessary to annex this area to the City of Salem, the Court couldn't enter up an order because there is no evidence that it's expedient, because you don't know at this point what public improvements in the area, the value of them, you don't know what the ratio of assessed values in the area as compared to the rest of the County, you don't know what the loss of net tax revenue would be to the County. So there is no evidence in that case upon which the Court could enter up an order.

Now if we take the Weddle case, could the Court here, at this

point, with the evidence before it, enter an order annexing the area, taking into account finding it neceessary and expedient, taking into account the [1439] best interest of not only the area, but the County and the remaining portion thereof in the City? Now assuming at this point that the testimony of the witnesses have shown that taken in it best light, that it is a necessity to annex part of the area, or even all of it, could the Court enter the order? How could the Court consider the best interest of the remaining portion of the County when you don't know at this point and in the evidence presented to you, what the financial effect would be on the County? You don't know at this point what the conditions of annexation would be, what the City could do to provide services.

You have heard some of the people say that they wanted annexation because they wanted to get larger water lines in there, to have fire hydrants and street lights, and yet there is no evidence in this case that the City would be willing or could, for that matter, provide all these things these people say they want. We don't know at what cost it would be provided or where the money would come from. We know nothing about the expediency of annexation whatever. All we know is that a number of people, several people living in this area have said that they have a community of [1440] interest within the City of Roanoke, they believe that they can get better service from the City of Roanoke. Some have said that the service in the area—the testimony is conflicting, the County is providing services there, but they don't think the County ought to be in the business. But they acknowledge that even though the whole area was annexed, the County would still have to provide urban services for other parts of the County adjacent right to this area, so that in that case, the Court does not have before it sufficient evidence upon which it could enter an order.

And if we turn our attention to the Kinsey case, we find ourselves in the same situation. We have had several witnesses from that area, for one reason or the other, who have testified why they thought it would be advantageous to be in the City. Now the strange thing about this case is that every one of the witnesses testified as to some advantage to being in the City, they already had what they said they wanted to get if they went into the City, they already have it. So the lack of evidence of need is apparent in the case.

Dr. Alcorn's testimony is very interesting, but [1441] as he said, the land for that school site was purchased prior to the 1960 annexation case, and the City purchased 50 acres of land, which was more than enough for a high school. He testified that when they built the intermediate school there, that there wasn't any site like that in the City, but he acknowledged that there is a large farm right in the area that could accommodate such a school as that. The fact of the matter was, of course, that the site was there, purchased for the purpose prior to the 1960 annexation case.

The airport has been operating outside the City, there are few airports serving cities, I think, that are in the city limits of any city. But there is no evidence that whatever unified, I believe that was the—the uniform type of control that Mr. Harris wanted, he testified that the City Council had the authority and the ability to give that to him, if they saw fit, whether they referred it to that Committee or not.

There again, the lack of evidence of necessity is there. But if you consider it again that there is evidence, some evidence of necessity, the question of expediency has not been answered. The burden of [1442] proof has not been borne there by the petitioners. It's up to them, the Court has said time and time again that these petition suits once brought, they get to the court differently, but once before the court, the trial is the same, the burden of proof is the same.

That has been said as far back as Mowrey vs. the City of Virginia Beach, an old case. That was a petition case, and as late as the case, the last case of Falls Church vs.—Brystone and others and Johnson and others vs. Falls Church in the County of Fairfax reiterated the principle that once the suit gets there with its 51 percent of the qualified voters bringing it, the burden of proof is the same. That part of that proof is proving that the annexation is not only necessary, but expedient. The Court has said time and time again that both have to be proven. The expediency of any of these annexations have not been proven, there is not a scintilla of evidence as to the expedience of the annexation.

There is no evidence of the financial effect on the County, or the financial effect, for that matter, on the City. And this is a burden that was on the petitioners, or whoever wants or petitions the annexation. The burden is on them, it's not up to the County [1443] to come in and defend something that is not there. The burden is on no one else, it's not up to the Court to at this time say, "Well, we think it may be expedient, and we will find out later what the financial effect is."

If the burden has not been borne now, the burden has not been borne, because the case of the petitioners has been rested.

For all these reasons, we ask the Court to strike the evidence of all these three petitions.

Mr. Moore: May it please the Court, I think that from the four witnesses that I put on yesterday, that Senator Fitzgerald has made a fair statement of their position, that is, that they are satisfied with the County. They would be satisfied to remain in the County, but if there is any annexation, by all means they want to be annexed to Salem. And if this area is to be annexed, we can furnish the financial data.

Mr. Musgrove: May it please the Court, I won't be quite as agreeable with Senator Fitzgerald as Mr. Moore was. The Windsor Hills area, we presented some ten witnesses, I believe there were ten, from various sections of the Windsor Hills area, that described to [1444] the Court everything that would make necessity and expedience very apparent in this particular case. They tell you that they are operating with wells, that they could not have public water. They tell you that they do not have fire protection, there are no fire hydrants within the area; that houses have been burned because the trucks had to run back and forth to pump water into the truck, and then very quickly deplete it. That once a fire gets underway, it's just almost impossible to stop it with the fire facilities that are available with the volunteer fire departments they have.

They tell you that they need street lights, that they do not have the street lights. Some areas, they tell you that they do have City water, the ones that are close in, a lot of them are still operating with septic tanks that seem to be, in most cases, agreeable to most of the petitioners. On the other hand, others have the Roanoke County Sewer Authority's sewerage.

They have described the conditions of the traffic, the highway snow removal, they say they need the services of a municipal government, that the County has not been able to provide these services for this.

Now we feel that the City of Roanoke is the [1445] municipal government that should and could provide us with these services. I don't feel that it is up to the petitioners to prove that the City of Roanoke is willing to serve—to provide these services, because the City of Roanoke is a defendant in this case. But the City of Roanoke

has filed an answer in this case in which they say, "We will provide all the normal and municipal services if the annexation is granted. So you have an admission there from the City of Roanoke saying, "We will provide this."

Now as to the financial matters, again the petitioners are in this position: We bring the suit, we show necessity and expediency, but it would be putting an impossible burden on the petitioners to show just what the financial effects are as to a particular area. But the evidence is here, it's in the case, it will be just a matter of digging it out. It's already been introduced through either interrogatories that have been served on the County by the City, and the various—possibly the City of Salem, I know the City of Roanoke served interrogatories on the County and through the evidence that has been presented by the City of Roanoke.

Now I can't tell you right now as to the financial [1446] effect of that particular area, but the evidence is in the case, it's just a matter of putting it together to show once we know what area we are talking about. The situation in this case, which is unique of any annexation case that I have ever heard about or read about, is that if we give you the figures on the Windsor Hills case, leaving out the airport case, then when we get to airport case, we have got to leave out the Windsor Hills. Each one is going to change the other, and you can't, until you know what area you are talking about, give you specific figures. But I say to the Court that the figures are available, and they are already in evidence, and all we have got to do is put them together to be able to know just what the financial effect is to Roanoke County and what the financial effect on the City of Roanoke is.

Now as to the airport case—

Judge Hoback: Well, who is supposed to do that, Mr. Musgrove? The Court? I mean we hear it on the basis of evidence that is introduced.

Mr. Musgrove: No, I think this, your Honor: Once it is indicated what areas we are talking about, what area we are talking about and leaving out, then we can sit down and prepare the figures. But when you [1447] have got here four petitionary suits pending, as well as the big suit, it's almost impossible to give you the figures. The figures are here.

Now if the Court wants it as to the Windsor Hills case, I think we can sit down and dig it out, it's in evidence. But I am not prepared to tell you just what they are right at this moment.

Judge Hoback: No, but you rested your case. It isn't up to the Court to comment on it.

Mr. Musgrove: Well, what I am saying, it's in evidence, it's all a matter of calculation.

Judge Hoback: All right.

Mr. Musgrove: That is what I am saying, it's in evidence. It's just a matter of arithmetic to figure it out.

Now getting on to the airport case, true there the petitioners have obtained the services which they were seeking when they filed this petition. They have obtained it from the City of Roanoke. And it always amazes me how the County can come in and say, "There is no necessity because you, the City, are providing the facilities to the County. But now you serve us, we will tax it, we will get the revenue, but there is no necessity because you are already providing the [1448] services we need."

Well, they overlooked the fact that—I don't know whether it's in evidence in this case, I know it was in the other, that the City of Roanoke only sells surplus water outside the City limits. It could be the possibility that they would not have a surplus, and the water outside the City limits could be cut off. That is a possibility, I don't think it's a probability.

The people outside the City pay a hundred percent more for their services from the City than those within the City. The evidence was of one witness that he was closer to the City Fire Department, that they had a fire, and that was a good test, I think, between the efficiency of the Roanoke County Fire Department and the Roanoke City Fire Department as far as his area was concerned. The City responded, put out the fire and was leaving before the County Fire Department arrived.

They do not have fire hydrants in the area, they need that today. I will take that back, I think in Arrowwood they have installed fire hydrants, but in other areas I am speaking specifically of Mr. Hoback's testimony, they did not.

[1449] So you have necessity there as far as that goes, as far as fire protection goes and fire hydrants are concerned today.

You have the expedience and the necessity as far as the City land is concerned, with the City land and the development of Arrowwood, you take up more than two-thirds of this area, I would say. The City schools and the City airport should be under their municipal government, and not have this conflict of three jurisdictions over the City property.

City children ought to be able to attend schools within the confines of their City, without having to go out in the County to attend schools, because school lands are not available within the City.

Witness after witness in the Windsor Hills case, I don't think it's quite as true in the airport case, have told you that they wanted to build in the City. They wanted to live in the City but the land is not available in the City. They have to move to the County in order to get their land, but they have to look to the City of Roanoke to furnish their services.

Now that is the situation we are in. We have provided the necessity and expediency, the financial matters can be worked out, I think from the evidence that has already been submitted.

[1450] Mr. Fitzgerald: I will be as brief as possible, your Honor, assuming everybody else has been heard.

I would have to say categorically that if we take the evidence, all of it, before the Court, we find there is not one single iota of evidence as to the value of public improvements in the area, anywhere that I know of. There is no evidence at all of loss of net tax revenues. There is no breakdown of these areas, to my knowledge, concerning any of that data in any exhibit.

If counsel can tell me what exhibit he is talking about when he says the evidence is in the record upon which the Court or somebody can sit down and calculate the expediency and the financial impact of annexation, I don't where it is. If he can point to the exhibit or the testimony, I would be surprised to find it.

Mr. Musgrove: I was thinking it is in the interrogatories. Is it not?

Mr. Fitzgerald: If it is in the interrogatories, the Court can find this. I don't believe they have been submitted into evidence, either. I don't think it is there.

But certainly the burden isn't on the Court to [1451] dig through the interrogatories and try to calculate this. The expediency of annexation is just an important a part of the necessity of annexation. The Court has held so time and time again.

Whether the petitioners should be put to this trouble or not can be questioned, of course, but I have to remind the petitioners that we are all here and have gon through considerable trouble because of petitioners filing these suits. They certainly have testified. They have consulted with the City officials.

They certainly could have subpoenaed City officials. There are many ways of providing the evidence that are lacking here and they have not seen fit to pursue them.

We did hear mentioned some of the problems of certain of the citizens of the Weddle area that they said they had. Some wanted one thing and some didn't. Some needed street lights and some didn't. But the evidence is not here if they are going to be annexed if they would even get that. That evidence might have been available but it was not presented to the Court.

But above all, it is utterly impossible for anyone to sit down now and follow the statute and draw [1452] up an order, if we stopped right here, annexing any part or all of these petitioned areas and finding the expediency of annexation and taking into consideration the remaining portion of the County, and the City, for that matter, the financial impact upon it. It is not there.

Judge Hoback: Does anyone else wish to be heard? If not, the Court will take a recess.

(Short recess.)

[1453] Afternoon Session

1:50 p.m.

Judge Hoback: The motion of counsel for the County of Roanoke to strike the evidence in the Corridor Case, the case of Ivan R. Young, is sustained and this petition is dismissed.

The motion of counsel for the County of Roanoke to strike the evidence in the Windsor Hills petition and the Airport petition is overruled and the City of Roanoke is afforded the opportunity, if it so desires, to present pertinent evidence as to these areas, after which the County of Roanoke and any Intervenors in opposition will have the right to present evidence if so desired in opposition to the annexation.

The motion of the City of Roanoke to file a map showing new areas less than the entire county, and to introduce additional evidence in support thereof is denied unless hereafter requested by the Court.

[1454] * * *

Mr. Fitzgerald: For the record we would like to note the county's exception to the Court's overruling the motions in the other cases.

Mr. Davenport: And the City of Roanoke would like to note an exception to the Court's overruling it's motion to introduce additional evidence in behalf of another area.

* * *

TRANSCRIPT DATED JUNE 21, 1971

[1457] Judge Hoback: At the conclusion of the last hearing the Court requested counsel for the County of Roanoke to prepare an order reflecting the action of the Court up to that point. This order has been prepared and tendered by counsel for the County of Roanoke. So I suppose logically the first order of business would be to hear any complaints or any discussion concerning the proposed order as prepared by Senator Fitzgerald.

Mr. Davenport: May it please the Court, the City of Roanoke has reviewed the order and has a number of proposed changes. If the Court please, we have undertaken a redraft which I would like to pass up to the Court and then I will hand you a memorandum which will point out the differences between the two orders.

Judge Hoback: Have counsel discussed the differences?

Mr. Davenport: I have not had a chance to discuss it with Mr. Fitzgerald but I have given him a few minutes ago a copy of it and what opportunity he has had to review it I am not sure.

Mr. Fitzgerald: In the few minutes I have glanced at it, some of the changes I think are in order, some I couldn't agree to, and the Court will have to decide. They have made it simple for us.

[1458] Judge Hoback: Why don't counsel confer and see what you can agree on and then we will carry on.

Judge Boyd: Let's take a few minutes and see whether you can agree.

Mr. Fitzgerald: I can tell them very readily what I agree to.

Judge Hoback: Sir?

Mr. Fitzgerald: He has made it very convenient by composing a composite of the two, showing what they have deleted from my proposed order and what they have added underlined, one in red and one in blue.

Judge Hoback: Suppose we let you gentlemen confer and see what you can agree on. I think that should be the first order of business of the Court is to enter an order up to this point.

Mr. Fitzgerald: I can just tell them very quickly what we can agree to, the rest we cannot.

Mr. Davenport: All right, sir.
(Messrs. Davenport and Fitzgerald confer.)

Mr. Fitzgerald: Your Honors, if I may make a suggestion, if Mr. Davenport would take up each of these changes in order, I don't think it will take too much time for each of us to make our comments on them. I think it would be better for us to do it each change individually.

[1459] Mr. Davenport: All right, if that is agreeable to the Court I will be glad to comment on them.

Judge Hoback: Yes.

Mr. Davenport: If the Court will refer to what I suppose might be described as a composite of the two orders, part of it underscored in red and part in blue, you will note that that portion underscored in red was included in the draft submitted by Mr. Fitzgerald which the City thinks does not accurately portray what has taken place. That in blue is what the City suggests be added to the draft of the County.

On the first page, the second line of the second paragraph, the City of Roanoke does not think it proper to include in here that in accordance with prior determination of the Court—and then it objects to the language—an agreement of counsel for all parties. Because the City has consistently taken the position since the motion made by Mr. Fitzgerald at the end of the City's case that the procedure from that point on has not been in accordance with what it understood was the determination at the trial, nor in accordance with the statute controlling the trial of overlapped cases. That is the City's position with reference to that.

Judge Hoback: What procedure do you suggest?

[1460] Mr. Davenport: What we suggest, if the Court please, I tried to state when we were last here. The Court should have heard all the evidence before making any determination.

Mr. Fitzgerald: May it please the Court, I thought we had agreed at pretrial on two different occasions that we would proceed in the order of trying the case of the City of Roanoke vs. the County of Roanoke, and if that case were not granted or that case did not go into effect, then we would proceed with trying the petition cases in the order in which they were filed.

I thought everybody had agreed to that, but if Mr. Davenport says he didn't agree to it, I will leave it up to the Court to decide. I haven't had a chance to go back to the transcript of the pretrials. I don't recall any disagreement on that at the time.

Mr. Davenport: If the Court please, at the time of the pretrial on March 20, the City of Roanoke construed that to indicate that the Court was going to hear all the evidence for the whole County, including the evidence of the City of Salem. This is the same point that Mr. Jolly made when he was endeavoring to introduce certain evidence on cross-examination of City of Roanoke witnesses and asked the Court if he was going to be given an opportunity to [1461] present evidence on behalf of the City of Salem.

Mr. Fitzgerald: Your Honor, I might suggest that this language could be just left out and we will argue about it if it ever comes up again. It doesn't have to be in the order.

Mr. Davenport: All right, sir.

Judge Hoback: Then it is agreeable to leave out that it is agreed to by counsel for all parties?

Mr. Fitzgerald: Yes, sir.

Judge Hoback: All right.

[1474] * * *

Mr. Fitzgerald: The next correction at the top of page 3, I understood that the Court was going to continue that motion in the Willis case, the Glenvar case, unless the [1475] motion was withdrawn and

it would be granted. Whether it is withdrawn or whether the Counsel wish to proceed with the motion I don't think makes any difference. It is just a matter of words.

As I understand it now, the petition has been withdrawn or has been dismissed.

Judge Hoback: Not yet.

Mr. Fitzgerald: It has not?

Judge Hoback: No, sir. The order was duly presented by counsel for the petitioners, endorsed by all parties except any attorney for the City of Roanoke. The Court held this order until such an endorsement could be obtained.

In the meantime the Court received a letter from Mr. Davenport stating that they desired to be heard on the Glenvar petition.

Mr. Davenport: No, sir, I didn't mean to convey that idea, Judge. My letter said I wanted the order to reflect an exception on the part of the City of Roanoke.

Judge Hoback: On withdrawing the petition?

Mr. Davenport: Yes, on the ground that the Court has jurisdiction and the City of Salem should be given an opportunity to proceed. That is just our position on the procedural matter.

[1476] Judge Hoback: The City of Salem hasn't noted any request to present additional evidence on the Glenvar petition. They did note an exception to it.

Mr. Jolly: Yes, sir.

Mr. Fitzgerald: As I understand it, the City of Roanoke just wishes to except to the order.

Mr. Davenport: That is all. We want to be noted as having excepted.

Judge Hoback: All right. What is the position of Salem as far as the Glenvar petition is concerned?

Mr. Jolly: May it please the Court, our position was outlined to the Court at the time the attorney for the petitioners indicated there was some serious question in his mind as to whether or not his people wanted to proceed.

Subsequent to that the Court will recall an informal conference was held at which Salem's position was again stated that once the jurisdiction of the Court was attached, the fact that a majority of the petitioners now wished to withdraw the suit did not of itself divest the Court of jurisdiction.

The Court, as I understood it, after having heard both the attorney for the petitioners and counsel for the City of Salem, indicated that it was going to go ahead and dismiss the suit if they indicated they were going to [1477] withdraw.

Judge Hoback: We didn't know the City of Salem desired to present any evidence and if so the Court now indicates that it does wish to present evidence in the Glenvar case we will fix a time when you can do so, just as we gave you the opportunity in the Ivan R. Young case.

Mr. Jolly: The City of Salem did not except to the ruling of the Court in the Ivan Young case nor did it offer evidence.

Judge Hoback: Do you desire to offer evidence in the Glenvar case?

Mr. Jolly: Is the order going to be entered dismissing the Glenvar petition?

Judge Hoback: Yes, unless somebody desires to proceed with it. What would we hold it open for? We have given anybody an opportunity now to be heard on the Glenvar petition that wants to be heard.

Mr. Jolly: And the petitioner's suit?

Judge Hoback: Yes, sir.

Mr. Jolly: I am somewhat at a loss to understand exactly—

Judge Hoback: That is the only way Salem could be in it because Salem is a defendant.

Mr. Jolly: That is correct, sir.

[1478] Judge Hoback: If you wish to be heard on it you have the opportunity. Otherwise the Court will dismiss the Glenvar petition, nobody wanting to be heard.

Mr. Jolly: I am not in the position to put on any evidence now because we have no witnesses present. We understood that the Glenvar

petition was going to be dismissed. If it not is going to be dismissed, if we have the right to keep the Glenvar petition in Court, then, yes, sir, we would like to put on some evidence at an appropriate time, with the Court's indulgence.

Mr. Fitzgerald: May it please the Court, my understanding was on the Glenvar case when it came up, when the petitioners—according to all procedure, so far as I know, it had been agreed upon and the time came for them to put on evidence. Counsel for the petitioner announced that he had no evidence, that the petitioners who had petitioned to be annexed, so far as he could determine, had virtually 100 percent changed their minds and did not want to be annexed.

I agree with the Court because it is difficult to know what so many petitioners have decided. The Court, I think, in protection of counsel, was absolutely right and gives counsel time to determine whether that petition was absolutely correct. My recollection was that the Court [1479] said that counsel for the petition would have until June 8th to make sure that that is what the petitioners wanted, and unless for the petitioners withdrew his motion—He made a motion to dismiss this case—unless he withdrew that or changed his position, that the petition in the Glenvar case would be dismissed.

[1480] Now, at that time, the City of Salem said it objected to this and I made the point that I didn't think that the City of Salem was in a position to raise any objection to it, that it was not the moving party in that case, the moving parties were the petitioners; if they wish to non-suit their case or dismiss it, the City of Salem has filed no counterclaim, so to speak and, as a matter of fact, the City of Salem is in no position under the law to pursue annexation, they are still within this five-year limitation.

Now, I assume that the situation was that the order was entered on June 8th, since it was my information that counsel for the petitioners assured the Court that his motion would stand, that the people in the Glenvar area were virtually 100 percent being asked and that that would take place.

Now, I understood the City of Salem to protect its position wished to be noted as excepting to the dismissal of that order or the determination. With that, it was my understanding, I assumed that the position of counsel for the petitioners is the same and I would have to strongly object to the City of Salem being allowed to pick up the cudgel and

run with it or proceed with its case, so that the petitioners did move the Court to dismiss it and I [1481] don't believe the City of Salem is in any position to pursue it.

Judge Hoback: It was only after receiving Mr. Davenport's letter that the Court requested Mr. Gochenour—is he present?

Mr. Gochenour: Yes, sir.

Judge Hoback: —to write a letter to all counsel stating that the matter would be presented today and anyone could be heard in opposition to it. We have a copy of that letter.

Now, if anybody wants to be heard on it further while we are having a conference, number one, counsel are having a conference to agree on the first order, and I suggest that another conference be had and the Court definitely advised one way or the other that Salem either wants to be heard or it doesn't want to be heard.

Judge Matthews: I think what the Senator said is exactly what I remember took place.

Judge Hoback: That's correct.

Judge Matthews: And I made some remark that Salem was sort of in the position of a catcher on a baseball team, and he was just starting to receive, and he wasn't in any other position, and I think the order should be entered now exactly reflecting what the Senator says took place. [1482] That is what took place. Now, if this Court wants to go ahead and say now they are going to let Salem come in is a different story. I have no objection to reversing that we will have to enter an order.

Judge Hoback: Suppose you see if you can get the first order agreed upon for entry and then the City of Salem can advise the County in the conference as to what they wish to do on it.

Mr. Fitzgerald: My only point at this time, your Honor, and I understand we did get a copy of that letter, I hadn't seen it but I have been out of the office, was the language on page 3 at the top of the page as to whether the motion would be withdrawn by June 8th or not, and I don't think it makes any difference if the case is going to be dismissed.

Judge Hoback: That's correct. That part in the order doesn't bother us at all.

Mr. Fitzgerald: It doesn't make any difference.

Judge Matthews: I think this is an entirely different position than what Mr. Jolly says and what the Court said. It is true once the petition was filed by 51 percent that the Court had jurisdiction, and though they may want to withdraw later and relieve the Court from jurisdiction, that doesn't relieve or doesn't deny them, [1483] if they so see fit to do so, is to drop their petition, and they are not one and the same thing.

Judge Hoback: The Court didn't understand the City of Salem desired to put on any evidence connected with it but if so, and not assuming that the Court would grant it even if Salem wants it, we will give you an opportunity to at least make that motion and then we will rule on it.

So suppose you get the order ready first and agree on that. Then we will proceed with the evidence.

(Recess had.)

[1484] Mr. Fitzgerald: Your Honor, Mr. Davenport and I have resolved all the other differences in that order and we have added the language the Court wanted, and that is now being redrafted because there were a number of changes. I don't think we have to wait for that. When it comes back we will have it checked and presented to the Court with the endorsements.

In the Willis case, the Glenvar case, evidently the order was postponed until today to determine the position of the City of Roanoke. From what I understand the City of Roanoke wishes to note its exception, and I agree that it did not note its exception at the time the motion was made but I don't think it is too late to note an exception at any time during the proceedings.

The City of Salem has endorsed the order, noting its exception, excepting to the entry of it but endorsed the order, which acknowledges the ruling of the Court that the case would be dismissed. I believe the position is that the Court at that time ruled on this question of whether Salem had a right to keep it in Court. My recollection was that the Court ruled that if the petitioners wished to proceed with that motion that the City of Salem or the City of Roanoke or the County of Roanoke could not prevent the petitioners who brought the case from withdrawing [1485] the petition.

I believe the position here is that the Court should note the excep-

tion of the City of Roanoke and go ahead and enter that order allowing the petition to be withdrawn.

We have assumed that that would happen, with the exception noted by the City of Salem. We have prepared ourselves accordingly.

Judge Hoback: That was the opinion of the Court, but if Salem wants to make any formal motion to be permitted to present any evidence we will hear the motion and then rule on it. We thought we had already done it.

Mr. Jolly: May it please the Court, so did I. I thought the Court had already done it also after the pretrial hearing and the conference in chambers. For that reason we did except to the ruling of the Court.

I do want the record to be perfectly plain that while Salem introduced or offered no evidence in the Ivan R. Young case, in the Corridor case, we have never taken that position with reference to Glenvar and did oppose dismissing the petition and do now oppose dismissing it and do stand ready, with the Court's indulgence to grant us a reasonable time to get our witnesses back.

As Judge Matthews indicated from the bench, the [1486] Court would reverse itself now if it did permit us to put on evidence and we obviously are not in a position to do so right this second. But we do oppose granting this motion and we will be ready to put on evidence if the Court does reverse its prior ruling in the case. We do except to the order if it entered as presented.

Judge Hoback: The Court is still of the opinion that the City of Salem as a defendant, not having instituted the petition and being in no position to do so, and no one here asserting any evidence on behalf of the petitioners, that the petition will be dismissed. Salem's exception can be noted, as it is on the record.

[1489]

* * *

William M. Zollman, Jr.

* * *

Direct Examination (Recalled)

By Mr. Davenport:

* * *

Q Since the last adjournment of the Court have you made some studies with direct reference to the Windsor Hills area and the airport

area in the cases known as Weddle and Kinsey? A Yes, sir, I have.

Q Have you prepared some maps that are related to those? A Yes, sir.

Q Are they on the easel? A They are on the easel.

Q Would you go to the easel, please, and tell the Court what maps they are and what they relate to. [1490] A (At the easel:) The City's Exhibit No. 4 relating to the airport and Windsor Hills areas consists of an overlay which on the easel has been placed over the City's previous Exhibit A-11 which is the over-all land use map of the Roanoke County area.

* * *

Q All right, sir. Have you got another exhibit?

This is Exhibit 1 of the Windsor Hills and airport annexation areas, is it not? A That's correct, and it shows in color patterns the existing water service in the petitioned areas, the green representing the areas presently served by the City of Roanoke and the yellow representing the areas presently served by the [1491] Roanoke County Public Service Authority.

The red areas or red lines show proposed improvements by the City of Roanoke but another City witness will testify as to those proposed improvements.

[1492] Q What is the next exhibit? Is that Exhibit 2 for Windsor Hills annexation area? A That is correct.

Q And that is entitled "Sanitary Sewer Service?" A Yes, sir. It shows by the same color coding as used on the water exhibit, the green representing the City of Roanoke service areas at the present time, the yellow representing the areas served by the Roanoke County Public Service Authority, and the red lines as with the water exhibit representing the proposed improvements which another witness will testify to.

What about Exhibit 3 for Windsor Hills and the airport annexation area? A The Exhibit No. 3 relating to storm drainage improvements is taken directly from the City's previous Exhibit C-5, the only difference being we are showing only the areas which the City considers to be in need of storm drainage improvements that lie within the two petition areas. Another City witness will testify as to the proposed improvements in those areas.

[1493] * * *

Q All right, Mr. Zollman, I draw your attention to Exhibit 5, Windsor Hills, which is entitled "General Pertinent Data." Do you have some comments to make on that? A I might run briefly through the exhibit. The [1494] exhibit shows total land area. It also shows generally the existing land uses in the area, separated between vacant land and developed land.

Q How did you determine the developed land? A That is based upon a parameter measurement of the City's Exhibit A-11.

The population was estimated on the basis of a dwelling unit count. The school enrollment was determined on the basis of applying a factor of 25 percent, which appears from our information to hold true pretty much throughout the County as the ratio of the school population to total County population.

The assessed values in the case of real estate for the annexation area were taken directly from the County's assessment records for this year. The personal property in the annexation area was a combination of information taken from the County's records. However, part of the personal property assessed value shown was based upon estimates.

The Public Service Company assessed values were furnished us by the State Corporation Commission. The figures for Roanoke County come from the same sources, that being the County's assessment records, with the exception of the Public Service Company figure, which again was furnished to us by the State Corporation Commission.

[1495] The sixth item, which is the ratio of the assessed values in the annexation area to the total County, is determined by dividing the annexation area assessed values by the assessed values of the total County.

Item 7 is the Roanoke County debt projected to December 31, 1971. We begin with the outstanding debt of the County as shown by the County's audit reports and deducting from that the amounts which the City of Roanoke has assumed by virtue of previous annexations and the amount which in our opinion represents Salem's responsibility for Roanoke County debt.

From that we arrive at a figure of $24,412,460, which in my opinion is the amount of Roanoke County debt that we are considering in any settlement that might be made at this time between the City of Roanoke and Roanoke County.

Q That is the debt as to which, in your opinion, the Court should take into consideration in determining what, if any, portion should be assumed by the City of Roanoke in the event of annexation of this area? A That is correct; yes, sir.

Q Go ahead now. What about 8? A Item No. 8 shows the total obligation debt limit situation for the City of Roanoke in the event of annexation of the Windsor Hills area. It shows the combined assessed [1496] values of real estate of the City of Roanoke in the annexation area to which we have applied the 18 percent debt limit, and from that total debt limit we have subtracted the City's presently outstanding debt less the water and sewer debt. We have also subtracted the amount of debt which we would anticipate the City of Roanoke would assume from Roanoke Caunty, and the result of those deductions is the legal debt margin remaining for the City of Roanoke, which is the $7,703,714 figure.

* * *

Q All right, let's move to Exhibit 6. Will you explain that to the Court? A Exhibit No. 6 portrays the loss of net tax revenue by Roanoke County in a typical year assuming that the annexation of the Windsor Hills area is granted. To arrive at this net loss of revenue we have taken the County's current budget. We have considered the items of revenue which would be affected by the annexation and the expenditure items which would [1497] be affected by the annexation and we have shown on this Exhibit No. 6 the amounts by which annexation would affect these items.

I might point out that we have used only what we felt to be the significant revenue and expenditure items in these budgets. There are other items which will, of course, be affected to some extent but we feel that their effects will be insignificant.

The property taxes were determined by applying the County's current tax rate to the amount of the annexation area assessments. The motor vehicle licenses were determined on the basis of population taken from Roanoke County, which led us to an estimate of the number of automobiles involved.

The business license tax is an estimate based upon the local sales tax proceeds in the annexation area. The local sales tax item came to us directly from the State Department of Taxation. The ABC profits are computed on the basis of population.

The State sales tax was arrived at by applying the average amount received per school-age pupil in Roanoke County to the estimated number of pupils taken from the area. The State school funds were determined in a similar fashion. The dog tag sales were estimated on the basis of population taken.

The total of the revenue reductions are the [1498] amount by which the revenues will be reduced by annexation is the $451,474 figure. Against that we apply the estimated savings to Roanoke County in the event of annexation, which in this case consists of the debt service which the City of Roanoke will pay on the debt which they assume. There is the estimated amount which Roanoke County is spending for street lights in the annexation area and the amount which can be reduced in school expenditures as a result of taking the children from the annexation area.

In this case we estimate that the County can eliminate eight school teachers as a result of annexation. We have applied the average teacher's salary to these eight teachers and also included in this is the amount to which the County can make savings in school bus transportation as a result of annexation.

[1499] So that we arrive at a total expenditure reduction of $228,434, and subtracting this from the revenue reduction we get $223,040 which represents the typical year's loss of net tax revenue by Roanoke County.

Q All right, Mr. Zollman, will you explain how Exhibit 7 was prepared. A On Exhibit 7 I participated with the City Auditor and Commissioner of Revenue in making the revenue estimates which would result for the City of Roanoke in the event of annexation. A later City witness is to testify as to the expenditure increases.

The items local property taxes and other local taxes, State funds, and so forth, were arrived at by applying the City's current, that is, the tax rates which were adopted last year to the various factors such as the assessibles which are in the annexation area to arrive at the amounts by which Roanoke City's revenues would be increased as a result of annexation.

In order to avoid being repetitious, the manner by which these revenues or increases are computed for the City of Roanoke are practically the same as was used on Exhibit No. 6 in showing the amounts by which the Roanoke County budget would be reduced by virtue of annexation.

We have shown two columns, the area of annexation [1500] representing that fiscal year in which annexation occurs. Of course, annexation would affect only the second half of that particular fiscal year. The last column represents a full year after annexation.

Q Why are the property taxes larger in the revenue reductions on Exhibit 6 than they are in revenue increases on Exhibit 7? Aren't they the same item? A The property tax reduction in Roanoke County was figured by applying the Roanoke County tax rate of $2.45 to the annexation area assessed values. On Exhibit No. 7 the property taxes were computed by applying the City's existing tax rate of $3.45 to the annexation area assessments converted to the City's assessment ratios.

Now, in the case of the two columns of figures shown, the $467,900 represents the full year's tax collection. The $264,400 which occurs in the year of annexation which might be referred to as a half year occurs by virtue of the fact that certain property taxes in the City of Roanoke are collected on an installment basis, so that they do or are collected in that period between January 1st and June 30th of the fiscal year in which annexation occurs.

[1501] * * *

Q All right, now, let's turn for a moment to the airport area, Mr. Zollman. Do you have similar Exhibits 5, 6 and 7 for the airport area? A That's correct.

Q Well, now, without repeating how you went about it so much, will you comment upon these exhibits? I take it that the same principles apply to the preparation of these exhibits as it did to the Windsor Hills exhibits? A That's true. These particular exhibits run I believe for all practical purposes parallel to the Windsor Hills exhibits, the only difference, of course, being the characteristics both physically and financially of the airport area as opposed to the Windsor Hills area.

[1502] * * *

Q All right, Mr. Zollman, do you have any specific comments you want to make with reference to any of these exhibits? A I don't believe there is anything with respect to the airport area exhibits which differs essentially from the comments I made about the Windsor Hills exhibits. The computations were all made in a similar manner.

[1503] * * *

Q Now, Mr. Zollman, when you testified some weeks ago in connection with this annexation case you dealt with City needs, water needs, and community of interest in effective annexation upon the County in terms of a proposed annexation of the entire County to the City of Roanoke. A That's correct.

Q Have you given consideration to those same factors as they may apply to the annexation of the Windsor Hills area? A Yes, sir.

Q And likewise the airport area? A Yes, sir.

Q Will you advise the Court what your considerations have resulted in your own opinion. A I feel that with respect to these petition areas that they are a step toward solving some of the problems which I previously discussed of the City of Roanoke. In the interest of time I think that this can be broken down into three general areas, the City's needs for a broadened tax basis, the City's need for vacant land on which to expand, and the City's need for additional population, especially that population in the [1504] middle and upper income brackets.

As to the annexation area itself—

Q You are confining yourself to the Windsor Hills area alone? A Yes, sir.

Q All right. A The testimony of the witnesses from the Windsor Hills area I feel covers many of the needs of that area. I feel that with respect to the water system in that area that the City's exhibits, Windsor Hills petition area No. 1, shows the needs for a water system in the area with the fire hydrants and fire protection which at the present time with the exception of a few fire hydrants furnished by the City of Roanoke in the area that they serve, being some of the industrial park area in the Windsor Hills petition area, that there are virtually no fire hydrants in the Windsor Hills area whatsoever.

As to sanitary sewers, the Exhibit No. 2 concerning Windsor Hills shows the areas which at the present time have no sanitary sewer service, the residents depending completely upon privately owned septic tanks. And in addition to those items shown on the map exhibits, the area in my opinion needs the services of a paid fire department.

The street lighting system I feel can certainly and should be improved.

[1505] The police protection in the area I feel due to the almost completely urbanized character is in need of full-time protection of a City Police Department, and while I feel that the County Sheriff's Department is doing a good job in Roanoke County, I feel that the area that must be covered by that department is too great to allow them to devote the attention that they should to an urbanized area such as Windsor Hills.

[1506] The testimony of the residents in that area, in my opinion, is to the effect that they were now using the recreational facilities of the City of Roanoke and in some cases were using the City's library facilities.

The City's Exhibit I-4 covering library facilities, I feel, shows that the City is in a position to furnish to these people a superior library service insofar as the number of volumes or the book collection that is available to the area as opposed to what they are now furnished by the County.

In listening to the testimony of the witnesses I feel that they did demonstrate what in my opinion constitutes a community of interest with the City of Roanoke, either by virtue of their employment or the other services and facilities in the City which they now use.

As to the defects of this annexation upon the County, I feel that the County can be relieved to a certain extent of some of the responsibilities which they now have in this area, and that, I feel, would be to the benefit of the County.

I think insofar as detrimental effects are concerned that our exhibits covering loss of revenue and debt assumption, or the loss of assessed values, demonstrate the limit of the impact financially which this might have upon Roanoke County. The City is assuming a percentage of the [1507] Roanoke County debt, which I feel compensates to a great extent for the amount of assessed values which are taken from Roanoke County due to this annexation.

We also show what in our opinion is a typical year's net loss of revenue to Roanoke County and it has been my understanding that the Court would determine what the total award to Roanoke County would be in the event of annexation based upon the Court's balancing of the equities in the case.

Q What you have said, as I understand it, relates to your consideration of the proposed annexation of the Windsor Hills area. What about the airport annexation area? Is the same thing applicable, or

wherein do the two differ? A The airport, I feel, as far as the needs of the City are concerned—I think the same thing is true of the airport area as is true of Windsor Hills, that this too is a step towards solving some of the problems of the City of Roanoke.

As to the needs of the area, I feel that with respect to water needs the City of Roanoke through extensions of its system has already satisfied, to a great extent, the water needs in that area. I think there are other needs with respect to water which must be met by further expansions of the City's system in that area.

Other than that, in my opinion, the needs of the airport annexation area are parallel to the Windsor Hills area.

[1508] Likewise, I feel the effects of that annexation upon the County are reflected in the City's exhibits dealing with the assumption of County debt and the typical's years loss of revenue by Roanoke County.

Q What is your view as to the community of interests between the airport area and the City of Roanoke? A The airport area, of course, contains a great deal of City-owned property. It is also been my opinion that the airport area is an outgrowth of the City of Roanoke, that the commercial development at the Crossroads Mall Shopping Center, for instance, would have gone possibly on the south side of Hershberger Road rather than the north side of Hershberger Road if the land had been available for it. I believe that the citizens in the airport annexation area pretty well summed up the community of interests which they have with the City of Roanoke.

Q Mr. Zollman, from a consideration of the financial exhibits that you have introduced and explained to the Court, what is your opinion as to the ability of the City to undertake annexation of the two areas from a feasibility point of view? A In reviewing the City's financial situation as to the revenues to be derived from the areas and the City's expenditure requirements in this area, it is my opinion that the City can handle these areas without any problem.

[1509] * * *

Cross Examination

By Mr. Fitzgerald:

Q Mr. Zollman, when did you make these studies that you have testified to in regard to the Weddle petition and the Kinsey petition?

A Are you referring to these map exhibits or these—Well, it has gone on specifically as to these areas since we last recessed.

Q Since our last recess? A Yes.

Q All right, sir. The maps were prepared— A Well, these maps were prepared within the last 10 days. The material on these maps had been, for the most part, prepared with the overall County, since it is practically the same information but shown in a different fashion.

Q You are aware, Mr. Zollman, of the Court's order to all the parties in this case that the exhibits to be filed, to be used by every party, should have been filed sometime before the trial first started? Did you have these exhibits at that time? A No. You are referring back to March or April 12, which I believe was the deadline, or April 5?

[1510] Q Yes, sir, when the City did file a number of exhibits. A That is right. The only exhibits I had at that time were what was in the green book which referred to the overall County.

Q And at that time you had not been told to prepare any exhibits relative to these two petition cases, is that correct? A No, I wasn't instructed to prepare anything specifically for the petition cases.

Q And when were you instructed to prepare the exhibits? A I am a little vague about that but it has been over the last 30 days. I guess it was confirmed after the petitioners had presented their evidence.

Q So the decision to prepare this data for the Weddle petition and the Kinsey petition was not made until after petitioners had rested their case, is that correct? A I am a little bit hazy about that, to be perfectly frank, but I believe that is essentially the situation.

Q In any event, you did not prepare this material until after that time? A No, sir. This material has been pretty well prepared over the last two to three weeks.

[1511] Q And you are aware that the material was just furnished to the County of Roanoke and counsel this morning? A That is right.

Q When did you first complete this work? A As to final completion I would say Friday of last week. The work was in various stages of completion, of course, over the last couple of weeks.

Q I believe your sewer service exhibit, on Exhibit No. 2, shows a considerable area of the Weddle petition being served by the Roanoke County Public Service Authority, doesn't it? A That is correct, a substantial area in the southerly part of the City is served by the Public Service Authority.

Q And if this area is granted for annexation, you would assume they would continue to serve the area they are now serving? A That is right.

Q And you say that the proposed improvements in that area will be testified to by somebody else? A That is right.

Q Who is that somebody else? A Mr. Hirst.

Q You say that the areas need full-time police [1512] protection? A I feel they need police protection to a greater extent than what they are now receiving. I think they need a concentrated police protection.

Q You didn't mean to indicate that they were not receiving full-time protection now, did you? A No, sir, I did not.

Q You are aware that they are receiving full-time police protection, aren't you? A They are within a large area in which the Sheriff has the patrol, but there is no patrol, to my understanding, that is assigned specifically to the Windsor Hills area.

Q What has happened in the Windsor Hills area that leads you to believe that there is a need for more concentrated police protection, what crime problems? A In crime problems, I don't think you can go directly to police records and say what crime problems are. I think prevention is the answer to crime problems, especially in an area of the character of Windsor Hills where there is a considerable amount of high-valued property.

Q You would recommend that they go ahead and put more police in this area because of something you think may happen there? A I think that is the only way we are going to be [1513] able to keep the crime problems from becoming very serious in the suburbs.

Q But you don't know of any crime problem in this Weddle area, do you? A I don't know of any serious crime problems specifically, no, sir.

Q But you would recommend putting more police in the area? A I think for an urbanized area of that type that it certainly deserves more patrol than what my studies lead me to believe it is now receiving.

Q Of course, in making this study in which you proposed what the City of Roanoke would do, you had to compare that with what was being done in the existing city, didn't you, sir? A That is right.

Q There are some crime problems in the existing City? A I think so, and I think the City is taking steps, as many central cities are, to cope with those crime problems.

Q So you would recommend that the City of Roanoke would have to concentrate more within the existing City, more law enforcement officers, wouldn't you, if there is already a [1514] crime problem existing there? A I don't think it is necessarily a case of more officers. I think you reach a point as to what it really takes to do a job with. I don't think you can solve your crime problem beyond a certain point by continuing to saturate an area with police officers.

Q Mr. Zollman, you have recommended more police officers in an area that has no crime problem. Wouldn't you recommend more than that for an area that does have a crime problem? A I think those are two different types of questions. I say that Windsor Hills needs them because I think Windsor Hills has the potential for crime.

What I think of in the way of crime is not crime on the part of the residents in that area so much as it is the protection of those residents from criminal elements from the outside.

Q From the outside? From the City of Roanoke, perhaps? A Well, the City of Roanoke or the County of Roanoke. I don't know where they are going to come from, but the Windsor Hills area, I feel, is subject to crimes that fall into the category of burglaries and breaking and entering and things of that type in particular.

[1515] Q And you feel that—Excuse me. A In getting out of the crime area but also talking about police needs, the traffic situation in the Windsor Hills area, I think, calls for more police protection.

Q If we can stay in the crime area just a little bit longer, I won't belabor it but I want to see if we can understand you. Do you feel that the Weddle area needs more police officers in there, more police concentrated effort, to protect that area from what might happen that is

already happening in the City of Roanoke? Is that a fair summary? A I think the City of Roanoke has certain areas within it and that is one of the reasons we are here right now in this annexation proceeding, where there are the central cores of cities which have crime problems. If we are not careful, those crime problems can spread into the surrounding suburban areas.

One of the reasons for this annexation is to strengthen the City to the point where it can cope with these inner-City problems.

Q The solution to that is to take on more territory, to protect more territory, to solve the crime problem already existing in the existing territory of the City? A You are making it sound like the taking on of this territory is going to exert some tremendous burden upon the [1516] City of Roanoke that is going to detract from their efforts in the central City.

On the contrary, unless the City gets strength—The way I feel, if you get strength at the present time—the transfusion it needs is through annexation. That is the way the City of Roanoke as well as some of the people in this suburban area who will be susceptible and are potential victims of this crime—unless they get together with the City and combine their resources to take care of this problem, then the suburban problem will become serious.

Q Then you weren't talking about the needs of the Weddle area but the needs of the City and the needs of the Weddle area to help the City solve its problem? I see, sir. A That is right, sir.

Q All right, sir. A What I said was, and I still say, that the Weddle area needs police patrol. I think if you go back to the day we took the bus tour into the industrial area and you saw the beer cans and other litter in there, there is evidence that that is a Friday night or Saturday night parking area for somebody and it is evident they are not getting too much concentration of police patrol commensurate with the values which are represented in that industrial park.

Q So that was the crime problem you were talking [1517] about? A No, that is just an example.

Q I think we understand you.

On the libraries, you say you think the area needs more library service than the County is now furnishing or the County can furnish. Do you know what the County's library program is? A I know what

the County's facilities program is, but I am not aware of any efforts on the part of the County to expand their book collection to any great extent.

[1518] Q I see. And how many books do you think the County needs? A I think they need a book selection that's equivalent to what's in the City of Roanoke which is roughly two plus volumes per capita, and whereas in Roanoke County, according to the last State report, it is roughly 1.04 volumes per capita.

Q You are just going on this as an assumption, aren't you, Mr. Zollman, because you are not an expert in libraries? A No, but I have been to the library and I know—I have been in libraries here and I have been in other places and I know what I can and I can't find when I get in a County library.

Q You do use the County library? A That's correct.

Q I see, sir. And you say that you base a lot of your opinion on the witnesses that testify, the citizens from the Widdle area, as to the needs? A To an extent, yes, sir.

Q And the contribution that those people could make to the City? A That's correct.

Q Do you recall how many people testified from the [1519] Weddle petition area? A It seems to me we had somewhere on the order of between five and eight, somewhere in that neighborhood.

Q Did you make a note of how many of those witnesses were retired people? A No.

Q It didn't stand out to you that most of them were retired, elderly people that testified? A Not elderly necessarily, but possibly to a point where they were of retirement age, but certainly I don't think that detracts from them as being citizens, good citizens and the type citizens that the City can stand because evidently they are people who, although they are beyond, maybe beyond working age in some cases, that they are well-to-do people.

Q Yes, sir.

I believe you testified before in your testimony that the City needed a young population, young people to take leadership, and things of that sort? A I think the City needs possibly not—"young" is a broad

spectrum. I think that I would say that there are people who testified in here regardless of their age of tremendous leadership potential.

Q And you are not talking then of a chronological age when you said young; you just meant young in spirits? [1520] A To a great extent that's true, yes.

Q If we look at your Windsor Hill Exhibits 5, 6, and 7, you show the estimated school enrollment of that annexation area as 409 students? A That's correct.

Q What percent is that of the total enrollment of the County? A The County has roughly 20,000 including the students from Salem and 400 to 20,000 would be in the order of what? Two percent?

Q I think that's correct. A That's correct, I think.

Q So the area contains about two percent of the school enrollment? A That's right, of the students including Salem students.

Q Yes, sir. Twell, they are all educated as part of the County system, aren't they? A Yes, sir.

Q Your Item 5, current assessed values, what year are these values supposed to be? A The real estate figures were taken from the County's books which are dated, well, for the period June 30, '71. They were I believe brought up to date by a supplement [1521] which was made I believe in March of '71, and it is my understanding that they are the books that will be used to bill the installment which is due June 5th of this year.

With respect to the personal property there, those are 1970 figures because the 1971 books haven't been prepared as yet. Of course, it indicates that the annexation area, we made estimates mainly with respect to the residential properties since most of the residential personal property consists of automobiles and we customarily estimate that particular figure because it is practically an impossible task to trace down each of the personal property taxpayers in the County since the books are not set up to facilitate that.

Q How did you get the real estate figure for the petitioned area? A We went to the assessment book and took it off parcel by parcel.

Q But these figures include some 1970 figures on personal property? A That's right, as to personal property, that's the best there is other than the—

Q Yes, sir.

The real estate does not include all of the supplements, is that what you are saying? A The real estate, as far as I am concerned, [1522] includes all the supplements. At least, that's the way it was represented to us that it would be the book from which the current real estate billing would be made in the County.

Q When did you obtain these figures? A Over the last month.

Q Since the last recess? A I am going to have to check back to make doubly sure about that because these dates are running together in my mind. Wait, I can tell you. We obtained them during the last couple weeks in May, I believe.

Q Don't you remember whether it was after we recessed here? A Frankly, I can't exactly. I can check back on some papers and probably put some dates together.

Q All right, sir.

When did you get the public service items? A The public service figures came to us in a copy of a letter from the State Corporation Commission dated February 26, 1971.

Q You have had those figures since February? A That's right.

Q Item No. 7, you have deducted from the County's debt projected to December 31, 1971, $1,801,000 of you say debt to be assumed by the City of Salem. [1523] A That's right.

Q Who told you the City of Salem was going to assume that amount of debt? A It has been my experience in transition cases, that is, towns becoming cities, that the counties demand that the towns or the new cities assume debt in proportion to the assessed values as of the date of the transition. I think it is true that if you go to the County Audit Report, I don't think you will find that $1,801,000 figure since the transition settlement in my understanding has not been made between the County and the City.

Q Let's take that statement you made that it has been your experience when a town transists to city status the counties make a claim that it should assume debt of the county. Is that what you said? A Yes, sir.

Q Has it been your experience that any city, to your knowledge,

has assumed any county debt when it became a city? A The debt is offset, of course, by the assets of the county.

Q The same percentage, right? A Yes, up to the amount of debt assumed.

Q All right, sir. Then tell the Court, do you know [1524] of any town that became a city that the city did or was required to assume one penny of debt of the county? A I think that in itself is an assumption of debt.

Q That in itself? A That's right. It just happens that there are compensating factors to which that town is entitled in the way of credits against that debt but it in effect is assuming that debt and if it didn't assume that debt it would indicate any assets.

Q Mr. Zollman, who pays the debt after the town becomes a city? Who makes the debt payments? A The county would continue to make the debt payments but—

Q Now, answer my question. Do you know of one single city that became a city from a town status that has assumed any debt of a county at all? A Well, it is just what I just told you, they are assuming the debt and against the debt they are crediting assets of the county.

Q But you would agree for this $1,801,596 that the county is still going to have to pay it? A That's right.

[1535]

* * *

Julian F. Hirst

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Direct Examination

By Mr. Davenport:

Q Mr. Hirst, you testified some weeks ago, did you not? A Yes, sir.

Q And you were the City Manager of the City of Roanoke? A Yes, sir.

Q Have you, with your department heads, given consideration to the needs of the City of Roanoke and the needs of the Windsor Hills area and the airport area? A Yes, sir.

Q And are you familiar with the exhibits that Mr. Zollman introduced? A Yes, sir.

Q I would ask you if you would start by going to [1536] the easel and taking those exhibits one by one and pointing out to the Court what the City of Roanoke proposes to do in the two areas with reference to the subject matter of its several exhibits? A All right, sir.

Q First of all, you have before you Exhibit No. 1, the Windsor Hills and airport areas, dealing with water service. A Exhibit No. 1 indicates the water service in the Windsor Hills and the airport areas, as Mr. Zollman testified, as to that which is existing and that which is proposed. I repeat what he said momentarily for explanation.

The area shaded with a green color is that area or those areas which are already served by the City, or through the City's system. The areas that are shaded in the yellow color are those that are served by the County of Roanoke through its Public Service Authority. The red lines indicate the adjoining areas that the City would propose to upgrade through lines that will be constructed in the event that this area is annexed to the City of Roanoke.

Without burdening the Court simply as to lines, I will simply point out that there are these lines as indicated on this map.

I think there are two points to be noted with respect to the lines in the Windsor Hills area, the first point [1537] being that in order to get a good system and a balanced system in the Windsor Hills area, we have indicated proposed lines that would go through areas that are already served by Roanoke County. This is necessary for two reasons.

First is in order to upgrade the level of service in those areas as to size of lines, fire service, fire hydrants, and secondly in order to build a circular system in order to give a good balance to the area.

The second point is that we indicate on this map in the Cravens Creek area, which is a section not in the Windsor Hills area, a line going through that area. Locally that would be designated through—off from Lee Highway and going back directly west. That is necessary to go outside the petition area, again to develop a circular system.

Q What is the source of supply of water to the County Authority? A It is my understanding that these areas are off from wells or supplied from wells within the general area.

Q Are your proposed extensions through there so arranged that they can take over that service in the event anything happens to those

wells? A Generally, yes, sir. There would have to be some short connections made to that. I am speaking in terms of two blocks, three blocks, and so on.

[1538] Q But your main lines run through the area? A The main lines would provide a service off from the total Roanoke system and it is back up to the entire Windsor Hills petition area.

Q All right, go on to the airport. A In the airport area the only new addition that we show is a line along the north portion of the petition area. This would be along Peters Creek Road. The necessity for that line is to tie in the existing City with the service area on the east side. That is the line which I believe carries an estimate of approximately $95,000 in the exhibit that has already been submitted. That is the only addition that is required.

Other than that all of this area is now served through the City's water system. The Arrow Wood Country Club area, the surrounding residences, the airport, the trailer park and the Crossroads Mall and the airport road and the industries adjacent to the airport.

Q Do you studies indicate that these two areas need the service that you are proposing? A Taking the last one first—

Q You mean the last area? A As to the line on Peters Creek Road, this would be valuable. If the City had governmental jurisdiction in the [1539] area, this we would provide. I would not term it an absolute necessity. It is desirable to connect those two systems.

Ultimately this would be a part of the total system going all the way through on Peters Creek Road.

Our studies and observations of the Windsor Hills area, going back to the time of the filing of the petitions and through the years, has been that this quality of water service that is being proposed by this system is needed and would be highly desirable to this type of urban-developed area.

Q All right. A May I move to Exhibit 2, please?

Q Yes, sir. A Exhibit 2 is entitled Sanitary Sewer Service for Windsor Hills and the airport area. The colors on this exhibit—Again I apologetically repeat Mr. Zollman's testimony—are on the same basis.

The green are those areas that are now served by the City of Roanoke system. The yellow is that that is served by the County of Roanoke.

The red is that which the City would propose to provide in the event of the annexation of these areas to the City of Roanoke.

Specifically, in the Windsor Hills area we show by the red line going generally through the northern portion of [1540] the petition area, following what is known as the Barnhardt Creek drainage area in large part—we show the lines on this exhibit that would be proposed to be provided that would serve this area.

It should be added at this point, I believe, that the section that is a part, or is illustrated on this map in yellow as being served by the County of Roanoke, is ultimately and very shortly brought into the City of Roanoke system and is ultimately treated by the City of Roanoke. So it is not a totally processed sewerage system on the part of the County.

[1541] The City is serving by a trunk line on the Roanoke River the Blue Ridge Parker industry and on up to the point that we pick up the transmission from Salem.

In the airport area we do not show on this exhibit any proposed sanitary sewer lines to be installed. This area is already, insofar as our studies indicate, well sewered, largely because the City has been involved in providing sewers to this area, and this includes the Arrow Wood County Club area, the airport area, the Associated Transport, the industries in and along the airport, and the Crossroad Shopping Center Mall.

There are small portions that are in the eastern part that are served by Roanoke County and which ultimately go into the City system.

Q Mr. Hirst, while you have the sanitary sewer service exhibit before you, let me ask you this: What effect upon the City's ability to serve the area will the current proceedings before the Water Control Board have? A This would not, and I profess some uncertainty as to the status of those proceedings—this would not in any way affect, as I can see it, whatever may be the proceedings of the Board, would not affect the City's ability to serve these areas.

The Windsor Hills area and the airport area as [1542] well as the total area that is served by the City, the City of Salem and the County of Roanoke, is not transmitted by the City system and processed by the City sewerage treatment plant. To take something that I think in all logic could not happen, if the City would suddenly with everything shut down, the only alternative is to come through this. I see no effect on these areas or the City's ability to serve these areas.

Q All right, sir. Let's go to the next exhibit. A Exhibit 3 is a location of proposed storm drainage improvements. It is a fairly large map for a small red head of a putter right in here on Lee Highway, and this is taken from the exhibit that the City had prepared in its previous proceedings before this court, and this is the only area that we indicated at that time and continued to indicate at this time as requiring significant or project-type storm drainage improvements.

And this area is situated on Brandon Avenue or Lee Highway just outside of the City limits into the area that's under petition and it is the area along Lee Highway both to the left and right to which some drainage, storm drainage treatment is necessary.

Our previous exhibit showed some areas particularly to the west and immediately adjoining the Windsor Hills [1543] area. However, that is not involved. We do not from our studies over some period of time see any significant storm drainage situations in the airport area that have to be treated on a project basis.

I don't want to leave the inference that we would ignore culverts in the roads and this type of thing but I am speaking largely from project-type situations.

Q All right, Mr. Hirst, would you retake the witness chair, please, sir?

Do you have copies of Exhibits 5, 6, and 7 pertaining to the Windsor Hills area? A Yes, sir.

Q Do you have them before you? A Yes, sir.

Q With reference to Exhibit 5, the second page, item No. 9, do you want to discuss this with the Court, please, and advise them what these costs refer to and what is proposed to be done in the way of capital improvements which I take it largely is reflected in what you have just shown on the maps? A Yes, sir. I have the Windsor Hills petition although I can go to either one of them.

Q Let's start with Windsor Hills. A All right, sir.

On the second page under Item 9 is our estimate [1544] of costs. A portion of these items were reflected in the exhibit. If I may, and I will do this quickly, the water system extensions that were indicated on the exhibit carry an estimated $627,000, the sanitary sewers, $550,000, and the storm drainage project that is on the exhibit that is still being displayed is $90,000.

Curb and gutter and sidewalk is an estimate and purely an estimate, and this is the policy that the City has had for some years, of a 50-50 participation by the property owners, and this would enable approximately a hundred thousand dollars in total curb and gutter and sidewalk construction.

Fire stations is a hundred thousand dollars. This estimate is based on our current figures for the provision of a fire company or the facilities for a fire company as would result or be added if this area were annexed to the City.

Schools is a projected figure within the limits of my capability to testify with respect to schools, and we have conferred with the school administrative personnel of the City in order to come up with a figure that we felt could be reasonably estimated, in order to work it into a capital program, and this is done on the basis of the present costs, as I am advised, within the City to house elementary and to house junior or intermediate and high school students. This figure—these figures times the number of students represented [1545] in this area translates into this figure of $844,000.

I am advised by the school administrative people that this would be primarily directed to junior or intermediate and I am sure the Court is well aware of this by this point that the City uses the word "junior," the County uses "intermediate." And this is for additional additions on the existing intermediate schools or junior high schools in this area to accommodate the students from the Windsor Hills petition area.

The school officials further advise me that the elementary and high school students can be absorbed within this area.

Mr. Fitzgerald: If it please the Court, I have allowed this to go on to project costs but for this witness to try to tell this Court with any degree of accuracy what can happen to the school children in this area or whether or not they can be absorbed, he has admitted that it is purely hearsay on his part, he has been advised by someone else, and I would have to object to the testimony and ask that it be stricken.

Mr. Davenport: The City Manager passes on these things in taking it up for the City Council. That's the procedure that has been followed under the administrative setup between the School Board and the [1546] City Council.

Mr. Fitzgerald: May it please the Court, I feel very much assured that the School Board or the School Superintendent would appear be-

fore any City Council to project the needs of schools, and I did not object to this round figure of what he says might be needed in the way of capital improvements for schools, but for him to express an opinion as he is trying to do based on hearsay testimony that he has been advised as to how these students can be absorbed into the system, I object.

Judge Hoback: Sustain the objection. The City, of course, can put on the Superintendent of Schools if it desires.

Mr. Davenport: I understand that, your Honor. We note our exception.

Judge Hoback: Yes, sir.

By Mr. Davenport:

Q Mr. Hirst, the figure for capital expenditures for the schools is now $844,000; that's right, isn't it? A That's the allowance, yes, sir, made in this capital program.

[1547] Q The water system figure of $627,000 and the sanitary sewer figure of $550,000, how are they to be financed? A Water and sanitary sewer would be by revenue bonds.

Q They are not chargeable to the general obligation debt limit, are they? A No, sir. They are deducted insofar as the application of the $2,261,000 to general revenue. Actually, it breaks down to general obligation of $1,084,000 in revenue bonds, $1,177,000, if my arithmetic is correct.

Q How do you propose to provide additional fire protection for the area, for which you have a cost of $100,000? A Within our judgment, the nature—and by nature I am referring to the built-up factor, primarily, within the Windsor Hills area—is such that it would justify an addition to the present capability of the Roanoke City Fire Department and that which is already proposed.

I think, as has been previously testified in these proceedings before this Court, we have indicated to the Court the intent in that funds are available for the construction of a new fire station in the southwest portion of the City. These moneys have been provided and are available.

We have been in a real quandary to some degree as to where to situate this because of questions as to what [1548] might be annexation results and service areas. You have got to take into regard the concentration of people and you have got to take into regard the traffic patterns.

If the Windsor Hills area as now on that exhibit were annexed to the City it would be our proposal, without display on the map, to situate the fire station that is now authorized further to the west than that which is proposed and to provide an addition to this station to house an additional company, which would provide service into the Windsor Hills area and the adjoining City area.

[1549] * * *

Q Do you want to apprise the Court how you propose to add an additional police service to give proper police coverage to that area? A Police coverage to the area would be provided [1550] within the present City police organization, with some addition. At the present time there are two of our patrol districts that abut the Windsor Hills area. The City, as I think has been indicated to the Court, is divided into patrol districts. Two of those districts abut the Windsor Hills area.

It would be proposed to extend those two districts into the Windsor Hills area, the north district picking up Lee Highway, the Blue Ridge Industrial Park, out into the Dyerly Road area. The south district would pick up the Mud Lick Road area. This plus some augmenting or addition to the present department as to equipment and personnel that I can mention when I come back to the stand. That would be that which we would propose to do.

Q While you are there at the map, do you want to touch on what you would do for fire and police with reference to the airport area? A Yes, sir. There is already proposed, authorized and funded a fire station that is to be situated within the airport annexation area. I am indicating by my pointer on what we call the Airport Road, approximately 300 feet north of Hershberger Road, as the point at which the fire station will be situated. This is already proposed and funded.

It will be a two-company station. One company would be strictly for airport operation. We have got big foam [1551] trucks for that purpose. The other company would be for service to the northern portion of the City.

In the event of annexation this would include the airport area included for annexation. For the Crossroads Mall, this would give fire truck service within roughly about two City blocks, I would estimate, between there and the Mall area, and immediate service along Crossroads Mall and up into the airport area.

The policing we do not indicate in the exhibit that the Court has before it as needing additions to the airport police by reason of the annexation. We feel we can absorb it and control it within the existing areas and do it very effectively.

Q Would you return to the witness stand, please?

I refer you now, Mr. Hirst, to Exhibit 7, the Windsor Hills petition area. Mr. Zollman testified to the first half of that exhibit concerning revenue increases. Would you discuss with the Court your budget expenditure increases from that exhibit?

The first column, I believe, is for a half-year, for the half-year in which annexation would take effect, and the second column is for a full year after annexation. A The police, $11,700—and I can follow whatever guidelines you wish to give as to how much detail to go into. [1552] Perhaps we will do the first one as an example.

We reflect a proposed increase of additional patrolmen for Windsor Hills or additions to the department of two patrolmen and one vehicle by virtue of this annexation. I do not want to leave the impression that all the police the Windsor Hills area will have will be two police officers. In fact, quite to the contrary. I indicated two districts working into there and we feel, based on population, patrol distances and this type of thing, the factors used would work out to two additional patrolmen and one additional car in the department.

The fire costs reflect the cost of an additional company of five men, along with the supplies, and within the figure in the first column of $44,200, there is $25,000 for an additional pumper truck that would be purchased for the company that would be added by virtue of this additional territory.

I would again emphasize, to the extent that I can, that it is very difficult to say what specifically comes about as a result of this area because you are working on a balance and you have to come up with general criteria as to what this additional area brings about for you.

In the public works figure we have consolidated street maintenance, lighting, street cleaning, refuse collection, and these figures are our best estimate of what would be the additional cost to the City.

[1553] On Civil Defense, the City's system of Civil Defense sirens that we have—this reflects the addition of one in the area of Windsor Hills. Additional registrant costs is also noted.

The school costs are based on the tuition figures that again are

furnished to me by the school personnel as to the estimated tuition cost to the City based on the number of pupils that are represented, as Mr. Zollman has already testified, within this area.

The County debt assumed is derived from figures to which Mr. Zollman has testified and the debt service for capital outlay in this second column, the $108,400, represents a breakdown on the debt service basis of the cost of financing the capital outlay program that has been previously indicated under Exhibit No. 5.

Q All right, Mr. Hirst. In your judgment, as the City Manager, can the City of Roanoke readily handle the annexation of the Windsor Hills area, both practically and financially? A Yes, sir. There is no doubt with us that this cannot be done. To answer you correctly, yes, it can be done.

Q Let's go on to the airport area now, Exhibits 5, 6 and 7, and touch upon them where you feel necessary. I take it that the basic items are substantially the same as you [1554] have just mentioned in detail with reference to Windsor Hills. On the second page of Exhibit 5 there are only two items. A On Exhibit 5, Item No. 9 at the top of the second page, the water improvements, the $97,000 is the estimated cost of the line that I showed on Peters Creek Road.

The schools—again that figure is divided, as I previously testified, on the basis of the number of pupils times the City's school costs for housing students as to the three stages, elementary, junior and high school.

Total capital improvements, $292,000. $97,000 of that would be by revenue bonds.

Q Do you want to go to Exhibit 7, the second portion of that showing the expenditure increases? A Exhibit 7 as to the expenditure increases in the airport area—we show public works. Again this reflects a combination of all of those elements of governmental operation that we consider under public works such as lighting, street cleaning, refuse cleaning, street maintenance, et cetera.

The first half-year of $36,400 involves the purchase of some equipment and this levels off to $18,000 into the second year, or into the full year.

Civil Defense is again the siren system. The figure for schools is based on the tuition costs as furnished to me by the school administra-

tive personnel times the number of students that would be absorbed into the City's system by virtue [1555] of this annexation area.

The County debt service assumed is derived from figures to which Mr. Zollman has testified and the debt service for capital outlay is derived again from the capital outlay figre under Exhibit No. 5, giving a total expenditure for the first six months of operation and then for the full year of operation.

Q Again, is it feasible for the City to acquire by annexation the airport area from a practical and financial point of view? A Yes, sir, it is.

Q All right. Now, Mr. Hirst, when you testified before, you discussed from your point of view as City Manager the various needs of the City. Let me ask you to what extent will annexation of the Windsor Hills area and the airport area meet the needs of the City of Roanoke as you have previously specified them? A I will take your question as to the needs of the City of Roanoke in contrast to what might be the needs of the area, as I understood the wording of your question.

Q That's right. A There were a number of points that I attempted to indicate to the Court when I was on the stand previously as to my feelings as to why there was a need for the City to annex. There is the basic need I think for the City to enlarge its [1556] boundaries. This comes about by the need of a City to grow just as it is necessary I think to a business or to a human or whoever, whatever it might be to have the opportunity of growth, to have the opportunity of expansion and enlargement, and to be capable of extending itself rather than being restricted and to have a wall built around it beyond which it knows that it can't go or cannot go. This is I think factor No. 1 that is involved here and is one of the reasons that the City is receptive certainly to the acceptance of these areas that have petitioned to come into the City. There is the matter of community of interests. I think, although I don't necessarily establish myself as judge of those who testified before, but I would state it from my knowledge of having lived here that there are representatives in both of these areas who have a direct community of interest. There is a community of interest between the businesses within these two areas and there is an across-the-boundary community of interest which has perhaps already been mentioned with respect to the Blue Ridge Park for industry, for example, the interchange between the City and this particular area. Many of these people are people

who have moved from the City for reasons within their own judgment which I think have been largely attributable to, perhaps almost totally attributable to the lack of available property for building or for people to move onto within the [1557] City of Roanoke. This is the community of interest factor that I think would be helped, certainly not solved but would be helped by these two areas.

Leadership has already been mentioned. This is an element that prevails with people who have close tie-ins with a City that at all times needs people who can give leadership and who could contribute in leadership categories.

I mentioned previously in my testimony what I call unity of planning and this was in our judgment as to why we felt certain things should be done to give a unity of planning, and I think that in the area that adjoins this City that is as closely related to it as these two areas are and certainly as other areas if you went around the map, anytime we can bring about a unity of planning with the City, I think this is emphasized by the interrelationship of utility lines that were shown by the two exhibits as to the desirability of the unity of planning which would be brought about.

The providing of a stronger base to the City, these areas certainly would enable the City as to financial resources a stronger base to the City that in turn accrues to the benefit of these particular areas.

As to open space to grow in, which is one way of putting it, or open space by which we can, it is possible to the City of Roanoke, that which it does not now have, in my [1558] judgment, namely, residential property, for building business property and certainly industrial property, these two areas in all candor in reaction to the court are a help. I would have to be frank in saying that they are not a major help and do not in a major sense answer what the City has to have, in my judgment.

There is in Windsor Hills some areas for residential development that are not now developed down in the Deyerle Road area. There is some residential area along Lee Highway that I would anticipate would be available for residential development.

It would appear to me, and this is solely a reaction, and I submit it in this fashion, that these areas that are not developed in the Windsor Hills area are perhaps larger tracts that are under individual ownerships and perhaps whether these move depend on the reaction of the owners. So that as far as new development area, there would be some within Windsor Hills area for residential, not a great deal.

The same to an extent with regard to business and light industry, not major industry, because I don't think in the Windsor Hills petition area there is space for major industry. The Blue Ridge Park for industry offers some space for light industry or business development and possibly along the Blue Ridge, along the Lee Highway. The greater bulk of the [1559] Windsor Hills area is not acclimated to business and industrial development.

In the airport area there is some room for new residential development, again in my judgment. This, however, is again limited and it is pretty much confined to the Arrow Wood Country Club and the direction of the people who own the country club or the people who have the control of the property interest want to go. And beyond that there is not a great deal of potential, again in my judgment, for new residential development.

The same applies with respect to business and industrial on an over-all scale. There is some perhaps business expansion area in the Crossroads Mall section and along the south boundary along Hershberger Road adjacent to the Mall, in between there and the airport for business. I don't think that industry in the sense we normally think of it would by nature go into the airport annexation area. There are not enough tracks.

There is some space along Peters Creek Road on the south side for business or light industry but not of great consequence.

In summary, and I apologize for a long answer to a brief question, there would be available to the City a partial answer to what I think is a very positive need of the City of Roanoke as we have attempted to express before for [1560] growth and expansion. These two areas will make some contribution but I do not think to a great extent.

Q All right. Now, the various services and facilities that you have mentioned in connection with the additional expenditures that will be required to improve these two areas and the capital improvement program for these two areas, will they in your opinion serve the needs of the area? A Yes, sir, they will, and I think in the case of the Windsor Hills area that they will lead again, in my judgment will lead to most likely the total development of the undeveloped areas within the Windsor Hills area.

Q Now, Mr. Hirst, I noticed that on these exhibits there is no provision for compensation to the County for public improvements owned by the County in these two areas. Are there any public improve-

ments owned by the County other than a school under construction? A To my knowledge, other than the school that's under construction in the Windsor Hills area, there are no public improvements owned by the County within either of those two areas.

Q What is the City's position with reference to the school under construction in the Windsor Hills area? A The position that the City would take with respect to this school which we understand is an intermediate [1561] school or is proposed to be an intermediate school when it is completed is that the City would be willing to purchase this school, and by purchase I mean assume the debt obligation that the County has for this facility and then to incorporate this facility upon its completion into the City's total public school system.

However, it is my understanding from certainly advice that has been given to me or information given to me that the County needs this facility and perhaps again on information given to me is in a very serious situation as to its need for intermediate school facilities. To that extent we would as an alternative proposed and submit to the Court that this school be retained by the County and not be acquired or purchased by the City in the accomplishment of the annexation of the Windsor Hills.

The exhibits that both Mr. Zolman and I testified to do not include the purchase or the absorption or the assumption of the debt for this school and we have gone on the basis of leaving this school under County ownership and for County use.

[1564] * * *

By Mr. Fitzgerald:

Cross Examination

Q Mr. Hirst, can you tell us whether or not any of the capital improvements in the way of water and sewer service improvements are needed whether either of the areas is annexed or not? A Yes, I would say yes, whether they are annexed or not.

Q For instance, the water improvement in the airport area that you said was not really essential but would be desirable, if it desirable if the area is annexed, it is also desirable if it is not annexed, isn't it? A Right, that is correct.

Q And in the airport area you have extended the City's water lines that are generally serving the airport area with water, is that true, sir? A That is correct, yes, sir.

Q And you charge the customers of that system in that area for that service, for the sale of the water? [1565] A Yes, sir.

Q At whatever rate the City Council sets? A Yes, sir.

Q As recommended by the City Manager or the appropriate department head? A Generally, yes.

Q There are fire hydrants in that area, are there not, sir? A In the airport area?

Q Yes, sir. A Yes, sir, there are some. How many I don't know offhand.

Q And the County of Roanoke has a policy or arrangement with the City for the installation of fire hydrants on the City lines, does it not, sir? A Yes, sir.

Q And the County of Roanoke pays the cost of installing the fire hydrants? A Yes, sir.

Q And also pays an annual charge for the servicing of those fire hydrants? A I think they pay $100 per year. This doesn't meet the total cost, but this is the present arrangement, yes, sir.

[1566] Q $100 per year for each fire hydrant? A Yes, sir.

Q And this is the cost that has been agreed upon by the City Council of the City of Roanoke and the Board of Supervisors of the County of Roanoke? A Some years ago, yes, sir.

Q It has been increased in recent years, hasn't it, sir? A I don't believe so.

Q And whether the fire hydrant is ever used or not, the County still pays that amount, doesn't it? A Yes, sir.

Q And the sewer service in the area of the Weddle petition, some of those improvements will be made whether annexation is granted or not, isn't that true, Mr. Hirst? A I don't know that they will.

Q You do know that they are programmed, don't you? A I have heard that they are programmed, or understood that. As to confirmation of that, I am not in a position to say.

Q You told the Court that these areas are ultimately, insofar as the treatment and disposal of sewage, all taken care of by the City's treatment plant as of now? A Yes, sir.

[1567] Q I don't want to go into it to any great extent because I think it was explored very well when you testified before and when other witnesses for the City testified before, but that is the treating plant that the County agreed at the request of the City to utilize instead of building a separate facility? A Yes, sir, in 1952. Of course, there are all sorts of ramifications to this through the years.

[1568] Q Yes, sir. In the more recent years the County has indicated that it was going to build separate facilities and the City has requested it not to? A Yes, sir, as recently as May of last year.

Q Yes, sir. And during recent years the City's treatment facility has been approaching, has surpassed the maximum capacity, has it not, in use? A I have to qualify your statement, sir. We have exceeded at times capacity.

Q The State Water Control Board, be that as it may, is insistent upon something being done to the City's treatment plant; isn't that correct? A This is my interpretation, yes, sir.

Q Tell us what the situation is now at the present time with reference to the City's sewage treatment facilities in the State Water Control Board. A You mean, sir, from a technical standpoint or a legal standpoint or—

Q You just tell us from a practical standpoint what the State Water Control Board has ordered you to do or requested you to do or told you to do and what the City is doing. A The concern as we interpret it of the State Water Control Board is twofold: one is the removal of phosphates from the effluent from the plant. Phosphate is largely, insofar [1569] as a municipal system, a product of detergents but it has become a major concern on the treatment scene all the way across the country. Phosphates are one of the factors, and I would emphasize the expression "one of the factors" that the State contends is a contributor to nutrients or algae growth in Smith Mountain Lake.

According to figures that they showed us in a hearing that was held on the 15th, the City's contribution of phosphates is approximately I think about one-tenth; I think there was a six thousand ratio to a sixty-seven thousand pound in Smith Mountain Lake.

Q Mr. Hirst, I thought my question was directed not to the technical part but— A Excuse me.

Q —I meant to ask you what the position of the State Water Control Board was, what they had ordered or requested the City to do with regard to the treatment plant and what you were doing. I think we heard about a Smith Mountain Lake problem in this proceeding some weeks ago. A All right, sir. Well, the City appeared at the request of the Water Control Board on the 15th of June at a hearing. At the conclusion of the hearing the Board announced its decision and this is an interpretation because I have not seen anything in writing at this point, that they would impose [1570] a restriction on the City and all of the system that connects into the City's sewage treatment plant pending a further hearing which, according to my best understanding, is for some time in the latter part of July. The vagueness that I indicate here is because we have not had anything in writing on this and we have not received any formal notice of any type of restriction.

Our position at the present moment and when I came into this courtroom this morning is that we are waiting to hear from the Board to see what is the specific nature of their instructions to the City and pretty much where we go from there.

Q Has the staff of the Water Control Board given you any idea what the position of the staff of the Water Control Board is? A I want to make sure that I am in the right category. Are you in the category of the decision of the Board itself? We have not been in contact with the staff of the Board since the 15th of June.

Q Have you seen this (indicating)?

Mr. Davenport: Let me see it, please.

(Paper handed to Mr. Davenport.)

Q Have you seen this document? A No, sir, I have not.

Q Were you present on June the 15th at the State Water Control Board hearings? A Yes, sir.

[1571] Q And you did not receive a copy of that nor did the City receive a copy of that? A No, sir.

Mr. Davenport: The question is whether he received it or the City received it? Which is your question?

Mr. Fitzgerald: I assume he is the City Manager and that the City received it—

Mr. Davenport: He is not the City Attorney.

By Mr. Fitzgerald:

Q Was the City Attorney present with you at the State Water Control Board Hearing? A The Assistant City Attorney was.

Q Is it possible that he got these recommendations and actions and you didn't see them? A Insofar as I know, when I left the City of Roanoke at 8:30 this morning none of us had seen anything of that nature.

Q And if this was handed out in the meeting of June 15, 1971, at the State Water Control Board, you did not get a copy of it? A I did not get a copy of it and I am sure if anybody in our party had gotten a copy, which included the Assistant City Attorney, I would have seen it.

[1572] Mr. Fitzgerald: Do you object to the introduction of this?

Mr. Davenport: I don't know anything about the document, if the Court please. I have never seen it until this minute. The witness doesn't know anything about it and I don't think he can introduce it through this witness.

Mr. Fitzgerald: I realize that. That is why I asked if you objected to it.

Mr. Davenport: Yes, I object to it.

Mr. Kincanon: May it please the Court, may I try to clarify the record a little bit? I have been informed this morning by telephone that a copy of the minutes of the State Water Control Board's meeting on the 15th did come through the mail and was delivered in the City of Roanoke this morning but I am satisfied that the City Manager hadn't seen it and I hadn't seen it and I doubt that anyone else has.

Mr. Fitzgerald: The document that I am referring to—

Mr. Kincanon: The document that you are referring to—and I just saw it—I am advised that that was introduced as the staff's recommendations to the Board. I am further advised that the Board's [1573] order adopted the staff recommendation. That is all just to help the Court and everybody else.

Mr. Fitzgerald: Thank you, sir.

Mr. Kincanon: For whatever it is worth.

Mr. Fitzgerald: I still want to know if the City objects to this being introduced into evidence.

Mr. Davenport: In line with what the City Attorney said, I don't see that I can object. I object to your cross-examining the witness on it, though. He has never seen it.

Mr. Fitzgerald: I will not cross-examine, but I would like to introduce it in evidence. I would like to get copies made of it.

Judge Hoback: All right, sir. Do you propose advising anyone what that is?

Mr. Fitzgerald: When I get the copies I will interrupt what I am doing at that time and come back to it.

Judge Hoback: Then we will find out what that exhibit is.

Mr. Fitzgerald: I will have to give it a number, too. I thought I could examine this witness on it without introducing the document, but we will do it the other way.

[1574] By Mr. Fitzgerald:

Q Whatever treatment this provided for the areas of the County is done under a contract between the City and County of Roanoke, isn't that true? A Yes, sir.

Q And you know, sir, as the City Manager, that insofar as the approval and granting of State funds and federal funds, that as long as the matter is handled as a regional program those funds are available, whereas they would not be available if only one entity or jurisdiction were involved? A Not necessarily, in that the City itself can make application for funds, in which case just one government is involved. The County is not involved and Vinton is not involved.

Q But approval of funds—The regional or joint jurisdictional efforts have priority over single jurisdictions. You know that, don't you? A This is correct, yes, sir.

Q Going to City Exhibit No. 5 in the Weddle petition case, your allowance of $50,000 for curb and gutter and sidewalks is just a figure picked out of the air, isn't it, sir? A It is an estimate based on, I would say, a combination of experience, the size of the area. We could have used $40,000 or we could have used $60,000 or $70,000.

[1575] Q How many feet of curb and gutter and sidewalk are needed in that area? A How many are needed?

Q Yes, that you would propose to install? A I don't know how many are needed. I don't have immediately available to me the miles of street.

Q How many feet will $50,000 build of curb and gutter and sidewalk? A If you will give me a moment, sir, I will do a little fast calculation. About 20,000 feet.

Q Is that what the citizens are paying half the cost of? A Yes, sir.

Q You don't have any idea where this is going to be built, do you, sir? A No, sir, this is done by petition.

Q The fire station that is going to be built has been needed for some time to serve the area of the City adjacent to the Weddle petition area, hasn't it, sir? A The fire station that I have referred to under Exhibit No. 5, $100,000, is in addition to that which is proposed in the City.

Q Yes, sir. You are not building two fire stations. You are building one and this is the increased size of that fire [1576] station, isn't it? A We are building one if we are involved in only the Windsor Hills petition area. If there were other areas on the south of the City that were added, then I think we would go to two.

Q If we can stick to your testimony, Mr. Hirst, about what you propose here, you propose to build one station and this $100,000 is an addition to that station or an enlargement of that station? A That is correct, right.

Q The station itself is needed by the City as of now? A Yes, sir, but not the $100,000 station.

Q I understand. A much larger station than $100,000 is needed, isn't it? A Yes, sir.

Q How much is budgeted to build this station that is needed now by the City? A $150,000.

Q And that station, to serve that area, has been needed for how long? A Probably—Well, you get into a question of what is a matter of time. We projected in 1957 that within a year to two years this station

would be needed and therefore we [1577] provided the initial funds back at that particular time. On that criteria we would be about a year and a half, probably, past that point. I would say that would take us about up to '69.

As I indicated in my earlier testimony, we have held up locating that station until we knew what was going to be the boundary of the City or what might be the possibilities.

Q Your exhibit introduced before showed another fire station in the area of the Kinsey suit, didn't it? A Yes, sir.

Q And you say that is going to be built, too, regardless of whether annexation takes place? A That is correct.

Q There is an area of the City that is needed to serve, too, isn't there? A Yes, sir.

Q As a matter of fact, you have added nothing to the size of that station to take care of the Kinsey area, have you? A No, sir.

Q This $844,000 for schools, what is that going to build? A This would be primarily directed to additions for junior high or intermediate. I think according to the statistics that I have seen with the addition of this area and the students, this is where the most attention would go.

[1578] Q You will add to existing— A Yes, sir.

Q —high and intermediate high, is that right? A Yes, primarily intermediate, primarily junior high.

Q And those schools are existing as of now? A Yes, sir.

Q That you add to and are located within the existing limits of the City? A Yes, sir.

Q So that you have room to expand those schools? A Yes, sir.

Q At their present locations? A Yes, sir.

Q Does that item include anything for school buses? A No, sir.

Q It does not? A No, sir.

Q The City doesn't plan to provide school bus transportation for the people of the areas being annexed? A Yes, sir. The Windsor

Hills area under the present policy of the City—or let me back up just a minute and state the policy of the City.

[1579] Q Let me make my question clear. I am talking about— A Excuse me.

Q I am talking about public school bus transportation, school buses owned and operated by the City. A No, no, we would not provide those except in certain very small situations.

Q You are familiar with the school bus facilities and services provided by the County now? A Yes, sir.

Q The City does not propose to provide that service, do they? A Yes, sir. This would be provided again under the policy—

Q Let me make my question clear again. I am talking about a publicly owned— A Right.

Q —school bus system of the County. You said you were familiar with it? A Yes, sir.

Q Where the bus is owned and operated by the County School Board— A Right.

Q —of general taxes. [1580] A Right.

Q Does the City intend to provide that service that the County is now providing, publicly owned buses out of the tax revenue of the City? A Not of publicly owned buses but by the Government.

Q I see. Now you can go ahead and tell what the policy of the City is. A The policy provides that, and the City at the present time is using the privately-owned bus company, for elementary children who live under any one of three criteria, they are either a mile away from—a mile beyond the school that they would attend, or they are more than a mile beyond a public bus route, or there is a safety situation. In either one of those three instances the City provides at no charge bus transportation to elementary students.

The Windsor Hills area in almost all of its entirety falls within that category, which would mean that under the policy of the City for the elementary students, bus transportation at no cost would be provided to the children in this area. The one exception is on what I would call Grandin Road which is down in the southeast area where the children in a small area there are within walking distance of an elementary

school. The junior high and senior high school students are on the basis of a fare arrangement with the bus company.

[1581] Q A fare arrangement? A F-a-r-e.

Q What is that fare arrangement? A They use public buses and I think the fare is 35 cents a day.

Q Each way or round trip? A Round trip.

Q Thirty-five cents a day? A Yes, sir.

Q This has to be borne by the student or the parents of the student. A Yes, sir.

Now, there are exceptions that I doubt will apply too much within these areas and this applies to students who are within an indigent category or who are on a free lunch program and this type of thing, they are exempted.

Q Your studies show that this certainly isn't in any of this Weddle petition area that you know of? A If it is, it is very limited, yes, sir.

Q Haven't you, Mr. Hirst, recommended to the City Council that they buy some buses or provide the money for the City school or to purchase buses for the City? A Haven't I recommended?

Q Yes, sir. [1582] A I don't believe that I have.

Q Has the City School Board recommended it? A Yes, sir.

Q You mean they make recommendations direct to the Council without going through you? A No. This particular recommendation, well, it is a twofold, two situation or twofold type of situation, I guess is the best way to describe it. They recommended to me and through me to the Council I would estimate about two months ago a proposal for the purchase of publicly-owned buses.

Q Yes, sir. A I think that probably is what you are referring to.

Q Well, you just passed along the recommendation of the Council without the benefit of your recommendation one way or the other? A Yes, sir.

Q So the School Board can make recommendations to the City Council without your vetoing them? A Oh, yes.

Q Did the City Council agree to buy those buses? A No, sir.

Q Is there any pending proposal to buy buses? A There is a pending proposal within the budget that [1583] the School Board now has before the City and I believe that that's for approximately five buses.

Q Five buses? A Yes, sir.

Q That's all? A Yes, sir. If I am in error, one or two, but I am reasonably close.

Q And this is in the present budget that is being considered by the City Council? A As it now stands, yes, sir.

Q Yes, sir. But there is nothing in here for any buses under the same circumstances in your proposal? A Not publicly-owned buses.

Q All right, sir. A No, sir.

Q You say that to serve the Weddle petition area the proposal of the City is to provide it with law enforcement that Mr. Zollman called I believe more concentration of law enforcement, to extend two existing patrol areas of the City? A Yes, sir.

Q So that the Weddle area will be divided between what, 9 and 10, patrol areas No. 9 and 10? A May I refer to a document for a moment?

Q Yes, sir. That's shown on Exhibit F-3 that's [1584] been introduced heretofore by the City, isn't it? A Yes, sir, 9 and 10 and a part—I should say a part of 4. District 4 would come into the Roanoke Electric Steel area but generally we are talking about the extension of Districts 9 and 10.

Q Yes, sir.

In your Exhibit F-3 you show actually a new patrol zone that Weddle takes the majority of it up, doesn't it, No. 21? A Yes, sir. Now, this goes under the proposal of the total County annexation.

Q Yes, sir. But you show the patrol zone 21, do you not? A Yes, sir.

Q Most of which is the Weddle petition area, isn't it? A That's not entirely it. I think that's a little misleading because District 9 on F-3 picks up the northern portion of the Weddle area. District 21 that

you are referring to as being added goes further on out. That takes in the Oak Grove area, the Sugar Loaf area, considerably more area than the Weddle petition.

Q All right, sir. Now, to provide the Weddle petition area with increased law enforcement there is proposed [1585] here, as a matter of fact, to provide both the Weddle area and the Kinsey area with increased law enforcement, the City proposal is to add one vehicle and two patrolmen to the City's complement; is that correct? A Yes, sir.

Q Both of the patrolmen, though, will be utilized in patrol areas 9 and 10, as well as a vehicle? A Well—

Q Wasn't that your proposal? A Yes, sir, this is the proposal but I think, as I said at the time that I introduced this particular item of information, again you can't say that we are talking about putting one car and two men into Windsor Hills petition area.

Q You mean these may be used elsewhere? A This is the relationship of the addition of this area to the City.

[1586] This was in addition to this area of the City, population, mileage, et cetera, what it reflects as to the increased operational requirements of the City.

Q You don't have a surplus of police officers in the City as of now, do you? A I don't know of any governmental jurisdiction in the country that has a surplus of police officers.

Q We are talking about the City of Roanoke. A Yes, sir.

Q The City of Roanoke does not have more police officers than are needed for the present territory of the City, does it? A I don't think we have more than are needed. I don't think anybody would take that position.

Q You don't have more police vehicles than are needed for the present territory of the City, do you? A No, sir, you never do.

Q So what we are talking about is what is going to be added to service the areas that are proposed to be annexed, aren't we? A Right.

Q These two patrolmen, how much additional police protection is that going to give to the people of the Weddle area? These patrolmen

are going to be hired as regular [1587] patrolmen, are they not, sir? A Yes, sir.

Q What is the starting salary of a patrolman? A $6,000, I believe, sir.

Q $6,000. Is that the figure you have used to compute the two patrolmen here? A Just a moment, sir.

Q You have got a figure of $14,800 for the full year. A We used a figure of $6,880 for the basis.

Q All right, sir. A This would take the man in our pay plan into part of Step 2 and then into Step 3 to reach the salary of $6,880.

Q So for two patrolmen you multiplied that by two? A That is correct.

Q And that gives you what? A You mean the $6,880?

Q Right. A $13,760.

Q So you have allowed slightly over $1,000 expense for a cruiser and equipment, supplies and such as that? A No. We have allowed $1,000 for supplies. We have allowed $4,330 for a vehicle.

[1588] Q That is in the initial $11,700, sir? A That is in the first six months.

Q That is not going to last forever, is it? A It will last into the next year.

Q Do you keep a cruiser more than two years? A Well, you are talking about six months, Mr. Fitzgerald, of purchasing an automobile, and then you are talking about into the next year, which is a maximum period of 18 months.

Q Of the two new police officers, how many will be patrolling at one time in this area, or any of the police officers you have available in this area? A This district will have—this petition area will have the patrol availability of three officers at all times on a 24-hour basis.

Q If you use any of the existing officers to go out in the Weddle area it is going to take them out of the area they are now serving, isn't it, sir? A That is right.

Q Where you don't have too many? A No, that is your statement; that is not mine.

Q I thought you agreed that you didn't have too many police officers. A That is not what I said and it wasn't your [1589] question, either.

Q The record will show that. What are the hours these police officers work? A The shift schedule? The shift schedule is—

Q How many days a week do they work? A Seven.

Q How many hours a day? A Twenty-four.

Q Mr. Hirst, I think you misunderstood me. I am talking about an individual police officer. A One man?

Q Yes, sir. A One man will work 40 hours.

Q That is what you are hiring here, two of them, aren't you? A Yes, sir, 40 hours a week.

Q Forty hours a week? A Yes, sir.

Q A five-day week? A Five-day week, yes, sir.

Q Son two days a week each of these police officers will be off, isn't that true? A That is correct.

Q And there will be some days there will be sickness; [1590] isn't that true? A Yes, sir.

Q You say you have assumed that the County doesn't want the City to buy the school that is being constructed in the Weddle area. That is your first suggestion? A Yes, sir.

Q If that is true and the area is annexed to the City, that would leave the County with a school inside the City, wouldn't it? A Yes, sir.

Q You don't see any problem about that, do you? A I don't think so, really, no.

Q You say that—But if the City is required to buy that school you are willing to pay the debt on it, did you say? A I am making the assumption that the County has obligated itself by bonds. I am not in a position to factually testify to this, but I presume that the County has either borrowed or has commited itself through bonds to the cost of this facility.

If that be true, then what the City is proposing would be to assume that obligation. If, on the other hand—And again I am being presumptious in this—the County has paid cash for this school, then we would pay cash for the school.

[1591] Q But the City does take the position that it is willing to pay the fair value of the school? A We are willing to pay the fair value of the school but we would not be willing at the same time to assume a portion of the debt on the school.

Q Do you have any idea what the fair value of the school will be when completed? A My best information is $2,250,000, with approximately $250,000 in the property, or a total of about two and a half million dollars.

Q Mr. Hirst, you made the statement to the Court that in your opinion it was necessary for the City to grow and to continue to expand. I suppose you meant that to be a continuous thing, did you not? A I think so.

Q For the well-being of the City? A Yes, sir.

Q If Roanoke continually expands, continually grows, there is one thing certain that will have to happen. The County has to keep receding and getting smaller, hasn't it? A Yes, sir, this would happen eventually. I am not sure how soon.

Q Are you aware that the County provides pretty much a full range of services to the people of the County [1592] regardless to what degree? You know that they do have a library system? A Well, I have got to bring in what you said about regardless of degrees. Yes, sir.

Q But the City is providing library services? A That is right.

Q And they have a park and recreation program? A To degrees, yes, sir.

Q I mean the County. I believe I said the City. I think you thought I was saying the County. A I thought you were saying the City.

Q I am saying the County. A Yes, sir.

Q The County has a library system? A Yes, sir.

Q It provides park and recreational facilities and programs? A To degrees, yes, sir.

Q And it has law enforcement? A To degrees, yes, sir.

Q And it makes a substantial contribution to the fire protection services of the County? You are aware of that? You have been to the dedication of some of the fire stations, haven't you, Mr. Hirst? [1593] A I have been well recorded, haven't I, sir? Yes, sir.

Q You are generally aware of the range of magnitude of the services provided for by Roanoke County, aren't you, sir? A Yes, sir, I think so.

Q And there is not a single one of those services that if these areas are annexed to the City of Roanoke the County can stop providing, isn't that true? Your own exhibit shows that, doesn't it, Mr. Hirst? A Wait a minute. I am not necessarily disagreeing with you but trying to interpret the question.

That the County can stop providing? You mean if these areas are annexed the County would then stop libraries, for example?

Q Yes, sir. That wouldn't happen, would it? A I would doubt it. I'd assume they would continue on.

Q Your own exhibits don't indicate that any one of the services can be terminated? A No, I wouldn't think so.

Q So in your opinion the County is in a position where it can continue to grow smaller, if taxes can continue to be diminished, while the City continues to expand and its tax base grows larger and the County can do this and the City can't [1594] stay the same size and exist? Is that your position, sir? A Well, Mr. Fitzgerald, we are getting into the heart of this whole thing with that particular question. I realize that this particular aspect of the case has been resolved but I think this goes back to why the City was before the Court a month or a month and a half ago.

Q Can you relate it to the—

Mr. Davenport: Wait a minute.

Mr. Fitzgerald: He can go ahead and explain. I just want him to relate it to the petition cases that are before the Court and that he has testified to on direct examination.

The Witness: I think you have got to take this thing in sequence. You have got to take it in an order of considerations.

I think this is what the City attempted to do in its appearance before the Court a month ago with the total annexation proposal. I can't sit here and see any way that there is not going to continue, in my best and perhaps very limited judgment—that there is not going to continue the potential of this issue continuing to arise, whether these two areas are annexed to the City or not.

As I indicated earlier in answer to a question of [1595] Mr. Davenport's as to what these two areas resolved what I felt were the needs of the City, I don't think they do resolve what is the needs.

By Mr. Fitzgerald:

Q You said they helped, didn't you, sir? A They help. They go part of the way toward it. But they don't offer the City the land to develop in. The need is evident to the northeast of the City and in this particular situation. But I don't think, Mr. Fitzgerald, that the position can be taken—and I am not being disrespectful to the Court but speaking for myself—that because these things happened within the County —and, quite obviously the County has developed, I will admit that.

I also believe that the City's annexation interests have contributed a great deal to the speed with which the County has developed. But to simply isolate within the middle of all of this and say to the City of Roanoke "You have this boundary in the year 1971 and because the County is expanding, because the County is providing services, because the County is doing such and such"—and I recognize they are "that henceforth and forevermore you of the City of Roanoke must be confined within this area and cannot expand."

There are too many examples throughout this country right now of cities that have been locked in by [1596] boundaries. You are familiar, sir, with one very near you where there is not the opportunity to develop the mixture of people that it takes to give the factors of leadership and development and incentive and interest and all of these things that go together to make up a city and to bring the new blood, both as to industries and business and people, into a city. This is what we need. This is a partial step toward it. I apologize for—

Q You have sort of gotten away from my question, Mr. Hirst. A I am still on your question, sir.

Q My question related itself to how the County can continue to be diminished in values and diminished in population and do its job while the City must continue to expand at the expense of the County. A Well, I guess I am really saying that—These two that you have run together here and they are going to keep running together to resolve it —I can't sit here and be completely objective and say that the City must henceforth be locked in and nothing can be done because the County is providing these services. No, you have—What is the old expression—

Q Don't you realize that whatever happens to Roanoke County the City of Roanoke has to be adjacent to [1597] something. Would it be a continuous problem, no matter if the City had all the County? You are going to be adjacent to something. A This is true. You are always going to be adjacent to something. But you have within this area and within this area that we are talking about right here today, a much better interrelationship between people and facilities and services than I think exists within these other areas. I would predict beyond the scope of what we are talking about that in 10 or 15 years we are going to see some of this begin to develop and some of the neighboring counties between this and this area.

Q Mr. Hirst, you have made some study of the revenue to be gained in the Kinsey petition area, haven't you, sir? A Yes, sir.

Q I believe you showed that the loss of local sales tax from that Kinsey area amounts to, based on current figures, $326,527? A Yes, sir.

Q You would assume that amount will grow from year to year, would you not, as sales increase? A I would think so as sales increase and the—

Q The history of the sales— [1598] A —and the dollar value of goods and so forth rises, yes.

Q The history of sales tax receipts has shown it has been increasing at a substantial rate every year, has it not? A This is correct, yes, sir.

Q Do you have any idea what percent that is of the total local sales tax of the County of Roanoke? A No, sir, I do not.

Q This wasn't part of the analysis you made? A Mr. Fitzgerald, we had this figure some months ago in some of our calculations.

I don't have notes on it and I don't honestly remember what it was, but I remember having some contact with that.

[1599] Q Does your recollection tell you that it is a substantial part of the total sales tax for the County? A I simply at the present time just don't recall, I really don't.

Q You have testified to a number of proposed improvements, some of which would take bond issues and some of which would take revenue bond issues; is that correct? A Yes, sir.

Q You do not have the authority to sell bonds without the approval of the City Council, do you? A No; no, sir.

Q And do any of your bonds require approval of the voters? A Yes, sir.

Q Which ones are they? A All of them.

Q All of them? A Yes, sir.

Q Including revenue bonds? A Yes, sir.

Q So what you propose here has not been approved by the City Council of the City of Roanoke, has it? A Not in formal authorization, no, sir.

Q And all of it if it required bonds would be [1600] subject to prior approval at referendum of the voters of whatever the City is? A This is correct.

Q Does your City Charter have any limitations on the bonded indebtedness other than the 18 percent that's provided by statute? A No, the only control is the 127(b), the 18 percent, yes, sir.

Q Plus the fact that your Charter does require the prior approval at referendum, doesn't it? A Yes.

Mr. Fitzgerald: That's all.
I do have this document.

Mr. Davenport: What is the exhibit number?

Mr. Fitzgerald: If this could be labeled County of Roanoke Exhibit 1-A, I am sure we don't have a 1-A so far, it will keep it straight.

* * *

Mr. Davenport: Your Honor, I don't propose to [1601] call any more witnesses but before Mr. Hirst leaves the stand, I want to make an offer of proof for the record pertaining to two areas reflected on Map Exhibit M-3 which was tendered on June the 1st at the hearing and refused in evidence by the Court.

The two areas that are shown on this map other than the two petition areas the witness testified to in the record are areas on the east or northeast which is identifiable as Reed Mountain area, and there is to the south, 5.07 square miles which are identified as the Hunting Hills Subdivision area.

In the interest of brevity, I wish to make this tender in the form of exhibits to parallel exhibits that have been introduced in the presentation of the testimony of Mr. Zollman and Mr. Hirst. It will go to those two areas just as it has to the Windsor Hills and the Crossroads or airport area and I am prepared to just offer them at this time.

Judge Boyd: That M-3 has been introduced into the record for identification.

Mr. Davenport: That's correct.

Judge Boyd: In other words, that is in the record.

Mr. Davenport: It is in this record. I am following this out as two areas shown on it on which [1602] no testimony has been offered up to now in addition to the two areas to which today's testimony has been directed, namely, Windsor Hills and the airport area.

I now wish to make an offer of proof parallel to the testimony that has just come in by tendering to the Court exhibits which would be map Exhibits 1, 2, 3, and 4 to Reed Mountain, and Hunting Hills which are comparable to Exhibits 1, 2, 3 and 4 which were introduced this morning.

Exhibit 5 which is a description of the Reed Mountain area.

Exhibit 6 which is general pertinent data pertaining to that area.

And Exhibit 7 which is a loss of the net tax revenue pertaining to that area.

Exhibit 8 which is a proposed capital improvement program pertaining to that area.

Exhibit 9 which shows the effects of annexation on the operating revenues and expenditures.

And another set of exhibits, the map exhibits identical for both

areas, but another set of exhibits, 5, 6, 7, 8, and 9 pertaining to the Hunting Hills area.

[1603] I wish to tender those as an offer of proof with the representation that Mr. Zollman and Mr. Hirst would give substantially the same testimony with respect to them they have given today with respect to the other two areas.

The map exhibits are over in that corner and are identified as I have represented and the tabular exhibits are here.

Mr. Fitzgerald: If it please the Court, this of course is the first time that we have ever seen these exhibits that are being offered now, and Mr. Davenport has said that they are being offered as a proffer of evidence as to what his evidence would be. Ordinarily, I believe in the offering of evidence there is an opportunity to cross-examine the proffer.

Mr. Davenport: The witness is here, you may cross-examine.

Mr. Fitzgerald: He hasn't testified to anything. I have never seen these exhibits before. Am I correct that the Court's ruling—maybe I had better just let the Court rule.

Judge Hoback: If you wish to see them, we will take a recess so that you may do it. The Court hasn't seen them either.

[1604] The Court will rule that any additional evidence other than that by the petitioners would not be admissible now, that would show any different areas from those in the petitions would not be received, as the evidence on the map unless requested by the Court. Thus far I don't recall that the Court has requested any of this, nor does the Court have any information that any of the areas about which he is now discussing are the subject of any petition pending before the Court. These are new areas that the City now wishes to make an offer on, as I understand it.

Mr. Davenport: That's correct, sir, I make an offer of proof for the record.

Judge Hoback: If counsel wants a recess to look at it, all right; otherwise they would be tendered and refused for the present.

Mr. Fitzgerald: If the Court is going to refuse them then I don't want to cross-examine him.

Mr. Davenport: May I have them marked as tendered?

Judge Hoback: Yes. Until called for they are not admitted.

Judge Matthews: I want to keep it straight. [1605] All we have said from the beginning is that insofar as the entire County was concerned we sustained the motion to strike. We have not said at this point that you can't bring in more evidence in these areas but what we have said is you can't bring it in unless we ask for it.

Mr. Davenport: That's what I understood was the ruling of the Court.

Judge Hoback: That's correct.

Judge Matthews: You have to do what you are doing now to protect what you think is an error that this Court has made.

Mr. Davenport: That's correct.

Judge Hoback: They can all be marked tendered and refused just as the map M-3 was.

[1615] * * *

Paul B. Matthews

* * *

Direct Examination

By Mr. Fitzgerald:

Q State your name, please, sir. A Paul B. Matthews.

Q And what is your residence address? A I live at Hollins, 6951 Lammart Drive.

Q That is in the County of Roanoke? A It is.

Q What official position do you occupy with the County of Roanoke, Mr. Matthews? A County engineer and executive officer.

Q How long have you held that position? A On June 30th it will be 31 years.

Q Can you just tell us tentatively what your functions are, what your duties are in that office? A Generally as administrative officer to the Board [1616] of Supervisors.

Q Do you administer the programs of the County? A Yes, sir.

Q Referring you, Mr. Matthews, to Exhibit 11, which is the first exhibit in the book stating the organization charts, would you state whether or not this shows the general organization of the County? A This would be a typical organization of Roanoke County's form of government. We have what is generally known as the traditional form of County government.

Q In relation to the functions and organization of the traditional form of County government, does the County of Roanoke provide other functions and services? A Yes, sir, we do.

Q Then referring you to Exhibit No. 12 following, does this show generally the other basic functions of the organization? A Those are the functions of the County of Roanoke which it furnishes to its citizens.

Q Can you tell us whether or not the County has adopted certain regulatary ordinances such as building inspection? A Yes, sir, we have adopted building codes, the Southern Standard Building Code which applies to the County of [1617] Roanoke.

Q Is this true of the other safety codes, electrical and plumbing codes? A Yes, sir, the National Electrical Code and the State Plumbing Code, along with amendments to meet Roanoke County's needs and requirements.

Q And are these inspections handled under the Building Inspector's function shown on this chart? A They are, sir.

Q And the plumbing and electrical inspections? A Yes, sir.

Q Does the County have a zoning ordinance, a subdivision control ordinance? A Yes, sir.

Q Can you tell us whether or not the County provides trash and garbage disposal? A Yes, sir, we do.

Q And in what areas of the County does the County provide this service? A This service is available in all areas of the County.

Q Do the recipients of this service pay a service charge for that service? A It is based on a service charge, yes, sir.

[1618] Q What is that amount? A At the present time the

rate is $2.00 a month for single residence for weekly service. Commercial, of course, varies, dependent upon the amount of service they receive.

Q Turning to the next exhibit, No. 13, is that a breakdown of the Department of Building Inspection or the service of building inspections, the functions shown in that chart? A Yes, sir. This would be the functions that he performs.

I might say at this point that the air pollution control is also handled through the Health Department, but in connection with the Building Inspector's office.

Q Mr. Matthews, some of these individual charts of the various departments will be testified to by the individuals having those functions? A That is correct.

Q But I just call to your attention Exhibit 18 and Exhibit 19 showing the organization of the Health Department and the Welfare Department. Could you tell us whether or not these are the functions provided by those departments? A As I know the two departments, I would say these are the functions performed by both of the departments.

Q Mr. Matthews, does the County provide library [1619] facilities and services? A Yes, sir, we have had a library system in the County for quite a number of years. Just recently, though, that program is being expanded. We have built a new one in Vinton, a new one in North County, and we hope to go to contract July 1 for the main building out on 419. The grading is completed on that site.

Q Referring you to Exhibit 20, does that show the functional organization of the library system? A As I know the library system and the work of the Library Board of Trustees, this is correct.

Q This system does function under a Library Board of Trustees, is that correct? A That is correct, sir. The money that the County appropriates is appropriated to the Board of Trustees and they expend it as they see fit.

Q Referring you further on into the book, into the map section, to Exhibit 55, would you state whether or not this map shows the location of the library facilities of the County of Roanoke? A Yes, sir, this includes the Book-Mobile stops.

Q And are they also itemized on the following exhibit? A Yes, sir.

[1620] Q Mr. Matthews, does the County provide any street lights for areas in the County? A Yes, sir, they do.

Q What is the basis on which these are provided? A The basis is that we provide them where they are requested. We started out trying to eliminate major street intersections where there was a potential traffic problem and we rely on the Sheriff for a lot of this information.

Then we place them in areas where they are requested by the general public. We do not attempt to make whiteway lighting along all of the major highways. This would be physically impossible from a practical and financial standpoint.

We do in the area around Hollins College where there is quite a bit of pedestrian traffic. We have been able to provide white-way lighting for public safety around the major street intersections such as 419 and 219 and we are now in the process of 419 and 800, 419 and Colonial Avenue, 117 and 118, and 117 and Cove Road, to provide illumination that would be helpful to pedestrian traffic.

Q Mr. Matthews, can you tell us how the street lights are provided, by what means? A Out of the general funds of the County.

Q Is this by contract with— A We have a contract with Appalachian for [1621] providing services and we have a contract which varies for four or five different lighting illuminations, starting with the 3500 lumen and going up to 20,000. The rates vary.

Q Would you state the approximate amount that is expended by the County in the present budget for street lighting, if you have that figure? A Approximately $30,000. I am not sure of that.

Q Has this amount been increasing year-by-year? A Steadily, yes, sir. Of course, we have the lighting that is not included in that, which is gas lighting on some of the subdivisions.

Q Mr. Matthews, you were serving in the same capacity in 1960-61, were you not? A Yes, sir.

Q Can you tell the Court since that time, since 1961, what additional services or increased level of services the County has installed? A I think that that date, beginning—and of course we have at the

present time under construction a communications center here in Salem for the Sheriff's office. We have a public safety building that is in the budget for the Mt. Pleasant area. We have in the budget a public safety building for the Clearbrooke area.

Of course, since that time we have completed the [1622] Hollins branch library and we have now—we will go to bid for the headquarters building for the library. This is the main library building on 419.

We built a new fire station at Cave Spring. We made some alterations and additions to the Hollins Fire Station.

[1623] We built a subsafety building at Catawba and Bradshaw.

We have completed facilities for our sanitation workers here in Salem by building some storage, by providing shelter for them and a place they can come into and house themselves before and after working hours.

We have built—

Mr. Davenport: If the Court please, I get the impression from the location of a number of these that Mr. Matthews is identifying that they are outside of the areas with which we are involved in this case, and if they are I object to them as being material to the issues that the Court is to consider.

Mr. Fitzgerald: If it please the Court, facilities to serve areas need not be located, of course, in the areas that the petitioners have sought to annex. These facilities are still within the reigning portion of the County of these areas sought to be annexed. We are trying to show the Court the total range of services provided by the County and how these services and facilities may be affected if these annexations are granted.

Judge Hoback: Overruled, sir. The City excepts to the ruling of the Court.

[1624] By Mr. Fitzgerald:

Q Are there any other facilities and services provided by the County at this time that were not present or provided for in 1961? A We have purchased a sanitary land fill site of 65 acres west of Salem.

Q Is this to provide for a disposal site for refuse collected in the area sought for annexation? A That's correct, sir. We have that site and we have purchased the necessary equipment. Of course, this is something that is continuously being replaced.

We have upgraded all of our equipment and motorized equipment of trucks and so forth, since that time by purchasing a number of new pieces of equipment. Some of it serves the two areas that were mentioned.

We have developed parks, recreation facilities. We have provided rest room facilities in these areas, tennis courts, basketball courts, and all of this which Mr. Shell can elaborate on.

Q How about a dog pound? A Yes, sir, we have built a new animal shelter on land west of Salem. We have added to the Fort Lewis Fire Station since 1960-61.

Q Mr. Matthews, does the County participate in [1625] regional efforts and cooperation? A Yes, sir. The County has cooperated with the new fifth planning district. Prior to this it was preceded by the Regional Planning Commission. It has been a party to it ever since its formation and contributed in part as determined by the Commission.

Q Has the County cooperated with any of the adjacent cities in any programs and facilities? A We have cooperated in a regional study of the water and sewer needs and also in an airport regional plan.

Q Has the Board of Supervisors made any recommendations or passed any resolutions with regard to a regional airport? A I think the County of Roanoke adopted or approved a regional plan that was prepared and presented as it was prepared.

Q Does this planning include the participation of the County of Roanoke in the providing of a regional airport facility? A It provides for the areas to participate in the program but I am not sure as to what method of financing that the County was involved in.

Q Mr. Matthews, we have heard considerably about the sewer disposal treatment and disposal situation, about the contractual relationship between the County and the City in [1626] regard to sewers. The County does participate in the cost of sewage disposal, does it not? A Yes, sir.

Q I show you a contract dated the 28th of September, 1954, and ask you if that is the basic contract by which the County and the City agree to make a joint effort for the treatment of and disposal of sewage? A This is the basic contract that was entered into at that time, yes, sir.

Q Mr. Matthews, in your capacity have you served on a sewer agreement committee in attempting to renegotiate this contract? A Yes, sir. I think this committee was first established just about eight years ago, still working on it.

Q There is some question as to who was on the committee. Can you tell us what this committee consists of? A Well, this was a negotiating committee between the County and the City to improve the terms and conditions of their contract; it would be beneficial to both parties. This was started out about seven years ago, with the committee composed of members of the Board and myself and two members of City Council and the City Manager.

Q Were there also some advisory members to these committees? [1627] A Yes, sir. It got to the point that the engineers for the City and the engineers for the County were called in to help in this contract.

Q Was one of the things under consideration the amount that the County was to pay the City for the treatment and disposal of sewerage? A Yes, sir, the amount of the treatment cost and the terms of the contract such as the length, the duration of the contract plus capital outlays and things of this nature, there is a whole—

Q Did there come a time when the County and the City's engineering consultants and the committees appointed by each governing body came to an understanding or agreement to make certain recommendations to the City and to the County? A This committee got to the point where I think it was about ready prior to the last one, was about ready to break up, and some of the interested citizens in the County kind of revived and got it back together. At that point I think the engineers were called in to assist in this matter and contract what the engineers thought was a reasonable and fair contract and present it to the governing bodies, and the engineers have endorsed the provisions of this contract.

Q Did the committee appointed by the Council and the committee appointed by the Board of Supervisors also [1628] recommend to the body? A My recollection of it is that both committees recommended the approval of the contract.

Q Did the Board of Supervisors in turn approve entering into of the contract? A The Board of Supervisors concurred in the recommendations of the committee.

Q Can you tell us what happened? A Well, it wasn't long after that until we started on another committee.

Q Has the City Council of the City of Roanoke taken any action, to your knowledge? A Not to my knowledge, no, sir.

Q Has there been any communication from the City of Roanoke to you or to the Board of Supervisors? A Well, we did have a committee going and I don't know, I just don't recall the last meeting date, but I think at that time maybe, I don't know whether it was a unanimous feeling or whether it was the City's feeling that maybe before they could proceed further they would have to determine the outcome of any annexation proceedings.

Q Is that where the matter sits now? A My understanding of it is this was at that point where we stopped any further negotiations or any further [1629] discussions.

Q Has the County had occasion to enter into a cooperative effort in the erection of a Civic Center? A Yes, the County and the City of Salem forming the town of Salem had a contract in regard to a Civic Center and they did build it.

Q To your knowledge, was the City of Roanoke invited to participate in this providing of this facility? A There was a meeting held over in Roanoke before construction, before the County of Roanoke even had a bond referendum, at which time the matter was discussed in regard to a joint venture of the Governments and the units in the Valley including Botetourt County.

Q Did the City agree to participate in the construction and operation of the Civic Center? A There was a committee appointed and they worked for quite some time on it and, honestly, I don't recall just definitely what their recommendations were and I don't know how the committee was finally discharged but it ended up that nobody seems to feel that the building end operation of a similar—or a facility by commission was what seemed to be desirable to some of the governmental units, and it stopped at that point.

Q The City of Roanoke did not participate in the [1630] effort? A No, they did not.

Q How many magisterial districts are there in the County? A Five at the present time, sir.

Q I show you County Exhibit No. 50.

Mr. Fitzgerald: Your Honors, most of these with few exceptions are in the book, in the small maps and by the same number.

Q Does this map, Exhibit 50, show the magisterial districts of the County? A Yes. Yes, sir.

Q I show you County Exhibit 51 purporting to show the voting precincts of this County. Does this show the delineation of those precincts? A Yes, sir.

Q Mr. Matthews, do you have a copy of the current County budget with you? A No, I do not have a copy of the budget.

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[1635] * * *

Q Mr. Matthews, have you compared a copy of the 1960-61 budget of the County of Roanoke and the 1971-72 budget of the County of Roanoke? A Yes, I have.

Q Can you tell us for comparative purposes the difference in appropriations for various functions between the 1960-61 budget and the 1971-72 budget for the various functions of the County? For instance, in the health services, what are the differences between those budgets? A Public health in our '71-'72 budget—

Q Give the '60-'61 figure first, if you would, Mr. Matthews. A The '60-'61 appropriation for public health, Roanoke County, was $28,290. This was the County's share of the services.

Q What is the '71-'72 budgeted figure? A $96,826.

Q Police protection. [1636] A Police protection in our 60 '61 budget was carried as an appropriation of $64,549. The 71'72 budget, we have an appropriation of $333,983.79.

Q For fire protection? A Fire protection in the 60'61 budget appropriation was $34,690. In the 71'72 budget, an appropriation of $75,370.

Q For planning and zoning? A Planning and zoning in the 60-61 budget, the appropriation was $3,425. 71'72 budget, $17,330.

Q For refuse disposal? A In the 60-61 budget, $70,660. In our 71-72 budget, $542,589.

Q For street lights? A Street lighting, in the 60-61 budget it was $7,500. In the 71-72, $41,800.

Q For libraries? A For libraries, 60-61, $34,493. In 70-71 budget, $244,260.

Q For parks and recreation? A Parks and recreation in 60— We did not have that so we had no appropriation in the 60-61 budget. It would only appear in the 71-72 budget.

Q In the 60-61 budget it was zero, is that correct? [1637] A That is correct, sir.

Q What is it in 71-72? A In the 71-72 budget, $173,400. No, I am sorry; I am wrong on that. It is $182,453. I was looking at debt service. The correct figure is $182,453.

Q Mr. Matthews, I show you copies of the budget. Is this the budget that you have been reading these figures from? A Yes, sir, it is.

Q Is this the final copy? A That is the final form, yes, sir.

Mr. Fitzgerald: May it please the Court, we introduce this County Exhibit 1-D.

(County exhibit 1-D was identified and received in evidence.)

By Mr. Fitzgerald:

Q Mr. Matthews, Mr. Zollman was somewhat critical of the County library system and he gave a figure of number of volumes per capita. Do you have a publication there that gives some other comparative figures? A Yes, sir, I have a publication from the Extension Branch, Virginia State Library, Richmond, for the operation of 69-70. This publication is dated 1971.

Q Would you give us some of the other comparisons [1638] made in that publication between the City of Roanoke Library System and the County of Roanoke Library System? A This publication shows an analysis of income and expenditures and indicates that Roanoke County is spending $4.70 of local money per capita.

Q What is the per capita spending in the City of Roanoke? A The City of Roanoke, the same publication indicates they are spending $4.02 per capita.

Q What other comparisons do they make? A Well, they make a comparison of the number of volumes per capita and the circulation per capita and a number of other camparisons such as federal funds, state aid and so forth.

Q What is the per capita circulation? A This indicates that Roanoke County's circulation per capita is 4.22 volumes per capita.

[1639] Q What is the per capita circulation of the City of Roanoke system? A 4.15.

Mr. Fitzgerald: If the Court will indulge me a moment.
(Pause.)

Mr. Davenport: Mr. Fitzgerald, is Mr. Matthews through with that publication on the library?

By Mr. Fitzgerald:

Q Were there any other comparative figures in there, Mr. Matthews? A There is one other comparative figure that might be of interest. It indicates that Roanoke County has in its library 1.54 volumes per capita in the City of Roanoke library as 2.27 volumes per capita.

Q Those were the figures I believe that Mr. Zollman referred to? A Yes.

Q Mr. Matthews, have you caused some photographs to be made of County facilities and equipment? A Yes, sir.

Q Are these the sets of photographs? A Yes, sir, they are.

Q And they are labeled with the subject or the [1640] function of the Government, is that correct? A Yes, sir.

Mr. Fitzgerald: Your Honor, there are seven folders of photographs of various divisions of the County Government. We only have one set of these. We would ask that that set of photographs in the seven folders be identified as County Exhibit 1-E.

(The set of photographs referred to was marked for identification, County Exhibit 1-E, and received in evidence.)

Q Mr. Matthews, does the County publish an annual report? A Yes, sir, we do. We have for the past ten years.

Q I show you these copies and ask you if this is the 1970, the latest County report? A This is correct.

Q This contains information concerning the operation of the County for the year preceding 1970, is that correct? A Yes, sir.

Mr. Fitzgerald: We would like this introduced as County Exhibit 1-F.

(The annual report referred to was marked, for identification, County Exhibit 1-F, and received in evidence.)

Q Mr. Matthews, you have considered the impact [1641] of the effect of the proposed annexation would have of both the Kinsey petition and the Weddle petition, have you not? A Yes, sir.

Q Can you tell the Court in your opinion whether there is an adverse effect upon the County if these petitions for annexation should be granted? A I think not only from the loss, the immediate loss of net taxable revenue, it is the base from which we base our whole program on that will be lost. That will certainly affect the preparation of future budgets. Not only will we lose the revenue as fixed at a certain date for a five-year period, we will lose all of the revenue from growth or expansion in the areas, particularly with the Crossroads Mall.

I think the figures indicated we would lose some three hundred and some odd thousand from the sales tax. Well, I think it is reasonable to predict that this amount of money would increase considerably over the next five years so we are not only thinking about a fixed fee for five years, we are thinking about losing all of the growth that we can expect from this area and from the Windsor Hills area.

Q Mr. Matthews, in your opinion, would this loss continue to be lost after five years? A Yes, I do think so. I can't see any more Crossroads coming in that particular area, I don't see any more [1642] Blue Ridge Parks for industry, I do not see any more electric steel, things of this nature, no more material yards to be expanded in the area. I think all these are gone.

Q So the loss would continue? A The loss would continue, in my opinion.

Q Now, Mr. Matthews, if these areas that are sought are annexed to the City of Roanoke, in your opinion as the County Administrator, would you be able to cut out any of the functions or services now provided by the County to the remaining county? A I don't know of any services that we can cut out, as far as my department is concerned.

We might reduce a truck going in to collect refuse or something of this nature.

Q You would still be in the refuse collection and disposal business, would you not? A That's correct, sir. And the area, in the Crossroads area, I see nothing that we could do up there.

[1643] Q In your experience as a County Administrator is it true that before the County can provide service on an economical basis there has to be enough of a demand for such services? A Certainly, yes, sir.

Q And any reduction of the base of that demand hampers the County operation, is that correct? A It would hamper your whole operation.

Q Mr. Matthews, have you had occasion to consider the Kinsey petition in particular as to the numbers of petitioners? A Yes, I have. That particular petition became very interesting because of the location of some of the petitioners, and I suppose this would give me more concern in paying some attention to this petition because of the very nature of it.

Q Mr. Matthews, can you tell us whether or not you obtained a copy of the Commission's report that analyzed and determined the qualifications of the petitioners in that case? A I have a copy of the report, yes, sir, and this report indicates in the area of the Kinsey petition there were 94 qualified voters.

Q This was the total number of qualified voters as found by the Commission? [1644] A That is correct.

Q In the Kinsey area? A That is correct.

Q At the time the petition was filed? A Yes, sir.

Q Of those 94 qualified voters, how many did the Commissioners find signed the petition for annexation? A Forty-eight.

Q How many does the report show of those petitioners lived in the trailer park that has been testified to here within the Kinsey area? A Thirty-two of them were in the trailer park.

Q Thirty-two of the 48 were trailer park residents? A Yes, sir.

Q Is it required that the trailer park operators report the occu-

pants of trailer parks to the County each year? A Each year the operator of a mobile home park in Roanoke County furnishes to the Commissioner of Revenue for tax purposes a list of all those persons who are living there and owning the vehicle or the trailer. This is for tax purposes.

Q Have you checked the filing of the trailer park operator of this year? [1645] A Yes, sir. Mr. Hudgins filed copies of his occupants on January 25, 1971, and using this against the original I find that there were only 12 of those original—

Q Still at the trailer park? A In the trailer park, yes, sir.

Q Twelve of the 32, is that correct? A That is correct.

Q That leaves, I believe, of the original 48 petitioners, 16? A That is correct.

Q Have you analyzed the 16 persons to determine whether or not any of those signed a subsequent petition filed in the Court against annexation? A There are eight, as best I can determine.

Q Of the 16? A Of the 16 who signed that they not be annexed.

Q Mr. Matthews, that leaves eight people? A That is correct.

Q Would you tell the Court who those eight people are? A The best I can determine, there is Mr. and Mrs. Roy C. Kinsey, Sr.; Mrs. Blanche Boxley; Mr. A. F. Hoback; Mr. James A. Gordon, and Mr. and Mrs. Warren L. Kinsey, the son of Roy Kinsey, Sr.

[1646] Q And they are the eight people? A They are the eight people.

Q Mr. Matthews, I refer you to County Exhibit 63 in the book—

Mr. Davenport: The last one I have is 61, Mr. Fitzgerald.

Mr. Fitzgerald: I don't know how that happened. Maybe you got one of the earlier books.

Mr. Davenport: It is the book you gave me yesterday.

Mr. Fitzgerald: It still may have been one of the earlier books. Maybe one of your compatriots has it.

Mr. Davenport: Here is one.

By Mr. Fitzgerald:

Q 63 is actually a map in three sheets, I believe, tabulations or listings, and although it says three sheets it is actually four sheets. Does that purport to show the County owned property on a map and a listing of the County-owned property throughout the County? A Yes, sir.

Q And the location, is that correct? A That is correct.

[1705] * * *

Q To your knowledge, has any commercial enterprise in the City found it desirable to use the County's refuse collection and disposal? A At one time and I think we still are collecting [1706] from a restaurant on Franklin Road which is in the City of Roanoke.

Q What restaurant is that? A I believe it is called the Town and Ranch. I think it is called now Colony House. I understand it has changed names.

[1708] * * *

William S. Russell

* * *

Direct Examination

By Mr. Smith:

Q Would you state your name, please, and address. A William S. Russell, Mud Lick Road, Virginia. The mailing address is 3752 Lee Highway.

Q Would you, if you will, Mr. Russell, just make a mark on the map where your residence is located? A At about like that (marking).

Mr. Smith: We marked it right here and we will call that No. 1 if there is no objection from anybody (marking the map "No. 1").

Q How long have you lived there, Mr. Russell? A In '73 it would make 34 years.

Q How much acreage do you have there? A Approximately 80 acres, I believe.

Q Eighty acres? A Yes, sir.

Q What is the use of your land? A Agricultural, cattle raising.

Q Do you have livestock on it?

[1721] * * *

William Meador

* * *

Direct Examination

By Mr. Smith:

* * *

Q State your name for the record, please. A William M. Meador.

[1722] Q State your occupation, Mr. Meador. A I am President of Roanoke Electric Steel Corporation.

Q I would like to refer your attention to County Exhibit 46-A. Is this the area of the Roanoke Electric Steel? A That is part of it.

Q Would you mark that location on this exhibit? We will call that No. 2.

How much property does the Roanoke Electric Steel Company have at that location? A About 36 acres.

Q And how many people does it employ? A Three hundred and fifty.

Q You are here to testify in opposition to being annexed by the City of Roanoke, are you not? A That is true.

Q Would you state for the Court your reasons for opposing the annexation? A First of all I would like to state that as a principal of Roanoke Electric Steel, I would like to see a united Valley, one city. Since we cannot have that we are pleased to be where we are in the County and would like to remain there. We have nothing to gain, as we see it, by going into the City of Roanoke.

[1723] Q Your corporation is fairly self-sufficient in respect to services, is it not? Do you not provide your own security? A We do.

Q A person who comes into the main gate of Roanoke Electric Steel has to get a pass to go to the various areas of the corporation? A That is correct.

Q Have you had occasion to use the services of the County police or fire departments? A We have. We have had—three months ago, I guess it was, we had a fire, a barn that was on the property. But I might point out to the Court that we have 36 acres, of which about six are in the City of Roanoke. They are all tied together. There was an old barn on the six-acre plot that caught fire and burned. We had a response from the County Fire Department and the City Fire Department.

Q Was the response of the City Fire Department satisfactory to the success of the operation? A It was. It was a barn that we did not try to save. They observed the burning of it.

Q Most of your property is fenced, is it not? A Yes, on the public side. Toward the rear, it is not.

[1724] Q Does your corporation have economic reasons for opposing the annexation? Is this a consideration? A It is. At present we pay in personal property and real estate tax approximately $37,000 or $38,000. This would be increased by $20,000, I would say, if we were to go into the City of Roanoke.

The great unknown is the utility tax. The corporation purchased $773,000 worth of power from Appalachian Power Company last year.

Q How much power was that? A $773,000. It purchased $27,000 worth of gas. If you put a 15 percent tax on that we are talking about a considerable amount of money. So economically we are opposed to it.

Q the principal source of power at your company is electricity, is it not? A Yes, and that runs about $70,000 a month, something in that area.

Q Around $70,000 a month, something in that area? A Yes.

Q You use a substantial amount of water, I believe, also, do you not? A We do. We got some water from the City but we also use Peters Creek for a source of water.

[1725] Q Did you develop that source on your own? A We did.

Q What was the reason for developing that source? A Because of the 50 percent tax on top of buying the water from the City, we being in the County. You had to pay an additional amount for it.

Q Have you had occasion to use the services of the County Police? A I am sure that in the 15-year period of time since we have been there we have had occasion, yes.

Q Were their services satisfactory to you, to your knowledge? A Yes, to the best of my knowledge.

Q Approximately what was the total amount of your sales, your gross sales last year? A About $18,700,000.

[1733] * * *

Thomas Anderton

* * *

Direct Examination

By Mr. Smith:

Q What is your name, sir? A Thomas Anderton.

Q Your address? A 1515 Deyerle Road, Southwest.

Q Would you locate your home on this map, sir, by putting a mark on it. A (Marking.)

Q Let's call that No. 3. (Marking.)

How long have you lived there, Mr. Anderton? A Seventeen years.

Q What is your occupation? A I have varied interests but I am primarily in truck leasing.

Q All right.

To whom do you lease your trucks? A Rowe Furniture in Salem.

Q And you have other business interests as well in the Valley? A Yes.

[1734] Q Do you have any connection with the Roanoke County Government in any way? A Not directly. I am on the School Board, the County School Board.

Q Very well. How long have you been a member of the School Board? A Four years.

Q How much acreage do you have at your home? A It is about five and a half acres.

Q Now, you have signed a petition in opposition to annexation by the City of Roanoke, have you not? A That's right.

Q Will you tell the Judges your reasons for being opposed to being annexed by Roanoke? A Well, I like the freedom of being out there in the country. I bring a few calves up from the country sometimes and keep them there. I have a barn.

My utilities are perfectly satisfactory. I have my own well.

I like the tax structure. All of my businesses are in Salem. I am just five minutes from my office either way. And the County School Board is a most interesting thing to me. I really enjoy the work. And I have children in the County Schools and grandchildren in the County Schools.

[1735] Q What has been your experience with the services of the County in respect to police and fire service? A Well, I have never had to use the fire service. I had two little teenage boys so I have had a little visit with the Service Department over the years. That has been very satisfactory.

Q You said you have a well? A Yes.

Q And a septic tank? A That's right.

Q Have you ever had any difficulty with them? A No.

Q Very well.

Is there a curb and gutter along Deyerle Road where you live? A No.

Q Is that a desirable thing for you and the people who live along there? A I can't say that it would do me any good, no, sir.

Q How about street lights, sir? Are you desirous of having street lights there? A No.

Q Where did you live before you moved to Deyerle Road? [1736] A I lived in Virginia Heights in Roanoke City.

Q What has been your experience, your observations of the

County School System since you have been a member of this School Board? A Well, I think it is generally regarded as one of the best school systems in the State. It is the largest west of Richmond, I am sure. There has been a lot of satisfaction to me to be on this Board.

Q You say that you feel the tax structure of the County is perhaps more sound than that of the City? Would you explain that? A Well, I don't know whether it is any sounder or not. There is quite a difference, I think, as far as I would be concerned. I can't see that the difference would be justified as far as I am concerned. This is a personal reason that I have.

Q Good. Well, sir, you say you have livestock at your home? A We have a pony for the boy and we bring up some calves from the country occasionally every fall before we market them.

Q Do you feel that you could continue that if you were part of the City of Roanoke? A Well, I would doubt it.

[1737] Q Very well.

[1742] * * *

Alton Robertson

* * *

Direct Examination

By Mr. Smith:

Q What is your name and address, sir? A Alton R. Robertson, 4627 Eton Road, Southwest, in the County.

Q That's located in the area of the Windsor Hills annexation? A Yes, I think it has been included in that.

Q Would you mark the No. 4 at the general location of your home? A (Marking.)

Q Is that in the Windsor Hills Subdivision? A No, sir.

Q What is that called, that area? A Actually I don't know the proper name. I have heard it referred to as the Crestmore Section.

Q What is your occupation, Mr. Robertson? A I am connected with the Rusco Window Company.

Q In what way are you connected with them, sir? A I am Chairman of the Board.

Q As a matter of fact, you are a founder of the [1743] corporation, are you not? A Yes, I am.

Q How long have you lived at your present location? A It will be nine years this coming Christmas.

Q Where did you live prior to that time? A I lived in southwest Roanoke on Avenel Avenue in the 2400 block.

Q Did you build your home at the location where you presently live? A Yes.

Q What was the reason for leaving Roanoke, your reason? A Well, the children were small, I wanted to get out where we would have more room, and I like to putter around in the yard and I wanted more yard to putter in.

Q How much room do you have there at your home? A You mean acres?

Q Yes. A About an acre.

Q Very well.

Now, you are the signer of a petition in opposition to being annexed to the City of Roanoke? A Yes, sir.

Q As a matter of fact, you passed that petition [1744] around to the people in your area, did you not? A Yes, sir, I did with some assistance.

Q What was the general sentiment of the people in this area of the County where you were?

Mr. Davenport: I think that's an improper question. That would be based on hearsay.

Mr. Smith: It seems to me the City with their witnesses put this type of testimony in evidence. I think it goes to the weight rather than the admissibility.

Judge Hoback: Of course, the petition speaks for itself, I presume.

Mr. Smith: Very well, sir.

Judge Hoback: You can have any of them come in whom you want to be heard.

By Mr. Smith:

Q Would you tell the Court your reasons for opposing the annexation to the City of Roanoke? A Well, I like it where I am, I like the area, I like the neighbors. I don't see that I have anything to gain other than a 25 or 30 percent increase in taxes. I am thoroughly satisfied with the services I am getting from the County of Roanoke.

Q What have your observations been in respect to [1745] snow removal in the area of the County where you reside as opposed to where you used to live in Roanoke? A Well, I think that was the most pleasant surprise that I had after moving there. We had a deep snow soon after moving there and the snow trucks were out before I even got up the next morning.

Q Was this different than the service you experienced in the City of Roanoke? A Yes, sir, quite different.

Q How does the City plow its residential streets? A Will you repeat that, please?

Q What are your observations in respect to whether or not the City plowed its residential streets when you lived there? A Well, sometimes they were there within two or three days, sometimes they didn't come at all on my street.

Q What have your experiences been with the other services provided by the County, specifically police and fire protection? Have you had occasion to use those in any way? A Yes, on occasion. We have had two or three robberies, burglaries I think would be the proper name. They was there as soon as we reported it.

We have had one small fire. The dumpster caught on fire one day. The fire department was there, I don't [1746] know, within five or six minutes.

Q Do you have children in the County public schools? A No, sir.

Q Did you at one time? A No, sir.

Q Are you— A Wait. Now, I would like to clarify that. I believe the boy went to Cave Spring High School for one year and missed his classmates, so we didn't send him back.

Q How about the trash service of the County? Are you satisfied

with that? A Excellent service both at home and at work, at the office, at the plant.

Q Now, is there a curb and gutter in that area where you reside? A No, sir.

Q Is that a desirable thing to you? A I have never thought about it. I certainly haven't missed it.

Q You feel that the services provided to you and the people of your area generally by the County are satisfactory and in keeping with the needs of your community? A I think so.

[1755] * * *

William Pedigo

* * *

Direct Examination

By Mr. Smith:

Q Tell the Court your name and address, please. A William T. Pedigo, 4702 Eton Road, Roanoke County.

Q Would you mark your home as No. 5 on this map. Thank you. How long have you lived there, Mr. Pedigo? A Seventeen years.

Q As a matter of fact, you were one of the first homes in that area, were you not? A The very first house in that area, yes.

Q Did you build your own home there? A Yes, sir.

Q What is your employment? A I own and operate Roanoke Glass Shop in Roanoke.

Q That is located in the City of Roanoke? A In the City of Roanoke, yes, sir.

[1756] Q You have likewise signed a petition opposing being annexed to the City of Roanoke? A Yes, sir.

Q Would you tell the Judges your reasons for opposing that annexation? A Well, sir, I like the County School System very much. We have good bus service. The school buses come right to the front door and pick the kids up and bring them back in the evening.

Q Would you have this kind of service if you were in the City? A No, sir, I would not. Any bus service in the City, I would have to pay for. In the County I don't pay for it.

Q How many children do you have in the County schools? A Two girls in the County schools.

Q Have you had experience with the police and fire service that the County provides the people of your area? A Personally, we have had no call upon the fire department. We have had one or two cases where we called the police department and they responded real quickly.

Q Are there street lights in this area of the County where you live? A Yes, sir, there are street lights in our area. [1757] There are four in our immediate area.

Q What has been your experience with the snow removal in that area? A Very good. They plow the roads very promptly. On one occasion that I can recall we had some ice out there and we called the Highway Department and they came and put chemicals on it right away with no problem at all.

Q Have you had experience with the City of Roanoke with snow removal? A Well, the snow removal in the City, as far as my experience is concerned—My business is on the main downtown street and they clean that reasonably well.

Q What have you observed in residential areas? A In the residential area, when you are trying to make deliveries and there is snow on the ground it is almost impossible.

Q Because of lack of snow removal? A Lack of snow removal.

Q Have you had any experience as a result of having a business in the City with the fire service provided by the City? A Yes, some right—

Q Would you tell the Court about that? A Well, three doors above us the Piersall Furniture [1758] Company burned down just recently. It took the City of Roanoke Fire Department almost three days to get that fire put out.

Q What effect did that have on your business? A Well, they had the street blocked off for almost a week. We couldn't get in or out

and the only way we could get in was through alleys or a private parking lot or whatnot. It was a right bad situation.

Q How is the garbage removal service at your home in the County? A Oh, it is adequate. It is sufficient.

Q You are satisfied with that? A Yes, sir.

Q Where does your wife buy the majority of her groceries? A In the County, primarily, Oak Grove Shopping Center and further over there on Lee Highway.

Q There isn't any curb and gutter in the area of the County where you live? A No curb and gutter.

Q And as a matter of fact, the people don't want it, do they? A They don't want it.

Q Are those homes in your area built on fairly substantial grades, some of them? [1759] A Well, my house, I would imagine, would have about the steepest grade and it is not too bad. We get in and out with no problem at all.

Q What, if any, experience have you had with the police services provided by the City in the area where you have your business? A Well, it is adequate. We have been broken into several times, nothing serious being stolen, but they are just like everybody else. They don't catch anybody. They come and make a report and that is it. You never hear anything about it.

Q You never had to testify against anybody that broke into your store? A No, sir.

Q How much land do you have at your home? A In the County?

Q Yes. A Two and a half acres.

Q What type of water service do you have? A I have my own private well.

Q As a matter of fact, do you also have a swimming pool at your home? A Yes, sir.

Q Is your well satisfactory for that? A Oh, yes. When we fill it up we just turn the [1760] well on and let it run for three days and turn it back off. It is about 25,000 gallons of water.

Q Are there other swimming pools in your area? A There are seven, I think, in our area.

Q Are most of them filled by wells? A Everybody out there does the same thing.

Q There isn't any desire for sidewalks in your area, is there? A No, sir.

[1767] * * *

Kitty M. McCoy

* * *

Direct Examination

By Mr. Smith:

Q Tell the Court your full name and address, please. A My given name or my husband's name? Kitty W. McCoy, 5012 Greenlee Road, Southwest.

Q Would you mark your home with a number 6? A I would think it would be approximately right there (marking).

Q What is your husband's occupation, Mrs. McCoy? A He works for the Norfolk and Western Railroad.

Q Whereabouts? A In the cashier's office. I mean in the treasurer's office, I'm sorry. He is a cashier in the treasurer's office.

Q What city? A In Roanoke.

Q Very well.

You were one of the original signers of the petition to be annexed to Roanoke? A Yes, sir, I was.

Q You have since changed your mind and oppose being [1768] annexed to Roanoke? A Yes, sir, I have.

Q What are your reasons for opposing the annexation? A Well, in the first place, I was not fully—I did not fully want to sign in the first place but since then I have just had a change of mind, I would rather stay in the County.

Q And this is also true of your husband? A Oh, yes. Yes, uh-huh.

Q Do you have children in the public schools of the County? A I have one who will be a senior at Andrew Lewis. I have one who graduated at Andrew Lewis last year.

Q Are you satisfied with the education provided by the County School System? A Yes, sir, I certainly am.

Q Are the other services, police and fire and trash pickup, and so on, provided by the County satisfactory to you? A Excellent.

[1773] * * *

Pauline Alouf

* * *

Direct Examination

By Mr. Smith:

Q Tell the Court your name and address, please. A Mrs. Pauline C. Alouf, 4131 Mud Lick Road.

Q Would you mark the location of your home as No. 7 on this exhibit, please? Thank you.

How long have you lived there, Mrs. Alouf? A It will be six years this fall.

Q What is your husband's occupation? A He is a dentist.

Q Where does he practice dentistry? A In Roanoke City.

Q And do you have children? A Yes, we have three.

Q How old are they? A Two, three and five.

Q Will your five-year old be attending public schools of Roanoke County next fall? A Well, I had registered him to Oak Grove, which is where he would be going. Due to the fact that I don't think they have any room they are going to bus the kindergartners out [1774] of there.

Q Where are they going to bus them? A I am not sure where it is. That was it for me, so I just took him to the play school and registered him there for kindergarden next year.

Q But you did intend to educate your children in the County schools, is that not true? A Yes, I do.

Q You seem to be upset about the busing proposition. Does this have anything to do with your reasons for opposing being annexed to the City of Roanoke? A Very definitely.

Q Do you feel that you would rather have your children in the public schools of the County? A Yes.

Q And the reasons for that are that you want them going to school in the neighborhood where they live? A Well, that is why we moved there, and because we were close to the schools where we wanted them to go.

Q Where did you live before you moved there? A We were in—My husband was in the Air Force in Texas, but he is from the Roanoke area.

Q Are you satisfied also with the other services besides education that the County of Roanoke provides? [1775] A Yes.

Q Have you ever had occasion to use the playground and recreation facilities provided by the County? A Yes. Just recently, the last couple of years, we have had a chance to get out. The new park, I think it is Garth's Mill Park.

Q And you feel in this area the County has met the needs of the people for recreation and parks? A Yes, I do.

Q How would you describe the trash collection service provided your home by the County? A They are very, very good.

Q Have you ever had occasion to use the police or fire protection that the County— A The police at one time, yes. They were very courteous and tried to be very helpful.

Q Where do you do most of your shopping for groceries? A I go to Oak Grove Plaza and on Apperson Drive. It would be Lee Highway or Apperson Drive.

Q And what utilities do you have at your home by way of water and sewer? A County, both of them.

Q The County Public Service Authority? [1776] A Yes.

Q Does it provide adequate service to your home? A Yes.

Q And you feel that generally the services provided by the Coun-

ty meets your needs and you desire to remain a resident of the County? A Yes, I do.

[1778] * * *

A. M. Renick

* * *

Direct Examination

By Mr. Smith:

Q What is your name and address, sir? A A. M. Renick, 3734 Renick Road, Southwest.

Q Would you mark your home No. 8, please, on this exhibit. How long have you lived there, Mr. Renick? A Twenty-six years.

Q How much property do you have there? A Thirty acres.

Q Do you have any livestock on that property? A Eighteen or 19 head.

Q Of what type? A Well, horses and ponies.

Q And you are desirous of remaining a resident of the County, are you not? [1779] A Yes, sir.

Q And you signed a petition opposing being annexed to the City of Roanoke? A I believe so.

Q Would you tell the Judges your reasons, sir, for that? A Well, I can see no reason why we should be annexed. There are lots of reasons why we would not want to be. I have my own well and septic tank. I don't know of anything that the City could give us that we don't have that we really want except more taxes.

Q Are you satisfied with the services provided by the County of Roanoke? A Our services are good. The collections are good and we have never had occasion to use the State man or the police force. I feel like I am friends with all of them and if I needed them I could get them, but I have never had occasion to need them.

Q And you desire to keep those horses on your place as long as you stay there? A Yes, I do. I have a few boarders and I keep the

ponies and horses for the neighborhood kids and they are all free to come and use them and they enjoy it and I enjoy having them do it.

[1780] Q And you feel it would be inconsistent with being in a city to have that many horses and ponies and things on your property? A I hardly think it would be possible.

[1783] * * *

Redirect Examination

By Mr. Smith:

Q One more question, Mr. Renick. The City has an ordinance that requires anybody having animals in the City to remove all the manure from the premises every day. Would that be feasible for an operation like yours with 30 horses? A I would have to get rid of some horses.

* * *

Frank R. Angell

[1784] * * *

Direct Examination

By Mr. Smith:

Q Would you state your name and address, please. A Frank R. Angell, 2011 Deyerle Road, Southwest.

Q Would you mark your home location with a No. 9, please? What is your occupation, Mr. Angell? A Realtor.

Q Are you now or have you at any time been affiliated with the Roanoke County Government? A I am Vice-Chairman of the Roanoke County Public Service Authority.

Q Have you had past involvement with the County government as well? A I was elected to the Roanoke County Board of Supervisors in 1963. During my term of office they redistricted Roanoke County and the Court reappointed me as the supervisor to fill out the unexpired term after the redistricting. I represent the Cave Spring District.

Q And you are here to testify in opposition to being annexed to the City of Roanoke, is that not true? A Yes, sir.

[1785] Q Would you tell the Court your reasons for opposing the annexation? A Well, there are very many reasons. We have excellent police protection in the County. I go out of town quite frequently and stop all of my mail. I always tell the Sheriff's Department and they look after my property while I am away. When I am back I let them know that I am back.

I have never called them but what they didn't come within a very short time.

I have two and a half acres or a little better. I have a septic tank. I had a septic tank up until about six years ago. I never had it cleaned but twice during that time. Since then I have been on the Roanoke Public Service Authority lines and it has cost me about $800 to hook onto that. If I had been in the City, that is $6.50 a foot that they charge and it would have cost me $5,200 to run that line around the house there.

[1786] And I am not interested in paying any more taxes and not getting any more than what I have. They could put fire protection in the way of fire plugs but you have to have the lines, they would have to be adequate, and it is going to cost something to do that.

And the sidewalks, children would be skating on, riding these bikes, these motor scooters, and so on, and it would be a hazard, and I don't know any area, anybody that needs a sidewalk in my area, or curbs or gutters.

Q Do you have street lights up there? A Yes, sir, there is one on my corner, and I believe there is one on Windsor Road at the top of the hill, the Methodist Church, and there is adequate street lighting out there.

Q How long have you lived there, Mr. Angell? A I moved there in February—no, it was March the 8th, 1938.

Q What have your observations been in respect to the County garbage pickup service? A Oh, it is very good, very good.

Q Have you had occasion to use the police and fire services of the County? A Never needed the fire services but have used the police services once or twice.

Q Were they satisfactory to you? [1787] A Someone stole a lawn mower valued at about ten or fifteen dollars, a hand mower back in the early forties, the only loss that I ever had, and that's the only

theft that we have had since I have been out there and had any occasion to call the police.

Q Are you familiar with the libraries in your area of the County? A Well, I should be, I introduced a resolution to provide libraries for Roanoke County when I was on the Board of Supervisors and we voted them—we had a package for parks and libraries and schools, a $5,000,000 bond issue. We voted I believe $500,000 for parks and a million dollars I believe for libraries, and, of course, the County has continued to go ahead with their library program. Of course, it took time to get sites, and we had hoped to get sites donated to us and we did get a number of sites donated to us, which is a proper thing for the County to do, interested of course in saving the taxpayers money.

Our parks program seems to be going along very well.

Q Have you also had occasion to serve the County in the areas of real estate assessments? A I was appointed assessor for all the real estate in the County in 1969, somewhere I believe, if I am not mistaken, [1788] somewhere around $400,000,000 worth of that.

Q So is it fair to say, based on your experience as a County official and your experience as a citizen 33 years in your neighborhood, that you are satisfied with the County providing good services to the people of your area? A I am very well satisfied.

Another thing about the assessments, since we are on assessments, we assess every six years and if you are in the County you know what your property is going to be worth for six years. If you are in the City you have a permanent Board of assessors, you don't know what your tax is going to be.

Q Very well.

[1795]

* * *

Frank R. Richards

* * *

Direct Examination

By Mr. Smith:

Q State your name and address, please? A Frank R. Richardson, 3833 Darlington Road.

Q That's in the Windsor Hills area? A In the Windsor Hills area, yes, sir.

Q Would you mark your home as No. 10 on this map, please? A (Marking.)

Q How long have you lived there, Mr. Richardson? A Since August of '52.

Q What is your occupation? A Real estate agent.

Q Where is your business located? A In the City of Roanoke.

Q Do you know Mr. Renick who testified before you? A He lives approximately 75 to a hundred feet from me, across the street.

Q Across the street? A Yes, sir.

Q You are here to testify in opposition to annexation [1796] to the City of Roanoke? A Correct, sir.

Q Would you tell the Court your reasons far opposing the annexation? A Well, my major reason, I have two boys in school. One leaves Oak Grove this year and goes to intermediate school in Salem. The other is a junior in high school in Andrew Lewis.

When this thing started balling, a friend of ours went to the City of Roanoke and asked what would happen if we came to the City. There was a lady, her name was Miss Gibney, head of the school situation. She told us that the Patrick Henry High School, which was the closest, and there was a grammar school, was full, our children would be assigned and we would furnish the transportation to the school they were assigned to. And, consequently, when the petitions came around, I was strongly opposed to it.

Q What utilities do you have at your home? A The County Public Service Water Authority sewer and water.

Q As a matter of fact, you live on a street that has curbs and gutters, I believe? A We put our own curbs and gutters in. Some of our neighbors were sitting kind of under the street, they had [1797] wet in the basement. We went over and hired us a contractor to put the curbs and gutters in.

Q On the school situation, the transportation is furnished by the County, is it not? A My two boys—there is four school buses come to my front door every morning.

Q Are there street lights in your area? A There is three on Darlington Road, one on each end and one in the middle.

Q Are you satisfied with the police and fire protection that the County provides? A Excellent. I have never used the County Fire Department but the Police Department has been excellent.

Q How about the trash collection system? A It has been more than adequate. I am like a lot of people, we have a lot of shrubs, on holidays we do a lot of trimming. You can pick up the phone and call them and within a day or two they send a special truck out to pick it up and haul it off. That's at no charge. The second time I think there is a minor charge, two or three dollars, but the first time there is no charge.

Q So you are basically satisfied that the County provides all the services necessary to you and the people of your area and you particularly like the school system of the County? [1798] A That's true, sir.

* * *

Cross Examination

By Mr. Musgrove:

[1801] * * *

Q You said that 95 percent of your property that you sell is located in the City of Salem or in Roanoke County, is that correct? A Correct.

Q My question was, is there property available to Salem in the City of Roanoke that is available in the County? A Yes, sir. If I had my listing books with me, I could show you that there are a great number. We belong to a listing group and they draw up multiple listings. We have a great many listings in every day. There is property in the City and in the County. There isn't as much in the City of Salem but there are some available.

[1802] * * *

J. H. Gillock

* * *

Direct Examination

By Mr. Smith:

Q Tell the Court your name and address, please. A J. H. Gillock. I live at 2322 Circle Drive.

Q That is in Windsor Hills? [1803] A Right.

Q Would you mark your home No. 11 on this exhibit, please. What is your occupation, sir? A I am retired.

Q From what company? A C. & P. Telephone Company.

Q How long have you lived at Circle Drive, Mr. Gillock? A Twenty-one and a half years.

Q You were a signer of the original petition to be annexed, were you not, sir? A That is right.

Q And you have since then changed your mind and signed several petitions opposing annexation? A Right.

Q Would you tell the Court your reasons for now opposing annexation to the City? A Well, the additional taxes and the increase that we would have in taxes at this time.

Q Are you operating on a fixed income as a retired man? A That is right.

Q And you feel that this increase would have a [1804] substantial effect on you and your retirement income, is that correct? A That is correct, yes, sir.

Q Are you generally satisfied with the services that Roanoke County provides for the people of your area? A Sir, I can say that the services are excellent.

Q Did you at any time live in the City of Roanoke? A Yes, I lived in the City of Roanoke for 30 years.

Q What was your experience with the services you received there with respect to street improvement?

Mr. Davenport: Thirty years ago, Mr. Smith?

Mr. Smith: He said he lived there for 30 years.

Mr. Musgrove: It would be 21 and a half years ago.

Judge Matthews: That was pretty long ago.

Mr. Smith: I thought he said he lived there for 30 years.

Judge Hoback: Twenty-one and a half years ago is getting a little remote.

Mr. Smith: I will withdraw that question.

By Mr. Smith:

Q Did you recently have an experience where you found it necessary to call the County Sheriff's Office? A Yes, recently. They responded within 10 minutes [1805] after I called them.

Q So I take it that you were satisfied with the service they gave you? A Yes.

Q Is the Cave Spring Fire Department located close to your home? A Yes, I suppose it is about a mile or a mile and a half.

[1809] * * *

Alex F. McNeil

* * *

Direct Examination

By Mr. Smith:

Q What is your name and address? A Alex F. McNeil, 1616 Deyerle Road.

Q Would you mark your home as No. 12 on this map, please? A Yes.

Q What is your employment, Mr. McNeil? A Retired.

Q You are a petitioner in opposition to the annexation by the City of Roanoke? A I certainly am.

Q What are your reasons, sir? A Well, I am living on a fixed income. I don't think I can stand the increase I would have to pay by living in the City.

Q Do you feel that the County of Roanoke provides the necessary service for you and the people of your area? A Excellent.

[1810] Q Have you had occasion to use the various services that the County provides, such as garbage collection and things of this nature? A I have.

Q And you are satisfied with those? A Very much so.

Q Have you ever had occasion to use the police or fire services provided by the County? A Yes, I had a bunch of leaves catch on

fire one time about 10 or 12 years ago, and they were there, I would say, in 15 minutes.

Q What volunteer unit responded to that? A I think it was Cave Spring.

Q Are there street lights along Deyerle Road in your area? A Yes, there are.

Q What utilities do you have at your home? A I have my own well and septic tank.

Q Do they work all right? A Perfectly. They were installed in 1933 and they are still working.

[1811] * * *

Wesley Gillock

* * *

Direct Examination

By Mr. Smith:

Q Your name and address, please. A Wesley D. Gillock, 4605 Greenlee Road Southwest, in the County.

Q Was that your father that just testified a minute ago? A That is right.

Q Would you mark your home as No. 13 on this exhibit, please?

You are a petitioner in opposition to the annexation? A That is correct.

Q And do you have occasion to use the services provided by the County of Roanoke? A Yes. Of course, the garbage collection. I had occasion to use the Police Department approximately 18 months ago. We had a break-in. They responded within 10 to 15 minutes. They beat me there from my office.

Q Where is your office? [1812] A It is right off Route 117, Peters Creek Road.

Q In the County? A Right.

Q What business are you engaged in? A We are industrial, mechanical and electrical contractors.

Q What is your position and the name of your company? A The firm name is G. J. Hopkins, Inc., and I am vice-president and secretary.

Q There was testimony here earlier this morning about a situation wherein the Lutheran Home wanted some water service and inquired of the City of Roanoke. Are you familiar with that situation? A Yes, I am.

Q How do you happen to be familiar with it? A When the Lutheran Home was originally planned the Home hired an architect and the job was put out for bids. The job ran over their budget. So during the course of the last 60 days we have been—our firm, in conjunction with the architect for the project and the general contractor —have been working with the Lutheran Senate of Virginia to reduce the cost and to get underway with the project.

This water main that was mentioned, I believe the [1813] question was asked whether or not the home had not applied to the City of Roanoke for water service. That is partially true. The Lutheran Senatue—Reverand Flack, who is the Luterhan construction representative, asked the City of Roanoke what the cost would be to extend the main to the site of the new Home. This was subsequently abandoned because of the tremendously high cost.

Q Do you have children in the public school system of the County? A Yes, I have three grade-school age children.

Q Are you satisfied with the education they are receiving from the County schools? A Absolutely.

Q What have your observations been regarding the snow removal in your area of the County? A The snow removal, with the exception of my driveway, is excellent.

Q Do you have your own well and septic tank at your home? A I have two wells and two septic tanks.

Q And you have no problem with it? A None whatsoever.

Q The people in your area do not desire curb and gutter, do they? [1814] A No, I think it would be a detriment rather than an asset.

[1816] * * *

George Edgar Payne

* * *

Direct Examination

By Mr. Smith:

Q Your name and address, sir? A George Edgar Payne, 3314 Windsor Road.

Q Would you mark your home, Mr. Payne, with the number 14? A (Marking.)

Q How old are you, sir? A How what?

Q How old are you? A Going on 75.

Q I understand that you are retired? A Retired from the Norfolk and Western Railroad.

Q How long did you work for them? A Fifty years and one month.

Q And you are a petitioner in opposition to the annexation of your home by the City of Roanoke, are you not? A Yes, I am against that being annexed.

Q O. K. Tell the Court your reasons for being against it, Mr. Payne. A Well, the taxes is one thing, and Roanoke County [1817] has better schools than the City. And the State maintains we call them roads, they call them avenues, we call them roads or highways in the County. They maintain the roads and highways in the County.

Q What have you observed about the snow removal in the County? A Well, now, I can't tell you. I won't run it down but Roanoke County or the twelve counties in the western part of Virginia, they have 94 trucks that they put snow blades on.

Q Well, let's just talk about Roanoke County. A All right, Roanoke County.

Q All right. Let me ask the question this way, Mr. Payne. Are you satisfied with the snow removal in Windsor Hills? A My goodness, yes.

Q Very well, sir.

Are you also satisfied with the other services the County of Roanoke provides you? A Yes.

Q Police and fire? A I certainly am.

Q And trash collection? A Yes.

[1818] Q Very well, sir.

Do you have a well at your home? A No, I am connected to the County Service Authority.

Q Very well. A I am connected to the sewer.

Q Is your water satisfactory to you? A Oh, yes, yes, it is. And the lights, now, let's see, we will start out with Circle Drive.

Q You have street lights on your street? A Let's see, there is five I believe I could stand and throw a rock and hit if I could throw that straight.

[1819] * * *

Elbridge Martin

* * *

Direct Examination

By Mr. Smith:

Q Your name and address? A Elbridge F. Martin, 3344 Windsor Road, Windsor Hills.

Q Mark your home as No. 15, please.

What is your occupation? A I am retired, with a 100 percent non-employability from the service.

[1820] Q As a result of World War II? A Head wounds, World War II.

Q You were one of the original signers of the petition to be annexed, were you not? A I would not put it as being a signer of the original petition to be annexed.

Q How would you put it? A I was approached by neighbors, two of them, and they stated, "If you have your druthers, would you rather be in Roanoke or Salem?" It did not say—They stated this was not an annexation petition.

I stated that I had rather stay where I am at. They said, well, this didn't mean anything. This was just trying to keep from being annexed. Finally I signed the thing, that I would rather be in Roanoke than I had in Salem.

Q Do I understand that you are satisfied with the services that the County of Roanoke provides to you and the people of your area? A I am very satisfied with the services. I am satisfied with the snow removal. I have lights sufficient to see along the road. As far as the water is concerned, it is delicious water. It comes fr-m a well which is about a hundred yards up the street from me. As far as the garbage collection, I couldn't ask for any better service.

[1821] Q Do you have children educated in the schools of Roanoke County? A Yes, sir. I have one daughter that just graduated from Andrew Lewis High School. She received an art award and she also received fir place in the Roanoke Valley High School exhibition at Roanoke College sponsored by the Lutheran Church. I have another daughter and she has been accepted in the Beta Club.

Q And it is your desire to remain in the County of Roanoke? A I have lived in the City when I first came to Roanoke, at 376 Highland Avenue Southwest. That is where I met my wife. I lived there until 1952, from '47 to '52. I moved to my present location and I have been happy and content with all the services provided by the fire department. I have never had occasion to use the fire department, but I have had occasions to call the police department. They have had a man out there in just a short while.

[1822] * * *

Darrell Branstetter

* * *

Direct Examination

By Mr. Smith:

[1823] Q State your name and address, Mr. Branstetter. A Darrell Branstetter, 3904 Kentland, Windsor West.

Q Would you mark your residence on Exhibit 46-A, please?

Your home is not located in the area, is it, Mr. Branstetter? A No.

Q Are you a signer of a petition opposing the annexation? A Yes, sir.

Q And you have recently been an officer in the Roanoke County PTA? A President of the Roanoke County Council of PTA's.

Q Would you tell the Court your reasons for opposing the annexation?

Mr. Musgrove: If your Honor please, the witness does not live in the area and I don't believe his testimony would be pertinent to this particular area.

Mr. Smith: I certainly think he is someone affected by the annexation since there is a County school located here and we are not sure what will be the outcome of that. But as an official of the PTA, [1824] I think he also has an interest.

Judge Hoback: All right, go ahead.

By Mr. Smith:

Q Go ahead and state your reasons, please. A I feel that Roanoke County has possibly the best or one of the best school systems in the State of Virginia. We have had excellent leadership under Mr. Burton. He has been able to entice or attract quality teachers to Roanoke County. He has been able to retire some that were not as attractive.

The school system has brought into it the Roanoke Educational Center which has been a help to many children who could not go to college. They are provided a training skill for them in nursing, automotive mechanics, business, et cetera.

Q Are you satisfied generally with the other services provided by the County government in addition to its education? A Yes. The Sheriff's Department has been very efficient. I happened to have one tractor stolen off one of my farms and they got right on that. I have had very little problem.

[1825] Q Does the Sheriff have a program of instructing the children in the schools on what his department does? A Yes. This is one of the best things that I feel the Sheriff could have done for our children to see the human side of the Sheriff and his department and his men. He has brought the squad cars out to the areas.

These men that he had selected seem to have very congenial personalities and they have talked with the children. They realize that the policeman is in many cases a father, they see the father image and they see him as a friend and not as someone to be in fear of.

* * *

[1827] **Dorris Herfield Hodges**

* * *

Direct Examination

By Mr. Smith:

Q Will you state your name and address? A Doris Herfield Hodges, 5508 Airport Road, Northwest.

Q And you are a resident of the Kinsey annexation area? A That's right, sir.

Q Would you mark your home on this map as No. 1? A (Marking.)

Q You are the signer of a petition in opposition to the annexation of that area to the City of Roanoke? A I am.

Q As a matter of fact, you live quite near the Crossroads Mall Shopping Center, do you not? A Yes, within one block.

Q Are you employed? A I am.

Q Where are you employed? A I am a cashier in the office with Sears and Roebuck.

[1828] Q Very well.
Are you married? A I am separated.

Q What are your reasons for opposing annexation, Mrs. Hodges? A Well, I can't see that the City is offering us anything that we don't already have and have quite efficiently from the County. We have excellent response from the police department and the sheriff's office.

Q Have you had occasion to use that service? A We certainly have.

Q Recently? A Within the last six months.

Q Very well. A And we have not myself but a neighbor has

had cause to use the No. 5 fire station and they were very prompt and very efficient, and we feel very well protected as far as fire protection, and I can't see that the City, as Mr. Hirst said yesterday, has anything in plans for additional police enforcement for our area, nor water, nor lighting, curb and guttering, or any such. So that we have no benefits to gain.

Q What utilities do the people along Airport Road have now? A We have all of the standard utilities that the [1829] City has. I myself have a septic tank. I am not using the sewerage system.

I have City water but that was due to the fact when they annexed the area of Williamson Road in '49 that they took in that water system, which was not our fault.

Q As a matter of fact, your father, who is now deceased, circulated a petition I believe in opposition to the Kinsey annexation? A He did.

Q Do you avail yourself of the County's trash collection service in that area? A I do, and it is excellent and very prompt.

Q Did you recently have a son in the County school system? A I certainly did. I have a step-son who graduated in the class of '70 from the North Side and received an excellent education.

Q And it is your desire to remain in the County of Roanoke, is that not true? A It is.

Q Do you have a sister who lives by the side of you or immediately near you, in that area? A I do.

Q What is her name? [1830] A Louise Bailey.

Q Now what was her name before she was remarried? A She was Louise Arnold.

[1832]

* * *

Montrann Hayes

* * *

Direct Examination

By Mr. Smith:

Q What is your name? A Montrann Hayes.

Q What is your address? A 3556 Laurel Reese Road.

Q Would you locate your home on this map, Mrs. Hayes, this being on North Ridge Road? A (Marking.)

Q What is your mother's name, Mrs. Hayes? A Virginia Beard.

Q And was she one of the original signers of the petition in favor of annexation to the City? A Yes, she was.

Q Do you happen to know how she feels about that?

Mr. Musgrove: I object to that, your Honor.

Judge Hoback: She can be called to testify. Sustain the objection.

Mr. Smith: Very well.

Q Do you know whether or not your mother has signed a petition opposing annexation? [1833] A Yes, she has and I think that she has been to the court some time back and stated that she wanted her name withdrawn.

Q Very well. Her deposition was taken in this case? A Yes, she was here, that's all I know.

Q And you likewise are opposed to being annexed to the City of Roanoke, are you not? A Yes.

Q Would you tell the Judges your reason? A Well, the main concern, of course, with me is the children because I have two children and their ages are seven and twelve and they are within walking distances of three schools, North Side High, North Side Intermediate, and South View, and I guess we live about a fifth of a mile from these schools, and I can't understand how the City could come out and transport my children to another school, you know, living out as far as we do.

Q And it is your desire that the children go to schools in the neighborhood in which they live? A Yes, and I would not want them to have to be bussed away, far away.

Q Very well.
How old are your children? [1834] A Seven and twelve.

Q Are you satisfied with the other services in addition to education that the County of Roanoke provides? A Yes, I am.

Q How about police service? Did the people in your area just

recently have occasion to observe the action of the Sheriff's Department? A Yes, we did.

Q Would you tell the Judges what that occurrence was? A Are you talking about the escaped convict on last Friday?

Q Right. A Well, we were right in the area because he was supposed to be in that wooded area right behind us, and we had seen several of the deputies' cars there, and I think there were ten to fifteen right there in the area, in the wooded area there and—

Q Did he also have a police dog that ultimately tracked down the convict? A Yes.

Q That was in this area of the County (indicating) right here? A Yes.

[1835] Q Do you use the trash pickup service provided by the County? A Yes, I do.

Q And that's satisfactory to you? A Yes, it is.

Q As a matter of fact, your property is adjacent to the Arrow Wood Country Club, is that true? A Yes.

Q Do you know Mr. Wingfield who testified in this case for the City? A I don't know him. I had occasion to meet him two or three times, yes.

Q Do you know who he is? A Yes.

Q And, as a matter of fact, he circulated the petition originally in your area, did he not? A Yes.

Q Would you tell the Court the conditions under which he brought the petition to you and your mother's place? A What do you mean by conditions?

Q What did he say when he asked you to sign the petition? A Well, he stayed from 7:00 in the evening until 11:00 o'clock at night, so a good bit was said. I can't remember [1836] everything that was said. I remember a few things.

Q Had he purchased that property from your family? A He purchased a total of about three acres from the entire family, yes.

Q Did he refer to that when he brought the petition around? A Yes.

Q What did he say? A Well, he told my mother and my aunt, we were all in the same house, in the same living room, and he told them that he felt like they owed him that favor to sign the petition for him, and that we were going to be in the City in two years flat whether we wanted to be or not.

Q Did he say how that was going to come about? A I don't remember what he said. He said two years flat and that we might as well sign it in order to make it a year earlier to help him out, and he said that he would be hurting if he did not get in the City.

Q Why would he be hurting if he didn't get in the City? A Well, I don't really know. Of course, he talked about sewer and water but—

Q Did he say he had given your family a good price for the land that he had bought from you? [1837] A He said after the good price he had given our family for a gulley that we should certainly, which it was a good price for a gulley.

(Laughter.)

And then, too, he also stressed that he had received 52 percent of the signatures that he needed, so that it was settled, and that we might as well sign as extra people to help him out and that that had already been settled.

Q Did he have a map with him? A I don't remember.

Q But it is your desire to stay in Roanoke County? A Yes.

Q Thank you. Answer the gentleman's questions.

[1840]

* * *

Mrs. Vernon Lackey

* * *

Direct Examination

By Mr. Smith:

Q What is your name and address? A Mrs. Vernon Lackey, 4349 Thirlane Road.

Q Would you mark your home's location as No. 3 on this. A It would be right here (marking).

Q Is your home located near the trailer park that Mr. Hudgins

has who testified in these proceedings several weeks ago? A That's right. He has got a small piece of land that joins us at the back.

Q How much property do you and your husband have there? A We have 2.88 of an acre.

Q And you and your husband are opposed to being annexed to the City of Roanoke? A That's right, yes.

Q Would you tell the Judges your reasons for your opposition to the annexation? A Well, the biggest reason, he has told me if it [1841] is annexed he is going to pack up and leave, he is leaving the day that it is passed. If he has to go into the City he is going to leave.

Q You are satisfied with the services that you receive from the County Government? A We are satisfied and we have enough land that we can have a few beef cattle two or three times according to how the weather is during the summer months.

Q You keep them here on your property? A That's right, at the back of our property. And we are satisfied with the way it is now.

[1843] * * *

Wanda Atkins

* * *

Direct Examination

By Mr. Smith:

Q Your name and address, please? A Wanda Atkins, 4056 Thirlane Road.

Q Do you live near Mrs. Lackey? A Yes, we do. As a matter of fact, we have about ten houses on this Thirlane Road.

Q Would you mark your home as No. 4? A (Marking.)

Q And you live in the area known as the Kinsey petition area? A That's correct.

Q And you have signed a petition opposing the annexation to the City of Roanoke? A Yes, sir. In fact, I have helped circulate a couple of petitions and my husband and I have both signed them.

Q Very well.

How long have you lived there? A Well, I was born and raised right in the area with the exception of a three-year period when we lived in an apartment in the City of Roanoke, I have been there all my life [1844] and that's several years.

Q How much property do you and your husband have there? A My husband and I have a half acre adjoining my father's property which is 16 acres.

Q Are you employed? A I work part time. I am a registered nurse at Lewis Gale.

Q Tell the Judges your reasons for opposing the annexation. A Well, as it has been stated here before, we don't feel like there is anything particularly to be offered to this area of Thirlane Road; in fact, for some while I understand there were people present that didn't even know Thirlane Road was out there.

We are quite well satisfied with our Collins Station, as far as fire protection, as far as our rescue squad service.

We have excellent garbage pickup. We have our own well. We have our own septic tanks and we are just well satisfied with our service now and we have nothing to gain.

Q Very well.

You say that you circulated a petition opposing annexation? [1845] A Yes, I did. I think this was in mid-March. My children go to school at Burlington and the principal at Burlington approached me when she realized that I lived on Thirlane Road and asked if I would circulate the petition opposing annexation on this road, which I did.

[1846] Q You circulated it on Thirlane? A On Thirlane Road.

Q Did you go to Hudgins' trailer court? A Yes, I did. I went to the trailer park and I realized there had been some controversy as far as residents of the trailer park either signing or not signing, so I felt the proper thing to do would be to approach Mr. Hudgins and get permission to go into his trailer park.

After a lengthy conversation with him I was more or less denied the right to go in. He didn't say, "You absolutely cannot," but he did in effect say, "There is no use of you going. The people in my trailer

park look to me for advice on matters like this so there is no use in you going to them."

Q As a result of that conversation you didn't go there? A I didn't. In fact, he said, "If you would like to, you can go back to the school and present them with my sentiments and if they care to send anyone else out here, if you give me a day or two's notice, I guarantee you no one will sign it." He didn't tell me exactly what the guarantee was but he seemed quite emphatic that no one would sign it if they knew the petitioners would be there, so I evacuated.

[1848] * * *

O. S. Foster

* * *

Direct Examination

By Mr. Smith:

Q Will you tell the Court your name, sir? A O. S. Foster.

Q And what is your position with the County government? A Sheriff of Roanoke County.

Q In that position you are elected by the voters of the County for four years? A That is correct.

Q How long have you served as Sheriff? A Almost three and a half years.

Q And what was your experience prior to becoming Sheriff in law enforcement? A I had served with the Virginia State Police 15 years. I traveled those 15 years in Roanoke County.

Q And the primary responsibility of the Sheriff's Department is what, sir? A What is that?

[1849] Q What is the primary responsibility of your department? A We serve two functions, as far as the Sheriff's Department is concerned. One is, of course, the operation of the jail and the civil papers and as officers of the Court. Of course the other function is criminal and traffic law enforcement.

Q Directing your attention to County Exhibit 16 in the yellow book, does that show the organization of your department? A Yes, sir.

Q I notice that directly under the office of Sheriff is the caption "Captain of Police." Would you tell what significance that has? A Well, this is a term in the rural Sheriff's Department used for the chief deputy. He serves as the Sheriff in my absence. Of course he is the next man under me that serves as a sort of coordinator for the different departments within the department. He handles all vehicle maintenance, incoming and outgoing warrants and things of this nature.

Q And as a matter of fact in Roanoke County you have a County Police Department that operates within the framework of the Sheriff's Department, is that not true? A Yes, sir. This is somewhat unique. There is [1850] only one other Sheriff's Department in the State of Virginia that has this organizational setup. It is Prince George County which has, I think, some 10 county officers who function out of the Sheriff's Department.

Q Going on to the box to the far left of the chart, Lieutenant of Detectives. Would you tell what the functions of the detective unit are? A The detective bureau is designed, of course, to handle all those types of cases which would require excessive time on the part of the uniformed officer. It is also designed to—as a matter of fact, being a smaller unit it is easier for these officers to maintain contact with one another than it would be, say, for the entire force trying to do some criminal work. They are primarily concerned with the investigation of all felonies, some misdemeanors and so on.

Q How many personnel are involved in the detective bureau, Sheriff? A We have a Lieutenant and four detectives. The Lieutenant primarily coordinates the work of the detectives. He serves to coordinate the investigative work for the Commonwealth's Attorney's Office, and if time permits he may work personally on some cases himself.

Q These men are plainclothesmen, are they not? A That is correct.

[1851] Q Going on to the next section dealing with traffic, would you state the function of the traffic force? A We have a Traffic Lieutenant who, of course, is the top supervisor in that particular department. He has working under him at this time 19 traffic officers, four crossing guards, and we will on July 1 ask for additional officers in this particular category. He handles, of course, all calls not

We have perhaps as many as 50 percent of our people who have anywhere from one to three years of college.

[1857] Q Do you have a request for additional personnel in your current budget request? A Four officers and one supervisor, as reported to the Board of Supervisors. We are in the process of investigating. We will hire them either on July 1 or within 30 days thereafter.

Q What is the total number of personnel in your department, Sheriff? A This will give us a total strength of 56 people.

Q Do you have any vacancies at the present time? A Nothing other than—Well, not at the present time because we are not authorized until July 1. We are at full strength.

Q As a matter of fact, you have quite a backlog of applications, do you not? A We have approximately 70 applications on file.

Q Do you have a copy of County Exhibit 62? A Yes, sir.

Q What does that depict, Sheriff? A Actually we divide the County up into three districts. The one listed on this chart might be described as the Catawba-North County District.

Q Is that No. 1? [1858] A Yes. That area encompasses generally all of the area laying north of Suit 11, generally speaking. No. 3 is that area west of Salem and extending over as far as Route 221. Of course, District 2 is the area in between which is essentially everything south and west of 221. It includes everything south and west of 221. It includes 220 and the Mt. Pleasant and the Riverdale areas and up to Route 11 North.

This is basically the same patrol plan as the State Police use. However, we cut down on District 1 because of the extra concentration of population there. It is smaller than their particular patrol area.

Q How do your deputies operate in those areas? A We have a vehicle for each deputy. It is not unusual for a deputy off-duty to receive a call at home which he would handle on his own. We try to restrict this as much as possible but it is not unusual for a deputy to go from his home to answer a complaint, especially close by.

Q Do you deputies living in all of these areas? A Yes, sir. When he marks on, he is on duty as of the time that he gets in the patrol vehicle. He marks on by radio to establish contact with the headquarters and let us know that he is on duty.

Mr. Smith: Mr. Davenport has a copy.

Mr. Musgrove: I have never been furnished with a copy.

Mr. Fitzgerald: We have just the one copy. That was to cut down on costs.

By Mr. Smith:

Q Briefly describe what those pictures are. A The first picture is shown inside my office. The second picture is the detective bureau. The third picture is a dispatch center. The fourth picture is the dispatch center at the jail and one of the jailers on duty.

The next picture is a cross-section of our vehicles, showing the different types we use in the department from the unmarked to the marked vehicles. The next picture is a picture of one of our patrol vehicles which we think is fairly representative of the types of vehicles which we have in our department at this time. We have practically all 1968, 1969 and 1970 model police vehicles, factory built police police vehicles.

The next picture is the dog pound. The following picture after that is three dog vehicles and also the dog wardens who man the vehicles to perform this particular [1856] service.

Mr. Smith: I would like to offer that in evidence if it has not been offered before. I believe it is already in evidence.

Mr. Fitzgerald: It is in evidence.

By Mr. Smith:

Q What qualifications do you have for persons seeking to become deputy sheriffs in your department? A We like to think our qualifications are high. We have an entrance examination but the most stringent thing we check on is an individual's background as far as his character and reputation are concerned.

His educational requirements, of course, are a matter of much concern to us. We accept a person with a high school equivalency. However, we look very closely, and if he hasn't finished high school, as to why he didn't.

We are attracting an unusual type of applicant to our department. To my knowledge we hired the first college graduate in the Roanoke Valley in police work. We have a young man who went to work May 1 with six years of college. We will hire our third college graduate on July 1. He has already been processed.

Q The next section says the dog wardens. Are they under your jurisdiction? A Yes, sir. This was placed administratively under my supervision in November 1968. At that time we had a dog warden and three part-time dog wardens. At the time they were put under my department we made all of these positions full-time positions and we ended up with the Chief Dog Warden and two full-time wardens.

We had three vehicles that patrol the County. We are giving service during all daylight hours and we have one man on call at all times.

Q The chief jailer in the jail section, would you describe— A The chief jailer has primary responsibility for the operation of the jail, the purchase of food, the general operation of the jail. We have three jailers who work with him and of course we have a cook who prepares the food for the inmates, with the trusties that might be available at a particular time.

[1854] Q Does the jail personnel operate on shift work? A Around the clock, three shifts, five days a week, eight hours a day, and of course seven days a week.

Q How do you fill in for days off and illness and things like that? A Of course, having four jailers, that takes 4.2 people to operate the jail, which means one shift per week that we have to use a road officer. This in some ways is desirable because it helps to keep all of our people familiar with the operation of the jail.

Q Next you have the communications section. That is in charge of Deputy Cavanaugh, is that correct? A This was included in our organizational chart because it will become effective July 1. Officer Cavanaugh, who has been serving in this capacity, will be more concerned in this capacity and will handle the communications work of our department plus all the federal programs which, as anybody who has participated in them knows, are rather complicated to keep abreast of, such as the Virginia Highway Safety Program and the Law Enforcement Assistance Administration Program. He will be serving a twofold purpose there.

Q Sheriff, I would like to show you County Exhibit 1-F which shows pictures of various functions of your department, yourself, communications, and various equipment and [1855] personnel. Are those accurate—

Mr. Cogar: Do you mind if we see those?

otherwise specified. He handles traffic calls and routine police calls, so the term "Traffic Officer" does not give a true picture of all the functions performed by this particular group of officers.

Last year we investigated 45 percent of all traffic accidents in Roanoke County. It will run perhaps close to 50 percent this year, an increase over last year.

Q You said you had four school crossing guards? A Yes, sir.

Q And they work in that position as well? A This is a new program began in September 1968. The crossing guard on 117 serves three schools, Northside, Southview, and Northside Intermediate. The one in West County serves two schools, Glenvar High and Fort Lewis School. So we have a total of seven schools served by the four crossing guards.

Q Next you have your civil division. Would you [1852] state the personnel and the function of the civil division of your office? A Under this particular division I have three civil officers who have the County divided up into three areas. They come in the office and separate the papers. They go out much as a mailman would and locate the people they have civil papers for.

Q They serve the civil papers for the Courts? A That is correct. Last year we served almost 9,000 papers of various and sundry natures ranging from subpoenas to divorce papers, garnishments, levies, tax attachments and so on.

Q Do the bailiffs of the Court also come under that division? A Yes, sir.

Q How many of those do you have? A We have two Court bailiffs and then the gentleman on my right who also serves in that capacity. One is the County Court and Mr. Fore and Mr. Burroughs for the Circuit Court.

Q Your administrative section, would you state the personnel and their functions? A This, of course, consists of myself, the Captain of Police, the secretarial help in the office, which is my [1853] secretary and one lady who works in the civil division. We have some of the dispatchers on occasion who serve in a clerical capacity, depending upon the work load in the communications center. However, I might elaborate on the communications as I go on there.

Q So he is on duty as soon as he leaves his home? He doesn't have to drive to a central police headquarters for [1859] a lineup or anything of that sort, any checking-in procedure before going on duty? A That is correct. I might add that each shift has a shift supervisor whose primary responsibility is, of course, supervision, and he also does other work as the other officers do.

He will come to the office shortly after marking on duty to see if there is anything that has been assigned to his shift that the other officers should know about. It is his responsibility to familiarize or acquaint those officers with any particular problems or things that they need to check on during a particular shift, rather than all the officers coming in.

Q How many deputies are operating on each shift in these areas? A It would vary according to sickness, work schedules and so forth. We usually try to have, everything being normal—and it is unusual if it is normal—two men per district plus one man that we call a floater. He is not assigned to any particular district but it is his responsibility to cite an example—let's say a man in District 2 picks up a driving drunk. He brings him to the jail and this fellow will move over to his district while he is away from his territory, to be able to answer calls.

[1860] Q So when the regular field deputy in District 2 would have to come to headquarters, the floater would fill in in his district? A He would fill in, yes, sir. Of course, with the additional men that we will add—We will have actually one more man per shift as soon as he is trained next July 1.

Q Will that result in additional coverage in those patrol areas? A It will give us another floater to fill in and patrol. Of course, this floater, incidentally, is patrolling the area at all times.

Q What training do the men have in your department? A Of course, this is one field our local police departments have been lacking in until recently for a number of years. We presently avail ourselves of the Academy which is in Roanoke City. The chief there has extended this facility to us. When I first came into office we had our own school which met at night during this period for some 12 weeks. We have attended various seminars put on by the Federal Bureau of Investigation, the Virginia Sheriff's Association, Community College and special courses that we received information on such as arson schools, bomb schools and things of this nature.

Q Prior to operating on his own, does a new [1861] deputy ride with an experienced deputy for a period of time? A He rides anywhere from two to three months, in addition to his school. I might add as far as training is concerned that we have had a little better than 8,600 man-hours in training in the last three and a half years.

Q Do your men also avail themselves of the State Police School? A Of course when we are talking about the Virginia Sheriff's School, this is held at the State Police Headquarters.

Q How about fire-arms training? A We started this program in the spring of 1969 and we have annual firearms patrol training, which each man is required to qualify in under the FBI Practical Pistol Course. We will eventually go to a semi-annual firearms training program.

Q Have you also sent men for training to the Camp Perry, Ohio Firearms Course? A We sent a man there who serves as instructor for firearms. He attended a week's course there.

Q What equipment does your department have? Let's start with vehicle equipment. A Each man, of course, has his patrol vehicle. He has a variety of equipment such as helmets, gas masks, shotgun [1862] and things of this nature. He has a first aid kit and most any type of equipment that you might expect him to use in the course of his duties. Of course, there are tape measures. Each vehicle has a camera to photograph a crime or an accident scene.

Q How many vehicles do you have, Sheriff? A We have 33 vehicles, two spare vehicles that we use to keep a vehicle from being tied up in the event of automotive repair, and three dog trucks.

Q Are these 33 vehicles all cruisers? None of those are motorcycles, are they? A No.

Q What communications equipment is in the vehicles? A Of course, there is a three-way radio. We can talk from car to car, from car to base station and from base station to car, of course. We are presently engaged at this time in the development of a new emergency operation center which will be the latest in design of perhaps anywhere in the State, which should be in operation perhaps in November.

Police obtained from the Law Enforcement Assistance Administra-

tion equipment for $48,000. We presently have in a second grant for some $93,000. Our communications system when completed will be about $150,000 to $175,000.

[1863] The building is now underway adjacent and a part of the jail building which will give us approximately 12 offices including our communications center. For the first time we will have all of our operations together.

Q Do your detectives have any additional equipment that the deputies don't have? A They have, of course, fingerprint equipment, polaroid cameras, the types of things they need for marking and identifying for evidence and labeling, bags and things of this nature.

Q Directing your attention to the jail facility of Roanoke County, how many prisoners can a jail accommodate? A The jail will accommodate—I don't like to say it this way—whatever you can get in there. That is an unusual way of putting it. We are suffering as far as the jail is concerned, as is Roanoke City.

This jail was built for 14 prisoners. It will sleep 28 by the addition of a second bunk. It is not unusual to have 40 or 45 prisoners on a weekend in there.

Q Do any other jurisdictions besides Roanoke County use the facilities of that jail? A Craig County and the City of Salem. We are under contract with both localities to handle their prisoners.

Q And they do that on a per diem cost per [1864] prisoner? A Yes, sir. We have a fixed cost of operation plus the cost of whatever the food or medical service might be.

Q Have you made recommendations for improvement or for some other facility in the area of the jail facility for Roanoke County? A I have, and of course the Board of Supervisors appointed a committee. The committee sought to have a regional jail and at the present time we are involved in a regional study through the Fifth Planning District on the funds—there is a $62,000 grant for a jail study.

Q And this is a facility that is needed for the various jurisdictions, is it not? A Yes, sir.

[1865] Q Are there other law enforcement agencies operating in the County of Roanoke? A Of course, Vinton has its own police

force, I don't know the exact strength of it. The last word I had they have about nine men on that.

The State Police has 13 troopers, the State has a police sergeant, and two helicopter pilots. And, of course, we work very closely with them as we do, of course, with the other Valley law enforcement agencies such as the City of Salem or Roanoke City.

Q Do they have headquarters located within Roanoke County? A The sixth division headquarters is located 1.2 miles west of Salem.

Q Is that the base station for these 13 troopers that also operate in the Valley? A Well, that is the division headquarters, almost daily we have troopers passing through the County from this division headquarters which is the division headquarters for 13 counties, so the fact that they come back and forth to this headquarters does add some extra patrol to the area.

Q Have you also included in your figures on the number of State police the investigators who work more than one county but are available if needed to Roanoke County? [1866] A Well, I think they have, I am not sure, at this time State police investigators assigned to division headquarters and, of course, if they have an investigation we will say in Danville which would require our men leaving the territory for a considerable length of time, we have and, as a matter of fact, we had that happen, and I agree that they should, and the State police investigators did a follow-up in this case in that area.

Q To your knowledge, does the City of Roanoke Police operate from one central headquarters? A That's my understanding. I don't have personal knowledge of that, that they have gone into their headquarters at the end of each shift. This is something that I don't have personal knowledge of.

Q What would you say in respect to response times to calls in the area of Weddle petition and the area of the Kinsey petition of your department as opposed to the City of Roanoke? A I might add that I could better identify these areas by either Windsor Hills—or we have very few police problems in Windsor Hills. We probably would not average a house breaking or statutory burglary of a home once every six months. The few calls that we do get there are usually by way of speeding or an occasional act of vandalism. We, of course, [1867] do

patrol this area. It probably receives as heavy a patrol as anywhere in the County due to the fact that it is in an urban area.

Now, the airport area, we patrol that as does the City of Roanoke. We enforce all police regulations except the City ordinances as far as parking is concerned out there.

Q By airport area what exactly do you mean? A I should say the airport because it is owned by the City of Roanoke, but of course the whole airport area we patrol.

Q But the City doesn't patrol the whole Kinsey area? A No, no. The City of Roanoke does have concurrent jurisdiction at Ruffner School, Fleming High School, and the airport area by statute, of course.

Q All right. Are there any problems with crime in that area? A As I just said, I know of no problem there. We would probably not have on an average, as I said, a house breaking or statutory burglary of a home an average of once every six months.

Q I mean in the airport Kinsey area. A Airport area. None that I know of.

Q Does the shopping center cause any problem for [1868] your department? A The shopping area, of course, is patrolled routinely as far as the parking facilities itself are concerned, and when I went into office in January, they were working a system there at that time where there was the desire of the merchants at the shopping center to employ all City police officers in order to add more police protection to the center.

I discussed this with the president of the merchants out there and it was his desire to continue this service as it was—he was very well satisfied. He felt the cost was minimal for the benefits that he was deriving from this service. And we do,—of course, the County's contribution to this effort is the use of a police vehicle there and, of course, one of the reasons we do it, ifsomeone is apprehended for shoplifting that he has a police vehicle to use in the consummation of the arrest.

Q Are there various stores and commercial operations in that area that are equipped with burglar alarm systems that tie into the fire house? A No, it is not tied into it. Of course, Mr. Honniger, he of

course testified or is scheduled to testify, he makes periodic checks of the area as far as the parking is concerned.

[1869] Q What records does your department keep, Sheriff? A Well, we keep, of course, all the type records any police department would keep. At the present time each officer files an activity report. We had all the activity reports through the data processing and each officer, of course, files an investigative report.

We keep the required jail reports and the required welfare and institution reports and, in addition, we have—

Judge Hoback: There is no charge that the Sheriff doesn't keep proper records. These are all generalities concerning law enforcement in the area.

Mr. Smith: Very well, sir.

Q Would you just briefly comment on the pay and allowances of the deputies of your department? A At the present time the pay—this is an example, they have gone from $4200, approximately, to $6200 in the last three and a half years, starting pay. We furnish all uniforms and, of course, the patrol vehicle.

Q There was testimony here previously today about an occurrence in the Kinsey area last week involving your department. Would you just briefly tell the Court what happened? A We had a convict that escaped work detail in that area and fled into the woods. He was apprehended I don't know [1870] exactly how long afterward, probably about an hour and a half give or take a little either way, and in this same area by the use of a dog that we just recently started using.

Q Very well.

And, finally, Sheriff, in your opinion, does your department provide the police service necessary in the area sought for annexation, the Windsor Hills and airport areas? A Of course, we have to judge that by two things. In my opinion, yes. And the second thing that I would gauge that on is the fact that I have not received complaints to the contrary. Oh, occasionally, of course, it is not unusual for someone to say, "I called your office and it was 20 or 25 minutes before a car got there" but this probably doesn't average once every two months.

TRANSCRIPT DATED JUNE 23, 1971

[1898] * * *

T. D. Steele

* * *

Direct Examination

By Mr. Fitzgerald:

Q Will you state your name, please? A T. D. Steele.

Q Where do you live? A Roanoke County.

Q Do you hold any official position with the County of Roanoke? A I am Chairman of the Roanoke County Planning Commission.

Q How long have you served as a member or Chairman of the Roanoke County Planning Commission? A I believe I have been on the Planning Commission about 15 years, and I believe I have been Chairman for the last six or seven.

Q What is your occupation, Mr. Steele? A I am in the real estate development business and I have a farm operation.

Q Are they in Roanoke County? A All of them, practically.

Q Specifically, Mr. Steele, what connection have [1899] you had with the Crossroads Mall Shopping Center? A Well, I am the President of the corporation that owns most of it out there and one of the original developers on the shopping center.

Q When was that shopping center developed? A We started development on it in 1959 and opened it July 27, 1961, and since then we have expanded it two or three times.

Q So at the time of the last annexation case, 1960-'61, the shopping center had already— A It was in development at that time.

Q All right, sir. What water and sewer service do you have at the shopping center? A The City of Roanoke services the water and the sewer. It comes from the City of Roanoke.

Q Would you tell the Court what arrangements were made with the City of Roanoke for the serving of the shopping center with water and sewer? A When we originally started developing the property, while we looked into the various ways of obtaining sewer and water, we looked into the possibility of, first of all, digging a well and storing, and erecting a storage tank to service the area. We considered sewer service

from Roanoke County through the Public Service Authority which we can gain [1900] by running a sewer line running down Malms Lane and across this way into the County line, coming down Tinker Creek.

We also had storm drainage that we want to get rid of which we could take by going down to the creek that runs right up there by 581. I have forgotten the name of that one; I am sure you all have mentioned it already. But, anyway, we could take storage drainage that way if we needed to.

We approached the City on the possibility of getting sewer and water from the City and the City had a problem also with some storm drainage out on Route 11 and in back of the Mick or Mack Store and in back of Arlan's. So after conferences with a committee from the City and with the City Manager and the City Engineer, we agreed to pay the City $40,000 for sewer and water services.

Q Mr. Steele, at that time did the City need any sewer services at the airport? A Well, at that time we had to—we paid the entire cost actually. It so happened that the City somehow in the papers that were drawn or advertised, it wasn't advertised properly. We ended up paying the contractor ourselves for a 12-inch sewer main from the County line on Tinker Creek.

Q On whose line? A The County's line.

Q All right. [1901] A From Tinker Creek it went piggy back on the storm drainage line all the way to our property and, as I remember, that contract was about $12,000, and the City picked the line up from where we ended it at the outer edge of Crossroads and carried that line up to the airport, and that was the first time the City of Roanoke had sewerage service on the airport.

Q So the line that was installed as a result of the shopping center being built also afforded service to the airport? A That's correct, sir.

[1902] Q You say the cost of that was $12,000? A In that neighborhood. I don't know the exact cost but the figure I recall is around $12,600 or something like that. I might be off a little bit.

Q And the shopping center developers paid the City $40,000? A Right, of which the 12 was in the 40.

Q But out of the 40 the cost of putting the lines in was 12? A Just the sewer line.

Q Just the sewer line? A Right.

Q Mr. Steele, as a property owner in the Kinsey petition area could you tell the Court whether or not you are opposed to the area being annexed? A Yes, I am opposed to the area being annexed to the City.

Q Could you tell the Court whether or not you are satisfied that the area is receiving all the necessary governmental services that a shopping center needs? A Well, we are very well satisfied with the public services that we get as far as the County is concerned.

Q Have you had occasion to approach any of the other owners or managers of stores in the shopping center? [1903] A Two weeks ago we had a Merchant's Association Meeting of the Board of Governors, as far as the Merchant's Association is concerned. At this meeting I brought up the question and I asked any of them if they were opposed to the annexation or what their opinion was on it, and read this petition I have here.

Q This is the petition? A Yes, this is the petition.

Mr. Davenport: Has this petition been filed?

Mr. Fitzgerald: No, sir.

Mr. Davenport: May I see it?

Mr. Fitzgerald: Yes, sir.

Mr. Davenport: If the Court please, I suggest this be filed. It is addressed to the Court. I object to the witness testifying other than the fact that he circulated it.

Mr. Fitzgerald: That is all I am going to ask, as to how he circulated it.

By Mr. Fitzgerald:

Q Mr. Steele, you said this petition was presented at a meeting of some of the merchants? A Yes, sir.

Q You made no attempt to contact all the store owners in the shopping center, did you? [1904] A No, I just raised it at the meeting. There were about 10 or 12 merchants there. I left it with one of the girls. A couple of them had to go back and check with their

managers or the manager wasn't there and they took it to the manager. So they gave it to me a day or so later.

Judge Hoback: I don't know the number of this petition, but it will be filed.

Mr. Fitzgerald: We will just file it as a petition of the people there.

(The petition referred to was received in evidence.)

[1906] * * *

Redirect Examination

By Mr. Fitzgerald:

Q Mr. Steele, if this area were annexed to the City of Roanoke you would still expect to have off-duty law enforcement officers taking care of the preventing of shoplifting in the stores? A Yes, we would still do that. Some of the stores actually hire them, themselves. One store has its own security force.

[1907] Q And this is also done in most shopping centers, to your knowledge, is it not? A Yes, most large shopping centers.

[1908] * * *

James A. Beavers

* * *

Direct Examination

By Mr. Fitzgerald:

Q State your name, please, sir. A James A. Beavers.

Q Where do you live? A I live in Roanoke County.

Q The address, please? A 5077 Youngwood Drive Northwest, in the Corridor area.

Q What is your occupation? A I am Executive Director and Secretary-Treasurer of the Roanoke County Public Service Authority.

Q How long have you held that position? A Almost 16 years.

Q What services does the Roanoke County Public Service Authority provide? A The Authority finances, constructs, operates and maintains sanitary sewer systems and water systems in Roanoke County.

Q How long has the Authority been in existence? A Since May 5, 1955.

[1909] Q Could you just briefly state the extent, statistically, of the services provided? A Yes, sir. As noted, the Authority was established in 1955. At that time a $600,000 revenue bond issue was made and at that time the original sewer system in Roanoke County, the first sewer system, the North 11 System, was constructed.

The second bond issue was in 1964, at which time a $2,300,000 issue was made. At the present time we are in the process of selling an additional 2.4 million dollars, 1.2 million dollars of which has already been agreed to with a prospective bond buyer.

Q What is the total bond debt of the Authority at this time? A At the present time, $2,240,000 in sewer revenue bonds and approximately $1 million in water bonds and notes payable.

Q And all these bonds are payable from the revenues of the system? A Yes, sir.

Q In feet or miles of lines, could you just tell us what the increase in size of the system has been since 1960? A The figures that I have available date from 1963, which of course is the time of the last bond issue actually made. At that time the Authority had approximately 80 [1910] miles of sewer mains, eight-inch and above. At the present time we have an approximate 185 miles, more or less.

The sewer connections, incidentally, in 1963 there were 3,400. At the present time, as of May 31, there were 9,235 sewer connections.

Q I refer you to County Exhibit 67.

Your Honors, this is not reproduced in the book in small scale.

Will you state whether or not this shows the sewer service areas that are within the County of Roanoke? A Yes, sir. The olive, dark green colors are the present sewer areas that the Authority operates and maintains.

Q Mr. Beavers, does the Authority have sewer service within the area of the Weddle petition? A Yes, sir. In 1964-65 the Authority extended sanitary sewer collector lines into the majority of the Weddle area, the Windsor Hills general area.

Q I am putting an overlay on County Exhibit 67 which is the boundary of the Weddle petition, indicated in a dashed black line.

Does this show the area presently served within the Weddle petition? A Yes, sir, it does, and I believe it definitely shows it correctly. The yellow areas are the areas in which we propose to extend sewer systems during this present bond [1911] issue and construction program.

Q You say the area of the Weddle petition is where you propose to provide additional facilities? A Yes, primarily the Cravens Creek —Barnhardt Creek watershed, which at the present time has some sewer service by pumping from the Windsor Lakes—Oak Grove area over into the area to the south, but which does not have any direct gravity sewer service to Barnhardt Creek.

Q Have these improvements been programmed by the Authority? A Yes.

Q Has the financing been arranged? A Yes. As a matter of fact, the Barnhardt Creek area was surveyed in the beginning approximately five years ago but we have delayed because of finances.

Q But you are now in a position to go ahead? A Yes.

Q In the financing by the Authority of improvements in water and sewer, what approval has to be had by the Authority? A In essence no additional approval has to be secured excepting the actual approval of a prospective bond buyer that this is a good investment, and that he wishes to buy the bonds.

[1912] Q The bonds can be sold subject to the vote of the majority of the members of the Authority, is that correct? A Yes, sir.

Q Are all of these bonds that have been authorized and financing arranged for—would they all be revenue bonds, too? A Yes, sir, they will.

Q And payable by the revenue of this system? A Yes, sir.

[1913] Q Now, have you looked at the Kinsey petition area? A Yes, sir, I have.

Q I am putting an overlay on the map of the lines of the Kinsey petition. Does this show that you have sewer service in some of the Kinsey area? A Yes, sir. Primarily, as I understand the area, in the extreme eastern section and in the northern section, the Cravens Creek water shed area.

Q Am I pointing to those areas now? A Yes, sir.

Q Mr. Beavers, it has been testified to that other parts of the Kinsey area are served with sewer service connected to the City lines. A Yes, this is correct.

Q That is correct, is it not? A Yes.

Q But where do those lines flow after they go into the City lines in the Kinsey area? A They would flow I assume through the Lick Run interceptor sewer and connect to the City sewerage treatment plant.

Q Who owns the Lick Run interceptor plant? A The City of Roanoke.

Q Does any of the sewage go back into the County [1914] system at any point? A Not in the Lick Run water shed, no. The airport and the Crossroads Mall are served by sewers that eventually lead to the Authority's Tinker Creek interceptor sewer which carries sewerage not only from that area but the entire North Eleven area and eventually delivers sewage to the City of Roanoke system at the Monteray Golf Course.

Q So the Crossroads Mall Shopping area and the airport sewage actually flows back into Public Service Authority interceptor lines? A Yes, sir.

Q And is transported then on into the City's treatment facility? A Yes, sir.

Q Mr. Beavers, have you had occasion to examine the sewer improvements from the Weddle area—I don't believe there are any shown in the Kinsey area by the City but in the Weddle area, the sewer improvements that the City has testified to that they would make in the Weddle area if the area were annexed? A Yes, sir, I have.

Q Can you tell the Court whether these are the same improvements that you had already planned for over the previous five years and have now financed or arranged the [1915] financing for? A Yes, sir. The Barnhart—Cravens Creek-Barnhart water shed interceptor sewer is essentially the same as far as it goes in the City's proposal as that of the Authority.

Q But the Authority plans to extend it even further than that, is that correct? A Yes, sir, this is correct.

Q Is this part of an over-all study or a larger study that has been done by your consulting engineers? A This is correct. The Authority's engineering consultants have prepared a prospectus showing the financial aspects and the areas in which we propose to extend sewer lines in various areas of the County, extend and improve several lines.

Q Who are your consulting engineers? A Langley, McDonald and Overman of Norfolk.

Q When was the study made? A The study was made during the latter half of 1970 and delivered to the Authority in early January of this year.

Q Mr. Beavers, there has been some considerable, as a matter of fact, testimony concerning the negotiations between the City of Roanoke and the County of Roanoke of the Service Authority in the joint sewer service contract.

[1916] Could you state whether or not there was a time when the County was being held up from adding areas to the service area, sewer service area under the contract. A Yes, sir. At various times, including a period of several months during 1967.

Q Could you tell the Court whether or not at one point the Authority contemplated building its own treatment facilities at this time? A Yes, sir. In 1966 the Authority acquired a total of approximately 36 acres on the Roanoke River.

Q Where is that located? A This area is located at this time inside the City of Salem west of Cravens Creek and east of Masons Creek on the south side of the river behind the Lee Hy Shopping Center.

Q Did the Authority apply for approval from the State Water Control Board for that location? A Yes, sir.

Q Was approval granted? A Approval was granted to proceed with detailed studies for the actual construction of the plant.

Q Can you tell the Court then what transpired subsequent to that? A Yes, sir. At approximately that same time, of course, contract negotiations toward the amending of the existing [1917] 1954

sewage contract between the City and the County were going on, on and off and on that basis, actually.

If I may, I would like to go back to December 30, 1966, since that is seemingly a turning point.

Q All right, sir. A At that time the Chairman of the Board of Supervisors of Roanoke County, Mr. Walter Lipes, received a letter from Mr. Benton O. Dillard, Mayor of the City of Roanoke, and this letter included an entirely new contract proposal completely different from the contract recommendations made by previous committees, and an approximate six days later, and this was during Christmas and New Year's holiday. Of course, on January the 5th, 1967, the County and the Authority representatives, along with attorneys and engineers—

Mr. Cogar: If your Honor please, I don't understand this witness to be testifying to anything that he was involved in but, rather, communications between someone on the Board and someone in the County, and somebody in the City Government. If he has personal knowledge of it, of course, I have no objection to it. I would like to know whether he does or he does not.

Mr. Fitzgerald: He said County Authority representatives. I assume he was one of the Authority's [1918] representatives.

Q Is this correct? A That is correct.

Q You have personal knowledge of this? A Yes.

Q Go ahead. A On January 5, 1967, the County and the Authority representatives met with the City representatives and on the request of Mr. E. K. Mattern, who was at that time the City's engineering consultant, a subcommittee consisting of administratives, engineers, and legal counsel was appointed to review the proposals and make final recommendations to the City and County.

Then on January the 17th, to put everything in chronological order, on January 17, 1967, the Water Control Board held a hearing on the Authority's application for approval of permit for the construction of two sewage treatment plants. The application was supported by Salem, at that time a town, and also by Roanoke County, and opposed by the City of Roanoke.

From January to July 1967 the Mattern subcommittee met several times and in July came to agreement, and on July the 19th of that

year recommended to the parent committee, which was made up of Mayor Benton O. Dillard, Vincent Wheeler, Julian Hirst, [1919] E. K. Mattern, Glynn Barranger, James K. Kincanon, representing the City, Walter M. Lipes, Chairman of the Board of Supervisors, Minor Keffer, Paul P. Matthews, James A. Beavers, Gene D. Whitlow, William C. Overman, and W. H. Jolly, this was the parent committee, the recommendation was made that the final version of the amended contract be approved and the parent committee did approve this final version of the amended contract.

Q This was both the City and the County? A It was both the City and the County committees.

Q All right. Then what happened? A All right. The Board of Supervisors of the County and the Public Service Authority subsequently unofficially approved the amended contract and no further action took place until August 1967 when the City of Roanoke offered to accept a new area for sewage service at a rate of $77 per million gallons. Later this rate was lowered to $62.50 per million gallons. But the County took no action on this offer.

Then on October 2nd, 1967, the Board of Supervisors and the Authority agreed and directed engineering consultants to prepare necessary plans for treatment facilities for the administrators of the Authority and the Board of Supervisors to initiate discussions with Salem for the joint use of proposed treatment facilities and terminate all negotiations with the [1920] City with reference to amending the existing City-County contract.

Q Mr. Beavers, up to that point had the City Council either officially or unofficially approved the work of the subcommittee? A Not to my knowledge and not publicly.

Q All right, sir. You say that the Authority was directed to proceed with plans? A Yes, sir.

Q Of treatment facilities of the County, the Authority? A Yes, sir.

Q What transpired after that? A The Authority's engineers prepared preliminary plans and at that approximate time, this was as of January 1968, a completely new group of supervisors came into the County, that is, a new Board of Supervisors was elected, and this

Board went on, on and off negotiations, with the City towards an amended contract.

Q At this point the City has still not approved the recommendations of the consultants and the committee, is that correct? A This is correct, to the best of my knowledge.

Q You are still operating under the original [1921] contract with whatever amendments have been made from time to time? A Yes, sir, this is correct.

Q Mr. Beavers, can you tell us what the policy of making service extensions is in the Service Authority areas? A Yes, sir. The present so-called reimbursement policy is set up in this manner: If a developer has to extend a sewer interceptor or trunk line from the nearest existing sewer to his property, and he incurs costs between the existing sewer and his property, the Authority would agree to reimburse 65 percent of that cost, actual total cost, construction cost, engineering and legal from connections to the side of that line, again between the existing sewer and the development, and also on credits on connection fees due within the subdivision itself. Now, this is if the money becomes available.

Q If the Authority puts a line down an existing street to serve existing homes, what is the policy or the arrangement for connecting to that line with the homeowners? A The regulations of the Authority require that a sewer connection fee be charged and collected at the time of the connection as based on the type of connection.

Q What are those charges at present? A The charge for an individual home is $300 plus a $10 inspection fee. Business fees depend on the type of [1922] business but we have a $300 minimum charge.

Q Mr. Beavers, does the Authority own and operate any sewer service in the City of Roanoke? A Yes, sir, the Authority owns and operates sewer systems in two areas that have been annexed since the systems were constructed. One is in the Edge Hill area and the Edge Hill Estates area. The other is in the Jefferson Forest area.

Q And does revenue from those systems go to meet the debt service on your bonds of the Authority? A Yes, sir, it does.

Q Has it posed any problem for the Authority after the areas were annexed to the City? A Yes, sir. In Edge Hill in particular, an

approximate ten percent of the customers that we have in that area have refused to pay the monthly service charge, saying that they are paying the City of Roanoke and that they refuse to pay duplicate charges.

Q Are they paying the City of Roanoke a utility bill or water bill? A They say that they are and I assume that this is the case.

Q And for that reason they have refused to pay the Authority's bill, is that correct? [1923] A Yes, sir.

Q Is the Authority servicing the lines that it is collecting the sewage from these homes? A Yes, sir.

Q Has the Authority or is the Authority going to take any action in regard to this? A The Authority has recently authorized its legal counsel to proceed with any action necessary to collect any overdue accounts.

Q I show you County Exhibit No. 66 and ask you if this correctly shows the water service areas within the County of Roanoke? A Yes, sir. The green areas I believe are the water system areas that are serviced by the Authority.

Q Do you have any water service in the areas of the Weddle petition? A Yes, sir, we serve the majority of the area, I believe.

[1956] * * *

Redirect Examination

By Mr. Fitzgerald:

Q That is the organizational chart of the Authority, is it not, Mr. Beavers? A Yes.

Q Mr. Cogar questioned you regarding the sanitary sewers. Have you determined what are the regulations of the City concerning the installation or connection of the outside window and stair area drain connections to the sewer system? A Yes, sir. The Authority's ground water study committee made inquiries of all governments locally and asked them what their procedures were and what their policies were.

They were given a letter from the Roanoke City [1957] Plumbing Inspector stating that area-way drains were allowed to be connected into the sanitary sewer.

Q In the City of Roanoke? A Yes, sir.

Q Is this that letter? A Yes, sir.

Q This letter is signed by whom? A This letter is signed by W. J. Gregory, Chief Plumbing and Heating Inspector, City of Roanoke.

Q And what section of the City Code does it call attention to as permitting the connection of area-way drains? A Sections 90 and 91 of Title 15, Chapter 3, Roanoke City Plumbing Code.

Mr. Fitzgerald: That is all.

Recross Examination

By Mr. Cogar:

Q You say that you had had occasion to make investigation. When did you make that investigation? A Excuse me. The investigation into the—

Q Into this particular matter. A This would have been the latter part of last year when the committee was first established.

Q When was that letter first called to your attention? [1958] A At the time that it was received by a member of our committee. I am sorry I didn't note the date of the letter. The letter was written to a member of the ground water study committee and brought to the attention of the committee itself.

[1959] * * *

Mr. Rusher: The Court's attention is called to the fact that certain intervenors petitioned the Court in this overall case to be annexed to the City of Salem after the Roanoke City annexation case was started annexing the whole county.

[1960] The Medmont Lake area and Keaby Road area follows the yellow line down to Barnhardt Creek and on to 419. This top area is not in the overall Windsor Hills annexation area. The Windsor Hills case follows Medmont Lake, this broken line here.

So now we are concerned only, as I understand the matter is moot —those areas outside the Windsor Hills case. We will not put on any evidence concerning that.

Now since Salem is out of the picture our complexion has changed. These people living in the Medmont area subdivision and also these four houses right on 419 and outside the area which are to the northwest of Barnhardt Creek, I believe, are requesting that they be left in the County. Of course, that is the bulk of our evidence this morning.

We have four witnesses to that effect. They are from the Medmont area, to which I believe no other witnesses have testified heretofore in this case. It is in that yellow lined area down to Barnhardt Creek.

Judge Hoback: How many witnesses do you propose to put on, Mr. Rusher?

Mr. Rusher: We have three. We had four, but we [1961] lost one a while ago. He had to go back to work. There are only three. It will be relatively brief, if the Court would indulge us.

Judge Hoback: We just wondered if you could read into the record a stipulation by agreement that these people oppose being annexed by anyone, if that is the understanding.

Mr. Rusher: That is the understanding but if the Court would indulge us for just a few minutes I think we will be relatively quick.

Judge Hoback: They are not in the Windsor Hills area?

Mr. Rusher: They are entirely in the Windsor Hills area. These people outside are not here this morning.

Judge Hoback: I misunderstood you. I thought the ones you wanted to put on were outside.

Mr. Rusher: No, these live in the subdivision there.

[1962] **J. Kyle Montague**

* * *

Direct Examination

By Mr. Rusher:

Q Would you state your name and address, please? A J. Kyle Montague at 1433 Barnhardt Drive, Southwest, Medmont Lake Subdivision, Roanoke County.

Q What is your occupation, Mr. Montague? A Real estate sales and development.

Q Do you sell through some firm? A I'm connected with Floral Realty Company in Roanoke, Virginia.

Q And that address is? A 115 West Church Avenue Southwest.

Q Mr. Montague, did you have occasion to develop this Medmont Lake area? A Yes, sir.

Q And you were the developer of it? A Yes, sir.

Q Are all the lots sold or how is it in comparison? A All of the lots are sold at the present except three and there is part of one estate left.

Q Do you live in this area? [1963] A Yes, sir.

Q What is your address? A 1433 Barnhardt Drive, right down in the lower right-hand corner.

Q How long have you been living there, Mr. Montague? A I have just moved into this house. I have been living on Coral Ridge Road the last three and a half years.

Q Where did you live prior to moving on Coral Ridge Road? A On Lake Drive off Deyerle Road.

Q Is that in the Windsor Hills annexation area? A I suppose it is. It is right off Deyerle Road, just off Route 11.
sir.

Q Did you live close to Mr. Renick who testified here yesterday? A Yes, sir.

Q In which direction from him? A I lived on the same street just a little bit to the left of him.

Q Mr. Montague, what services are furnished by the County for this subdivision? A We have service by the County Water System and of course we do not have sewerage. We have septic tanks and we [1964] have garbage pickup and of course police protection.

Q Do you have individual septic tanks for sewerage? A Yes, sir.

Q To your knowledge are they functioning properly? A Yes, sir.

Q Are they adequate? A Yes, sir.

Q Do you say that you have the County police and fire. Do you see any patrol vehicles in the Sheriff's Department in your area? A Yes.

Q Have you had occasion or known of an occasion for the fire department being called to the Medmont Lake area? A I haven't, no, sir.

Q Which department would you call for fire service if it was necessary? A Cave Spring or Salem, either one. There are two places to call.

Q Do you have street lights in the Medmont Lake area? A Yes, sir.

Q Are they adequate? A Yes, sir.

Q I believe you testified that you had garbage [1965] removal by the County? A Yes, sir.

Q Where do the children go to school in that area? A They go to the County school. I believe they go to—the high school goes to Oak Grove and then intermediate goes to Salem.

Q And those schools are owned and operated by the County government, is that correct? A Yes.

Q Are you in favor of annexation to the City of Roanoke? A No, sir.

Q Would you state your reasons why you are not in favor? A I don't see any advantages at all of being in the City and I don't like the idea of having to pay City taxes to go into it. My interests are much closer to the County than they are to the City.

[1966] Q Can the City of Roanoke furnish you any additional services that you are not already getting? A I think you can get a library card free. That's about the only thing I know of.

Q Does the County have a library system? A Yes.

Q What's the closest location of the County library from you? A Salem.

Q Are they building one or is one proposed? A One on 419, yes.

Q In the Cave Spring area? A Yes.

[1968] * * *

Roy A. Eck

* * *

Direct Examination

By Mr. Rusher:

Q Will you please state your name and address, please, sir, to the Court. A Roy A. Eck, 1516 Coral Ridge Road in the Medmont Lake section.

Q You are in the Medmont Lake Subdivision, is that correct? A Yes.

Q What is your occupation? A I am a psychologist at the VA Hospital.

Q Where is that located? A That's in Salem.

Q How long have you been living at your present address, Mr. Eck? A Approximately five years. It will be five years in this July.

Q Where did you live prior to that? A Prior to that we lived both at times in Salem and at times in the County.

[1969] Q What services do the County furnish you in your home where you live? A They furnish us with water.

Q Is that through the County Public Service Department? A This is through the Public Service Authority. And fire and police protection, street lighting.

Q Is the street lighting adequate? A Yes, quite adequate. We have a street light right near our house.

Q Do you have septic tank services there? A Yes, we do.

Q Is that adequate? A It's been quite adequate. We have had absolutely no trouble.

Q I believe the County furnishes you garbage removal, is that correct? A Yes, it does.

Q Is that sufficient for your needs? A That's been quite adequate, yes.

Q Do you know of any occasion that police have been necessary to be called there? A I haven't had any occasion to call. I have heard some people say they have called them and they came quite [1970] promptly.

Q Have you seen police patrol cars from the Sheriff's Department in your area? A Yes, I have.

Q Was that adequate? A It is quite adequate as far as I—as the occasions we have seen.

Q Have you children in school? A Yes, we do.

Q Where do they go to school? A They go to Andrew Lewis.

Q Is that a County school? A That is a County school.

Q Situated in the City of Salem? A City of Salem, yes.

Q How do they go to school, transported? A A bus comes very close to our house and picks them up and delivers them home.

Q Is that a school bus owned and operated by the School Board of the County of Roanoke? A Yes, it is.

Q Do you know where your children will go to school if they are annexed to the City of Roanoke? A No, sir, I have no idea at this time.

[1971] Q Do you know whether or not Roanoke City furnishes transportation to high school students by school bus free of charge? A It is my understanding that they do not have a City-owned bus system which is free of charge.

Q Are you in favor of annexation to the City of Roanoke, Dr. Eck? A No, I am not.

Q What are your reasons against being annexed? A Well, I work in Salem, I go to church there, and our children go to school there, so we are identified much more with Salem than we are with Roanoke City and I don't—the services we are getting are adequate and I don't—I just don't see that we need anything additional from Roanoke City, and, of course, as it looks now, the main thing that would happen would be that our taxes would go up.

Q Where do you do your shopping, Dr. Eck, your family generally shops where? A It is Oak Grove area, the plaza there, and we

call it Arlan's Plaza, the Lee Hy Plaza I think it is perhaps called, in Salem. We do the majority of it there and at the Roanoke-Salem Plaza.

* * *

[1973] **Ida E. Mabes**

* * *

Direct Examination

By Mr. Rusher:

Q Will you please state your name and address to the Court, please? A Mrs. Ida E. Mabes, 5105 Medmont Circle.

Mr. Davenport: How do you spell your name?

The Witness: M-a-b-e-s.

By Mr. Rusher:

Q Is that within the Medmont Lake Subdivision? A Yes, as you come down the hill off the road.

Q How long have you been living there, Mrs. Mabes? A Nine years the first of July.

Q Are you married with family? A Yes, sir.

Q And your husband and how many children live there? A My husband and three children.

Q Where do your children go to school? A Oak Grove, and one of them goes to Andrew Lewis next year. He has been going to Salem Intermediate. And then I have one that's out of school working.

[1974] Q How do they arrive at school? A By school bus. It comes down through the Circle.

Q Is that the public Roanoke County school bus? A Yes, sir.

Q Do you receive water from the Roanoke County Public Service Authority? A Yes, it is right next to me.

Q And your house is sewered by what? A Septic tank.

Q Septic tank. Have you had any trouble with your septic tank? A No, sir, no, sir.

Q Have you had occasion to know that the police or fire departments of Roanoke County have been called in that area? A Yes, I

have had to call the fire department and the police and they have arrived in virtually no time. Cave Spring and Salem both came and in less than ten minutes, and the police has come in a very short time.

Q They were the police and fire departments of Roanoke County? A Yes, sir.

Q Do you have street lights there close to you? [1975] A Yes, sir. When I moved in the area there wasn't a whole lot of people there and I called and they installed the street lights in less than a week's time.

Q Was that the County? A Yes, sir.

Q That had the lights installed? A Yes, sir.

Q Do you use County garbage removal? A Yes, sir.

Q Is that satisfactory? A Yes, sir.

Q Are you in favor or opposed to annexation of your area by the City? A I am definitely opposed.

Q Why are you opposed? A Because I don't know what they could give me and how they would give it if they had it to give. They couldn't get to me. I am not—I would be surrounded by the County or Salem and they couldn't get through to me if I needed anything.

Q You are talking about being surrounded by these yellow lines here (indicating)? A Yes, sir.

Q In other words, just to the north of you between [1976] Kagy Road and the City of Salem would be a no man's land, is that correct? A In other words, the part they want to take just starts right at my line and the line towards the front is out of it.

Mr. Rusher: Your witness.

Mr. Musgrove: I have no questions.

Mr. Davenport: I have no questions.

Judge Hoback: Is everybody finished with Mrs. Mabes?
You are excused.

Mr. Rusher: Your Honor, that concludes our synopsis of Medmont.

Mr. Smith: If your Honor please, the County has two citizen witnesses who were unable to be here yesterday. They will be very brief.

* * *

[1977] **Louise Bailey**

* * *

Direct Examination

By Mr. Smith:

Q Tell the Court your name, please. A Mrs. Louise Bailey, 5502 Airport Road, Northwest, in Roanoke County.

Q That is located just above the Crossroads Mall along the Airport Road right here; is that your home (indicating)? A Right.

Q How long have you lived there, Mrs. Bailey? A You mean before I was married or after?

Q Well— A Altogether?

Q Well— A Altogether?

Q The most recent time? A About four years.

Q As a matter of fact, that was your family home, wasn't it? Your mother and your sister both lived there? A Yes, sir.

Q And your sister is Mrs. Hodges who testified here yesterday? A Yes, sir.

[1978] Q Were you one of the original signers of the petition passed in that area to be annexed to the City of Roanoke? A Yes, sir.

Q What was your name at that time? A Louise Altheiser.

Q Who asked you to sign that petition? A I hate to say it but it was the former Mayor Dillard.

Q Mayor Dillard? A Right.

Q Was he Mayor of the City at that time? A Yes, sir.

Q He didn't live in that area; he lived in the City if he was Mayor. A Right.

Q What was the occasion, where were you when this happened?

A Well, he was attending to some legal affairs of mine, so he came by my mother and father's house and asked me to sign the paper.

Q Very well. Did he also ask your mother in your presence to sign it? A Yes, sir.

[1979] Q And she refused, is that not true? A Yes, sir.

Q Now it is your desire to remain in Roanoke County, is it not? A Yes, sir.

Q You are satisfied with the services that the County provides? A Yes, sir.

Q And after thinking about the petition you did seek to have your name removed from it until later on; is that not true? A Yes, I did.

Q And you have since signed several petitions stating your desire to remain in the County? A Yes, sir.

* * *

[1983] **Murray Coulter**

* * *

Direct Examination

By Mr. Smith:

Q What is your name, sir? A Murray Coulter.

Q What is your address, Mr. Coulter? A 6132 Airport Road.

Q Is that the area just above the Crossroads Mall Shopping Center? A It starts at the road marked "Entrance to Airport" on your map. It runs down along 118.

Q Would you mark it on this map, please, where your property is located? A (Marking.)

Q How much acreage do you have there, Mr. Coulter? A There is left approximately 50 acres.

Q What is the nature of your employment? A I made one error there. I did sell a small piece in the southwest corner, right in there, it is about eight acres.

Q In there (indicating)? A No, over, right there.

[1984] Q How much acres do you have there? A Left about 50 to 52 acres.

Q Very well. Now, what is its use? A A home site primarily.

Q What is your employment? A National Business College.

Q You have signed a petition indicating that you desire to remain a part of Roanoke County, is that not true? A I think that is true.

Q And I gather that you are satisfied with the services that the County provides to you? A Yes, they are adequate for my needs.

Q Very well. And what are your reasons for desiring to remain in the County specifically? A Well, I think 50 acres is a little large for a City lot. We moved out there so we would have more freedom to do more nearly what we wanted. We would be somewhat limited under the City.

Taxes are I suppose debatable. I would assume they might be higher under the City.

The services, the cooperation of the County employees, County officials has been all you could ask for.

Q Did you tell me that you go hunting on that property from time to time? [1985] A Yes, hunting, riding, shooting.

Q For doves and various other— A Right good dove hunting in the back yard.

Q Could you do that if you were a part of the City of Roanoke? A I am afraid not.

Q Have the various officials of the City of Roanoke previously asked you to sign a petition to become a part of the City? A At least one.

Q Very well.

* * *

[1989] **Eugene S. Honaker**

* * *

Direct Examination

By Mr. Smith:

Q Would you tell the Court your name, sir? A E. S. Honaker, Fire Chief of the Hollins area, Disaster Chief for the County.

Q And where do you live, Chief Honaker? A I live over at the fire department at Hollins.

Q You are a full-time Fire Chief for the County of Roanoke? A That is right, sir.

Q How long have you been involved with the fire services of the County of Roanoke? A Around 26 years. Twenty-one years at Hollins.

Q Twenty-one years at Hollins? A Yes, sir.

Q That is a relatively new station there, is it not? A That is right, sir.

Q Where were you located prior to moving to your present facility? A Williamson Road.

[1990] Q Directing your attention to County Exhibit No. 17, does that show the organization of the fire services of the County of Roanoke? A Yes it does.

Q At the top are listed fire chiefs. Are all of the chiefs of the fire companies of the County full-time paid employees? A Yes. They are paid, yes, by the County.

Q And you show there various clerks. Are they also— A That is dispatchers who answer the phone.

Q They are also full-time and paid? A That is right.

Q The relief fire chief is a paid man or a volunteer? A In some cases volunteer and most of them are volunteer.

Q Would you briefly state the remaining things on the chart? Suppression—what does that deal with. A Suppression means fire hydrants and things of that type, drills and sections where they train men.

Q What program for training does the County have? A State school instructions set up once a year for all volunteers.

[1991] Q And are all volunteers required to attend that once a year? A Yes, they are.

Q How long does it last? A It lasts a week.

Q And do the members of the Department from the City of Roanoke also attend that school? A Well, sometimes there may be one or two attend. They attend that mostly on their own.

Q Does the County have additional training programs besides that school? A Yes, sir. Every 30 days every department has to go through a training program, pumping, laying hose, picking out water sources in their section, knowing where all hydrants are and things of that type.

Q What kind of a training facility does the County have? A Well, we have a State instructor—

Q No, facility. Does the County have one central place for training? A We usually are set up in Salem on Electric Road here and work out of the City of Salem. It was a town and it became a city and we never did change it.

Q Do you know where the City of Roanoke maintains [1992] its training facilities? A No, sir, I do not, sir.

Q The next box deals with communications. What communications equipment does the County have? A All the County departments are on Flectron. That is a radio alerting system. Each station has that.

Q Would you briefly state how that works, Chief? A That works in groups by buttons. Each station has a radio. If an alarm comes into the courthouse here now, Salem receives it and they put it out. All stations hear that alarm. The engines start to this courthouse from all directions.

Q How do the volunteers become alerted? A They have a system in their home. They hear the same alert. A lot of times we put out alert systems, say, in the Crossroads Mall area. There would be firemen who would beat the truck there. Sometimes they extinguish the fire before the engine arrives.

This alert system works 24 hours. We have daylight men—some men work at night and they are on this alert system and we have men come in at night and stand by.

Q All the vehicles are radio-equipped, are they not? A Two-way radios.

Q Do they operate on a system or by communication [1993] can be had from the vehicle to the station and from the station to the vehicle? A That is right, to all stations, from Bent Mountain to Catawba Valley.

Q You said that you were the chief at the Hollins Station. Do you have any special communications equipment with the Woodrum Airport? A Yes, sir, we do. We have what we call a hot line to the tower. We just used it yesterday afternoon.

Q Would you tell the Court about that incident yesterday afternoon? A Yes, sir. We had a small aircraft in trouble, landing gears, between Richmond and Bedford. The tower said he needed two trucks and one ambulance.

I put the alert out. All stations acknowledged the call that I put out of an aircraft in trouble. We sent two trucks in about six minutes to Woodrum Airport, which we entered from Airport Road, on the runway. We stood by for some time to see if his landing gear—How far out he would be.

Meantime, the airport sent up a twin-engine to go to meet this plane to see if his landing gear was in trouble. There was only one man in the plane. He carries mail and stuff from Richmond to Roanoke.

[1994] We put the plane up. He flew beside it and then let him try his landing gear down and up. We seen no need of calling any further equipment. It creates a lot of problems to the airport, a lot of traffic jam-ups.

We go in very quietly on the runway and sit there until we get further notice from the tower. The tower told us he was going to approach the airport, that everything looked pretty satisfactory in the air from the other aircraft.

So he did. He landed and we had no problem and that was the alarm yesterday afternoon.

Q Was the fire department of any other jurisdiction present there with the County? A No, sir, not yesterday afternoon.

Q To your knowledge was any other one called? A Not as I know of. We have no control over the tower. The City Airport Manager doesn't, either. The man in the tower goes by what the aircraft asks for.

An all-out alert like a Piedmont load with 60 or 70 people, we pull everything. The City is alerted.

Q Your Hollins Station has primary responsibility for the airport, is that not true? A Yes, sir, as it is now in the County.

Q Do you have any— A That is what the underwriters tell us, anyway.

[1995] Q Do you have any special of your company that— A Yes, sir, we have a disaster plan set up. All adjoining, surrounding towns of Vinton, the City of Salem and all other County units, with the City of Roanoke. We organized this in 1960, I believe, or 1961.

When a plane is in trouble over the airport or coming in from Charleston, West Virginia, we try to line up all equipment, what runway he is going to approach, what he is going to use, and what his problem is. The City lines up their equipment and we line up ours.

We carry foam, a thousand gallons in the trucks. We average 750 gallons, is about the least we carry on those engines. We also line up and get in rotation, stay off the runway, watch the green light in the tower. We are trained by the airport, all volunteers. For the last two years we have lost contract drilling with the City on this. They go one way and we go the other.

Q What is the reason for that? A We do not know, sir. We are glad to meet with them and train with them but they come in one location. The aircraft lands and they go. We do not allow our other companies to move at that time. It is dangerous.

We have had some problems there. We have no problem working with the men but the program has never been [1996] carried out like it was organized.

Q You mentioned a Chief's Board. Would you explain— A We have a Fire Chief's Board in Roanoke County that meets once a month. That includes the City of Salem Fire Chief. We go over all these problems, hydrants, location of water, what we do in a big structural fire and so on. We meet once a month.

Q Does the City of Roanoke participate in those meetings? A No, sir, they do not.

Q To your knowledge have they been invited to from time to time? A I believe they have back in maybe the past Chief's time.

Q Returning to the chart, would you state how the maintenance works in the fire companies of the County? A Well, you mean personnel?

Q Yes, sir. A We have three paid men at the Hollins Station. We have alarms running from Double Envelope, I.T.&T., Hollins College, J. C. Penney's, Penney's warehouse, Crouch's Pharmacy and all those alarms runs into the Hollins Station. We have a man on 24 hours in the dispatch room.

[1997] Q What is the total complement of the personnel at the Hollins Station? A Well, as far as I am concerned we are doing fine with the volunteers we have.

Q Yes, sir. What is the number of personnel? How many volunteers are there? A We have 29.

Q Is each of the County's companies organized the same way? A They carry about the same amount of volunteers.

Q I would like to direct your attention to County Exhibit 53. Does this show the fire stations of Roanoke County including Salem? A Yes, sir, it does. We have a truck in Salem, since it is in the City, still maintained and operated by the County. They furnish this truck because the boundary around the City of Salem like High Street and Wildwood Road is a little closer to them. We left a couple of trucks in the City of Salem.

Q Does this Exhibit also show the areas of operation where each unit has primary responsibility? A Yes, sir, it does.

Q And do the County units have a back-up plan wherein if required other units would come to help— [1998] A Yes, sir. Cave Spring has an alarm now. We will say the Cave Spring High School. Clearbrook would send one truck to Cave Spring and Salem would send one truck. We keep backing up as the chief requests assistance.

Q Does this exhibit also indicate the equipment at each of these stations? A Yes, it does.

Q Who owns that equipment, Chief? A The County, Roanoke.

Q The County does. A Yes.

Q And not the volunteer company? A No, sir.

Q At these fire stations is there also emergency equipment located there? A Yes, sir, we have ambulances. Two ambulances in practically all stations.

Q As a matter of fact, you also have charge of the rescue equipment at Hollins? A That is right, sir. Also disaster chief of crews. Also the City of Roanoke is under that.

Q I would like to direct your attention to County Exhibit 54. Does it accurately show the rescue areas of the County and the rescue squads? [1999] A Yes, sir, that is right, sir.

Q Are these service areas relatively close to being the same as those of the volunteer fire companies? A Yes.

Q As a matter of fact, Chief, did you recently have occasion to render emergency service to Mrs. Roy Kinsey in the airport area? A Yes, sir, day before yesterday.

Q What was that? A She is bed-ridden and goes back and forth to the hospital for treatment.

Q What is your approximate response time to the Woodrom Airport from Hollins? A From the time the—understand the tower operator can blow our whistle at the building. When he picks up the receiver he sets our alarm off. From the time he sets our alarm off I press the one button on the alert system and we are there, most times, I would say, in six to seven minutes. That is going into the end of the runway.

Q Hollins is closer than any existing City Fire Station to the airport, is it not? A That is right. The City has a problem with traffic, there is no doubt about it. There is no use to sit here and say they don't. You have Williamson Road and you [2000] cannot make very good time. You have to watch your engines, safety, and lights. That is one of the things that the City has problems with getting to the airport.

Q As a matter of fact, the City had a station somewhat closer to the airport than their closest one now, is that not true? A Well, that was the old County station which now is some type of a library, yes, sir.

Q And that was annexed and then the City moved it— A Yes, sir, I think they moved down Noble Avenue and called it No. 10 Station.

Q To your knowledge did the County have any deaths of any persons as a result of fires in 1970? A No, sir, not last year.

Q The Roanoke World News reported on June 21 that the Chief of the City's Fire Services indicated that seven persons died from fires in 1970 in the City. Did you have any information on that? A I just read that in the paper.

Q The same article indicated that 49 firefighters of the City were injured in the line of duty that year. To your knowledge did the County have any firefighters— A We had two. It wasn't by fire. It was stumbling [2001] over hoses and a gas heater blew one back. The fire didn't touch either one.

Q And Chief Houston went on to say in this report that his department needed to replace apparatus—He said replacement of apparatus should be increased because of the age of some of the City's equipment. Are you familiar with the City's equipment? A No, sir, not too much. We place new equipment each year. In one department we place a truck every year in one of the departments.

Q And you will have the County's equipment— A Is updated.

Q Is up to date? A Yes, sir. Our firefighting is quite different from the City firefighting. We do tanking work and they do hydrant work.

Q Would you explain the difference, please? A Sir?

Q Would you explain the difference. A In the rural areas of the County we carry the first truck out—a thousand gallons of water. The next carries a thousand gallons of water. The average five to six room home, you can extinguish that fire with those two engines. [2002] At the same time you are backed up with other companies sitting there. In seven out of ten cases you will send two engines back full of water.

Q How does this differ from the way the City operates? A Well, they have mostly hydrants. They don't have to depend on tankers.

Q They don't carry water? A I don't know when they carry it. If they do, they don't carry too much on pumpers. They are not required by the Southern Underwriters.

Q As a matter of fact, for fighting brushfires and in relatively open areas the tankers are much more desirable than pumpers of the City— A We find that in the average homes. We fought the Lake-

view Reston sometime ago. There was a fire sometime about 3:00 a.m. in the morning. No one discovered the fire until about 4:00.

We arrived there with the engines. We had it pretty well under control. We didn't bother any part of the motel connected with it.

The City of Roanoke sent us a ladder job and the City of Salem sent us a ladder job, which we appreciated, to help throw water up over the fire. We had the fire pretty [2003] well under control at 5:00 a.m.

Q There has been testimony here of a fire in the Weddle petition area on Lee Highway of a nightclub. Are you familiar with that? A Yes, sir.

Q Were you present at that fire? A Yes, sir. I backed up the Salem Station while Chief McNeil, who is deceased now, had his company, Cave Spring and a number of other companies, even Mt. Pleasant and Clearbrook sent a truck. That was an arson fire, in full bloom, as we call it. That is fire all over, when they arrived.

We laid lines across the road to a lake there. I don't know who it belongs to. We had all the water we could use but you can not do so much when a building is in full bloom. You just keep it down, from destroying other property.

The City of Roanoke furnished some equipment but we didn't need any of it too long. We turned some back and left the engine there all night.

Q To your knowledge, based on your experience with the County and your observations of other fire units, is the County well able to provide fire services to the airport and the Weddle areas? A Yes, sir. I would have to say the Board of [2004] Supervisors has been very nice to work with in order to upgrade these departments. They had built a new Cave Spring Fire Department. They remodeled the Hollins Fire Department and built a new station at Mason Cove, No. 10. We are still upgrading. We just put a new truck at Fort Lewis last week.

Q The manager of the airport, Mr. Harris, was a witness here several days ago or several weeks ago. Did you have occasion recently to put out a fire on his property? A Yes, sir, we did.

Q Tell the Court about that. A That was one morning about 10:00 a.m. A glass-trash fire got a fire in his pine. We responded two trucks to the 14, as we call the fire.

[2024] * * *

Lowell Gobble

* * *

Direct Examination

By Mr. Smith:

Q Would you tell the Court your name, sir? A I am Lowell Gobble, County Extension Agent for Roanoke.

Q You are the County Agriculture Extension Agent? A That is correct.

Q What is the primary service that your office provides to the people of the County? A The area that we are concerned with, primarily on 22, encompasses three basic areas and two additional areas that have just been added over the past few years.

The three basic areas are agriculture, 4-H, and youth activities and home economics. The two additional areas have to do with general extension, or this is the area of Agribusiness and other businesses in the industry and also resource development.

We have programs designed in each of these areas [2025] and our primary function, of course, is education to all people.

Q That does purport to be the organizational chart to the Extension Service, is that not true? A That is correct.

Q How many members of your staff, Mr. Gobble? A Actually in the staff we have five full-time professional extension agents, of these two being men and three women. We have three half-time professional home economists. We have seven subprofessional nutrition technicians and this summer have added five summer nutrition technicians and one full-time and one part-time secretary.

Q Directing your attention to the airport area, have you had occasion to provide specific services to people in that area? A Yes. Actually, perhaps we have provided services to all areas at some point. Thinking back over the past year or so I can say two or three instances. One is that we worked very closely with Mr. Harris concerning the vegetation on the airport property. We have written up specifications for seeding. We have helped him secure persons that could get the job done. We have helped him with the thistle problem that we are

confronted with along in the general area along 581, ranging from 581 to the airport area.

[2026] Thistle control is a major program.

We have worked with the Blue Ridge Cemetery in the turf maintenance program. We have worked with the church. I believe they both have some extra land that they also either farm or rent out farmwise.

We have worked with the Coulter farm property and of course in addition the various other businesses and individuals in that general area.

Q You mentioned the Coulter property. Are there agricultural activities going on at the present time on that land? A Yes. I believe Mr. Coulter has this leased or rented at the present time to Mr. Huffman in Hollins, or at least a portion of it.

Q Are there other agricultural endeavors in the airport area, to your knowledge? A There are some smaller ones, not major agriculture. The T. J. Andrews farm that was a dairy farm until recently now is converted to a beef operation. We have worked very closely with the T. J. Andrews farm and farm personnel and other smaller individuals in that general area.

Q Have you had occasion to provide information and assistance to the Arrow Wood Country Club in that area? A Yes. Actually, turf establishment and [2027] maintenance is one of our areas that VPI is involved in. We have our VPI turf specialist. On multiple occasions I have worked with the superintendents, the two superintendents they had had at Arrow Wood in various turf establishment, maintenance and trouble-shooting procedures, and we have also, of course, brought in on more than one occasion a turf specialist from VPI in areas that we weren't competent to handle on a local basis.

[2028] Q Do you also provide a service in school sites throughout the County, in and out of the two petition areas? A Yes. Of course, the school and the County Recreation Department are working hand in hand in turf and maintenance, and we do have a considerable number of acres involved in turf that the County owned, and we have worked very closely with them in specifications, educational material, and actually working with and training the personnel on how to get the job done so that there will be the greatest use of the turf areas for athletics involved.

Q I think recently, Mr. Gobble, you told me that perhaps only 20 percent of the efforts of your office are now directed toward what we would consider large scale farms. What is it that takes the majority of your time? A Yes. As I mentioned, there are five full professional extension agents. Of these are two men. So this brings it down to our 40 percent of the staff, not counting our nutrition education program that is involved in agriculture, and the majority of our time is involved with ornamentals, turf, and related areas, including the general extension and resource development.

Q Directing your attention to the petition area of Windsor Hills or the Weddle case, you are familiar with that area? [2029] A That's right, sir.

Q Are there some agricultural endeavors going on in that area? A Well, there are two or three smaller farms. On numerous occasions I have worked with those, some that have cattle, some that have horses, and there are three or four lakes in that general area, and quite frequently we do provide the assistance necessary to maintain the lakes for conservation purposes.

As far as commercial agriculture on a commercial scale, it is of course limited, being mostly residential. So that perhaps we spend more of our efforts in that area, residential, speaking to the residents than we do actually to the farm persons.

Q What services do you provide to the individual residents in those areas as well as others? A This takes in the turf and ornamental horticulture aspects which we have been involved in quite deeply.

In the home economics aspect we do have home demonstration members; in fact, there are 40 home demonstration clubs. Of these six, I believe—

Q Is there one located in that Oak Grove area? A There is one right in the Windsor Lake area and it meets in different locations around the Windsor Lake area. [2030] So part of the time I would say it meets in the area that's in question and part of the time perhaps out, but there are a total of 40 clubs operating of which six are in the City, and the members, of course, do participate in educational activities, and these are volunteers that try to help others. It makes 800 individuals are members of the club.

Q They are both in the County and in the City, is that correct? A Yes.

Q So this is really a service that you provide to people in the City as well as the County? A That's correct, sir.

* * *

[2032] **Arnold Burton**

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Direct Examination

By Mr. Fitzgerald:

Q Will you state your name, please, sir? A Arnold R. Burton.

Q Where do you live? A 1325 Boulevard, Salem.

Q What position do you occupy with the County of Roanoke? A I am the Superintendent of Roanoke County Schools.

Q How long have you had that position? A Six years July the 1st.

Q What was your experience prior to that time? A Well, I have had 29 years of experience as teacher, coach, principal, high school, elementary, assistant superintendent, and superintendent of schools.

Q I believe your background of experience is centered on Roanoke County Exhibit No. 7; is that correct? A Yes, sir.

Q I refer you then to— A One correction, sir, I believe.

Q All right. [2033] A In the experience, Item No. 1 there which says five years I believe should be so.

Q All right, sir. A Makes a total of 29 years.

Q Mr. Burton, I refer you to County Exhibit No. 14. Will you state whether or not this shows the organization of the Roanoke County School Administration? A Yes, sir.

Q State, Mr. Burton, whether or not the programs offered by the Roanoke County School System are the programs approved by the State of Virginia? A Yes, sir.

Q I have heard nothing in this case but praise for your system, Mr. Burton, so I will not go into that in any detail. A I thank you, sir.

Q But I will refer you to the map exhibits beginning with Exhibit No. 56. A copy of it is on the easel, the large one.

Does this correctly show the location of the elementary schools and the attendance areas of the County of Roanoke? [2034] A I believe it does, sir, yes.

Q You show that there is a small S between the Green Valley title and the Tinker Court title. Would you state what that school is? A The S means that it is a special education school, sir. We have three of those.

Q What types of programs are provided at those schools? A They are for the mentally handicapped children, for the trainable and the educable children. The Central Avenue School, located in Salem, is a laboratory school serving the other two schools. When I say a laboratory school, that means that it is a work training study program where the children work part of the time and go to school part of the time.

Q Is this a program particularly suited to the County of Roanoke? A Yes, sir.

Q Would you refer, then, to County Exhibit No. 57 and state whether or not this correctly shows the location and attendance areas of the intermediate schools of the County? A We have four. I see one there that says Glenvar. We have no intermediate school in the Glenvar area.

[2035] Q That should not be on there then, is that correct? A That is correct.

Q Is there a high school at Glenvar? A Yes, sir.

Q An elementary school also, is that correct? A Yes, sir.

Q On Exhibit 58, does that correctly show the high schools? A Yes, sir.

Q I refer you to Exhibit 59 which is entitled "School Improvement Program, $15,800,000." Would you explain this briefly to the Court? A In 1969 we made a very extensive study of our enrollment,

of our present facilities at that time, and our student population projections over a period of time, particularly a five-year period of time.

From our own evaluation of the tremendous building that we could see going on in the County, with subdivision after subdivision springing up, and noting also the length of time that it takes to develop a structure of some size, it was our opinion that we should have a sizeable construction program to upgrade our facilities if we were to house the number of children that we could expect in the next [2036] few years.

Consequently we launched a bond referendum program of some magnitude, of $15.8 billion dollars, which was larger than all the other County bond referendums put together. I might say in comment about this that we were apprehensive about its passage because we were in the Valley studying consolidation efforts and annexation procedures and what have you. It seemed to be the most inopportune time to launch such a sizeable program.

To make a long story short, through many efforts and the cooperation of our people this program passed overwhelmingly and we are now in the midst of building these buildings.

Q Mr. Burton, did you cause photographs to be taken of certain of the County's school facilities and equipment? A Yes, sir.

Q Are these those photographs? A Yes, sir.

Mr. Fitzgerald: May it please the Court, I would like this to be introduced as County Exhibit 59-A. It is a book of numerous photographs of County equipment and school facilities.

(County Exhibit No. 59-A was received in evidence.)

[2037] By Mr. Fitzgerald:

Q Mr. Burton, which elementary school or schools serve the area petitioned to be annexed here in the Kinsey petition, the airport area? A In the airport area, sir?

Q Yes, sir. A The students from that area would go to Northside High School, to the Northside Intermediate School if they were in the sixth, seventh or eighth grades. To Burlington, Southview and Central Special Educational School and the Roanoke County Education Center Vocational School which serves the entire County.

Q Did you mention the elementary school? A Yes, sir, Burlington and Southview.

Q Students from that area do now go to those schools, is that correct? A Yes, sir.

Q I believe none of those schools are actually within the petitioned area, though, are they? A No, sir.

Q Most of them are very near the area? A That is right.

Q What schools provide facilities for the area known as the Weddle petition? [2038] A Two high schools serve this area, sir. The majority of them from that area go to Andrew Lewis High School. The remainder go to Cave Spring High School. And of course the Roanoke County Educational Center, which is the vocational school, if they wish to go to that from this area.

For the seventh grade and down, that is, the sixth, seventh and eighth, which are intermediate schools or sometimes called middle schools, the majority of them from this area go to Salem Intermediate School which is located in the City of Salem. There are a few, however, that go Cave Spring Intermediate School and this is an overlapping area over the attendance zones here which goes into two particular attendance areas, school attendance areas.

And for the elementary school the majority of the children in that area go to Oak Grove, but some children go to Special Educational School. Some go to West Salem. One, perhaps, has moved out of the area. But the majority of them go to Oak Grove. In fact, out of the total number, 174 of them do.

Q Are there any school facilities within the territory sought for annexation in the Weddle petition? A There is one large intermediate school under construction.

Q Is that the large building that was seen under [2039] construction on the tour of the Weddle area?

Did you go on that trip? A Yes, I did. However, I don't think the structure was pointed out.

Q What size site is owned at that location by the School Board? A That is 62 acres plus some few hundredths.

Q When will that school be completed? A We hope by September of '72.

Q Will that school be utilized then to serve the students of the Weddle area? A Yes, sir.

Q Will it also serve other areas of the County? A Yes, sir.

Q What areas? A That school was built to serve the Glenvar area which I told you a moment ago had no intermediate school. Also the Salem area and what we now know as the Corridor area and the Oak Grove area and to give some relief to the Cave Spring area, that is, the intermediate school there.

Q This is a very large intermediate school, is it not, sir? A The largest we have, 1,500 pupils.

Q I don't believe I asked you this. When do you [2040] expect it to be completed? A September of '72.

Q Next year? A Yes, sir.

Q So it is correct, is it, Mr. Burton, that regardless of whether this area is annexed to the City of Roanoke, this school will still be utilized and needed by the County School System? A I couldn't see, sir, how we could do without it.

Q Can you tell us whether or not there has been any additional programs or facilities that were not existing in the County School System in 1961 that have been added since that time? A I have a long list of them here, sir, that I can give you a total amount in dollars of how many facilities have been added since 1961. That would be a total of $14,000,000 plus a few dollars.

Q Are there any particular programs that have been added? A Oh, yes, we have added many programs since that time.

Q Can you just give us some of the most important ones? A Since I have been Superintendent since 1965 we [2041] have added three very vital programs, I think, to our elementary school. First we have a rather sophisticated, I think, reading program in the elementary school that we think has been most meaningful to our program and to upgrading children's ability to read. We have reading teachers in practically all of our schools. We have reading centers and facilities in practically all of our elementary schools.

We are putting great emphasis on reading since we feel that this is one of the most important things that a school can do. We find that children that can't read—I don't mean to philosophize here—but we find that if children can't read they don't do very well in any of their studies so we concentrate greatly on that.

Then I found that our school system did not have an elementary physical education program that was vitally needed, because I found that our classroom teachers, who were poorly prepared and had no knowledge of physical education programs and procedures, were trying to direct something that they knew nothing about.

[2042] So I try to get competent people in proper places to develop an elementary physical education program which we now have done and have a rather elaborate program of physical education in all of our elementary schools.

I also found that our own County school system did not have a public school music program in its elementary schools, and since 1965 we have now a very outstanding, I think, elementary music program in all of our elementary schools. Of course, we have had music in high schools for a number of years.

We are now engaged in developing an art program for all of our schools. This has been and is still desired by our patrons in Roanoke County, and we are moving ahead in these programs as quickly as we can find the necessary means, financial means to do so.

We have certainly upgraded our vocational programs. We are trying to exert a great deal more effort now in the area of vocational programs. We have about 45 percent of our children that we find don't go to college or higher institutions of learning and we are turning out this vast number of students into the labor market without any particular training. We don't think we are meeting the needs of those children, so we are in the process now of developing vocational school programs, pre-vocational school, to adapt and to train our children for the world of work; and we are also trying to launch a program whereby [2043] we can get our patrons to accept the world of work and give dignity thereto. Our emphasis for a number of years has been all college-oriented and we are trying to change that concept somewhat and develop programs to meet all of our children.

Our special education programs we think is unique in the State of Virginia. We are now in the process of building a special education school, a laboratory school, to serve the entire school division, based upon a one-to-one ratio of curriculum development whereby each child who goes through this school, and all of them will go because the rest of the special education schools will be feeder schools for this one, here the children will learn to do some chore, some occupation, perform

some service that even though he is mentally handicapped, he can take his rightful place in society and sustain himself as a citizen.

I feel it is totally wrong and shortsighted and negligent in our effort if we don't give these children some chance in life rather than prepare them for some institution. So we are making every effort possible in special education to give the student who is most unfortunate in being born handicapped or some malady falling to him that doesn't give him a decent chance in society. Our effort is tremendous I think in this area.

Q Mr. Burton, there was some discussion or [2044] testimony earlier in this case concerning the educational television program to the effect that Roanoke County did not have educational TV. Can you tell the Court, if you would, what the situation is there? A Mr. Fitzgerald, we have no argument against ETV. We think it is a fine tool. We think it is an asset to an educational institution such as Roanoke County. Our only argument is that we are not satisfied with the facilities that are available to supply us with this particular program, and I don't say this critical of any of those who have developed it, they are all friends of mine, I think. But we have evaluated ETV for the last several years, evaluated facilities all over the State, and we have found that each and every division that we have visited has complained of single channeled television stations where you can only send one program at a time, and the present one that we have here I think engages 18 school divisions or thereabouts. The curriculum is developed by these 18 school divisions and I, for one, of course, and the Board concurs, that this is not the kind of program that we want to launch in the Roanoke County school program.

We have recently ran across a program that we are now evaluating very thoroughly and we have a committee set up on this and I am working with them or they with me, whichever, that is known as the cable TV approach. This I think is the [2045] proper approach and the approach to come.

It is possible with cable TV, as is being installed all over the country now, that most of these companies will provide an educational institution for a school division and governmental units free co-axial cables running to all schools free of charge whereby we can send six programs at a time, whereby we would develop our own programs,

develop our own curriculum, use our own staff and build a program in ETV that suits our own school system.

We find in a single station tremendous scheduling difficulties. You can imagine the difficulty if I were to say we will send out a program in physics for the 18 school division, of having all the 18 school divisions' physics classes meeting at the same time in all the school divisions would take a tremendous cooperative effort. Then, of course, there are all kind of problems. Schools are out different times, schools dismissed for snow in certain areas when we continue.

So we have found too many objections to the present facilities and the present method of producing TV in this area. We are, however, very much interested in TV and if the cable TV becomes a reality, this I think will be our approach very soon.

Q Mr. Burton, have you given thought to the adverse effects on the school system or the students of the area should [2046] either of these annexations be granted? A Yes, sir, I have. Of course, I hate to see any of our areas lose us or leave us or we lose them, not that they might find a welcome in other places. I think that we have developed in Roanoke County an esprit d'corps with the PTA and with the patrons of this County, I would have to say in my opinion second to none.

In both of these areas there are fine people with whom we have worked and have meant much to the development of their own County school system. Many of these find people I have seen or heard testify here are patrons of ours who have worked closely with us in developing what I think is the fine school system that we have. I hate to see them go.

We have heard much said about leadership and I concur. There is leadership in these areas that would be a loss to the County.

Q You feel that the County needs leadership, too? A Yes, sir.

Q Go ahead, sir. A And that's no criticism of anybody. I don't mean it that way. I mean we ought to keep all we have got if we can keep it and develop it.

Secondly, I think taking up the number of students that are in these two areas would interrupt perhaps the [2047] attendance areas to the point that we would have to change the attendance lines affecting many innocent people who are not involved in this particular area. People get attached to their schools.

Let's say there are 390 students in the Weddle annexation area, and Oak Grove has 174 of them, 30 to a classroom. You can see that's at least five plus classrooms. We don't have any empty classrooms in Roanoke County at the present time, and I am sure we couldn't afford to have five classrooms standing idle. Even though we have to move some pupils from that particular area this year, that's due to the fact that we can't get the sixth grade out of there until we get the Hidden Valley Intermediate School completed.

Therefore, in order to take advantage of all of our facilities, it would be necessary to change the attendance lines and move some people from other schools into the Oak Grove area, which is not very popular with some people when they get attached to schools and move them and that damages your public relations program, of which I am very conscious, and I attribute much of our success to efforts that we make in that behalf.

So I would say also in the Andrew Lewis school area there are 152 children from that area who attend Andrew Lewis High School and this would upset the enrollment, I am sure, [2048] in that school that would take some adjustment or would make some adjustment.

Then, of course, if we lose the school in this particular area, it would interrupt our entire building program, that we would have to start from scratch, I believe, you know all the areas north of Cave Spring and completely redo and restudy and reevaluate our entire building program.

There would be, in my opinion—there are, in my opinion, or there are in the figures that I have here 2,080 children in the Glenvar, Salem, Corridor, Oak Grove, sixth, seventh, and eighth grades that would be in these areas that must be served between Salem Intermediate and Hidden Valley Intermediate. Salem Intermediate will house about 700 children. The remainder of them would go to the Hidden Valley Intermediate School.

So I just can't see how we could possibly do without this school.

Q Mr. Burton, would you agree with the others who have testified that educationally there would be nothing to be gained by the students being annexed to the City of Roanoke? A Sir, I would have to qualify my statement because I don't know that much about Roanoke City school system.

Q All right, sir. I will ask the question this way then:

[2049] Do you agree that the children of this area are being well educated in the public schools of Roanoke County? A In my opinion, yes, sir.

* * *

[2069] Redirect Examination

By Mr. Fitzgerald:

Q There has been considerable mention about these school buses owned and operated by the Roanoke County School system. Just tell us how many school buses presently the system owns. A We operated, Mr. Fitzgerald, this last year 139 buses a day and we had to back up from that. We had ten spares always on the lot to assist any bus that broke down or failed to start or whatever and we—

Q Excuse me. Do you have your own maintenance facilities and program for these buses? A Yes siree, complete maintenance.

Q The other thing I neglected to ask you, is it true, as it has been testified here, that the County of Roanoke school system furnishes the City of Salem its school facilities and programs at this time? A Yes, sir, Salem is a part of the Roanoke County school system by contractual arrangement, yes, sir.

Q And does the Roanoke County school system provide the data processing not only for the school system but for the County general government? A Yes, sir, it certainly does.

Q Is this data processing facility also used for the [2070] training of students? A Yes, sir.

Q In certain phases of data processing work? A A two-year program, sir, yes.

Mr. Fitzgerald: That's all from this witness.

Mr. Cogar: I have no further questions.

Judge Hoback: Mr. Burton, just to make certain, do the 390 students in the Weddle area have school transportation at present?

The Witness: Yes.

Judge Hoback: Do the 66 in the airport area have it?

The Witness: Yes, sir.

* * *

[2073] **Darrell Shell**

* * *

Direct Examination

By Mr. Smith:

Q Would you state your name, please. A Darrell Shell.

Q What is your position with the County Government? A I am Director of Parks and Recreation.

Q How long have you served in your capacity as Director of Parks and Recreation? A This is my fourth year as of June 30th. I was the first Director. I was hired in 1967, in June.

Q And prior to that you served as a Director of Recreation in other places? A Yes.

Q Where were they? A I was Director of Recreation and Athletic Director for the town of Rogersville in Rogersville, Tennessee, which was a combined job which I served at for nine years. I also worked part time with the Kingsport, Tennessee, Parks and Recreation Department.

Q Do you have a position with the State Society of Parks and Recreation in Virginia? [2074] A I was a Board member until this month. I have been a Board member for the past two years. I am former President of the Southwestern District.

Q Directing your attention to County Exhibit 21, does it show the organization of the Parks and Recreation Department of Roanoke County? A Yes, sir, it does in general context. It differs slightly because we had made a change or two.

Q Would you state what changes you have made. A We cover the general territory mentioned but we have four supervisors or directors under me rather than three.

Q And those four departments are what? A The four departments in the Parks and Recreation Department are the Park Maintenance Department—

Q How many personnel are involved in that department? A Presently,—I might say parks and recreation maintenance includes the superintendent of parks and recreation and he has six men directly

under him. And just recently, to be exact just within the last few days —we have also organized an additional maintenance program which will be working in parks only. At the present time it is not the full complement so we don't know really what it will eventually be. We started with four or five and we will add to it.

[2075] The other three departments are playground supervision departments which includes our after-school evening playgrounds which we do in schools and parks. Also summer playgrounds which are just coming in this week.

Q How long a term does that run? A Those in the summer are eight weeks. We have 19 of them that are going at the present time, Countywide. We also have the department—a sports department as our large department in a sense because it encompasses much more programming. Also special events which includes arts and crafts and special classes for children and adults.

Q How many personnel in your sports department? A We have a sports director and most of his people are part-time people. That is, we hire them seasonally. So it is truly hard to put a finger on an exact figure. That includes thistles and part-time people to handle—

Q This includes umpires for baseball games? A Yes, sir.

Q And referees and things like that? A Yes, sir. We also have, going back to the playgrounds, we hire a complement in the summer to staff our playgrounds also, and we also use part-time people in the fall and winter months to handle our after-school and evening playground situation.

[2076] Q How many personnel full time are there in your department? A We have at the present time 13. I don't know whether it includes me or not. Fourteen I believe including myself in the department.

Q Going now to County Exhibit 60 which is shown on the board here also as well as being in your book, does that show the parks, playgrounds, and recreational facility of Roanoke County in map form and also a listing of them? A I think I could concur with you. I would have to do some counting to be exact but I think so, yes, sir.

Q In County Exhibit 61, does that show the parks and recreation

bond issue with the legend indicating plans for acquisition and development of certain area? A Yes, sir.

Q When was that bond issue voted? A It was prior to my coming here but I believe it was in May.

Q May of '67? A May of '67.

Q And it was a total of $500,000? A Yes, sir. It was in conjunction with two other bond issues, the library and a school bond issue in May of '67.

Q And the textual part of Exhibit 61 shows [2077] Roanoke County recreation sites and the facilities available? A Yes, sir.

Q That's a five-page exhibit. Going on to page 3 it shows the current programs offered by the Roanoke County Recreation Department; is that not true? A That page come out of mine. It is in this one. I think so. Yes, sir.

Q These exhibits show that a great emphasis in the recreation facility planning is directed towards the County schools. Is there some specific reason for that? A Yes, sir. When I was hired I think one of the prerequisites that they were looking for when I was hired, after quite a bit of study locally was one with school experience because no one in the County had experience with recreation for that purpose, and the plan was to use what is generally known nationwide as the community school concept or use of schools for recreation; that is, when it is not being used as a school, then we have the next priority use of it, and we have established this type of program and use it to practically a hundred percent of the schools own it by Roanoke County.

Q Very well.

In the area of the County encompassed in the Weddle petition there is under construction an intermediate school, is that correct? [2078] A Yes, sir.

Q Did you hear Mr. Burton testify previous to you? A Yes, sir.

Q There are 62 acres of land there. Is there a plan to provide recreational facilities on that land as well when developed? A Yes, sir. Before and during the planning stage for the school we met and discussed the possibilities of the use of the school and its grounds as a

recreation facility, and once it is finished we will then design our program.

Another thing I have not mentioned in this connection is that all new high schools in Roanoke County have been built recently with this in mind, where there is outside doors leading to rest room facilities and water fountains, such as this, so that we can use it then in the outdoor programs without being in the rest of the building. So there has been quite a bit of planning by us and by the School Board toward this eventuality which we are now using.

Q O. K. Now let's go back to your sports department briefly, Mr. Shell, and would you state what age persons participate in this program? A We go from the cradle to the grave in a sense. Say, for instance, in basketball, we have basketball programs that go on to what we call the cardiac league which sometimes [2079] sort of worries us, but you have to be 30 to play in and anything over that goes. We have had people that is as old as 50 and 55 that play in some of them. So we do try to develop a program of sports for all age levels from six on up, or seven I believe is the lowest we go.

Q How many basketball teams did you have in the entire County last year? A We had 150 basketball teams in Roanoke County this past winter?

Q Do you know how many the City has? A I am not real sure of the exact number. We usually go by looking at what the paper says as far as results of last night's games but something around a hundred I think.

Q Are there people from the City that participate in the recreational program of the County? A We have an overlapping both ways. We do have people from the City involved in ours and we also have had some in theirs. So there is overlapping. We do have some from the City.

Q Now, the special events, the C class department, would you briefly state what that is? A We have some centers that we own, lease, or use countywide where we set up ceramic centers, classes for adults such as sewing, Yoga, or any type of class that is requested.

[2080] Just today we have had requests for tennis classes in Roanoke County, and we are engaged in meeting with people, seeing

them today, this is for the first time, because we do have 26 tennis courts countywide.

Q Are some of that number lighted for play in the evening? A Yes, we have 17 lighted tennis courts in the County. They have all been built with bond money since we started.

Q Do you also have lighted baseball or softball fields in the County? A We have some, not to the extent of course we would like to have, you never have enough. We have the use of any lighted baseball fields that are owned by the County School Board. Our obligation there is a mutual one, we mutually maintain and pay for the material bill, such as this, and also maintain the field.

We have two in what we refer to as the Cave Spring area which is Oak Grove and Cave Spring, and we have used and do use the Vinton one which is still owned by the County but it is in the town of Vinton. It is also used by the town of Vinton's recreation program on which we have a pro-rated working agreement.

Q Going to the summer playground program, you said [2081] it was eight weeks in duration? A Eight weeks, yes, sir.

Q How many different sites does it operate at? A Well, last year we operated 24 sites. This year—four of those were in the town of Vinton. So this year we are only operating in I believe 20 and the four that are in Vinton have been operated by the town of Vinton that will be pro-rated and we will assume part of the cost of those also.

Q What are the age limits that participate in that program? A Well, if they are of school age or will be in school, then they are eligible to come to them. We also will take smaller children if they are accompanied by an older brother or sister, but for them to come by themselves they have to be school age, from there on up it doesn't leave out even adults.

Q Is there any charge for that program? A No, sir.

Q To your knowledge, are there any persons from the City participating in that summer program? A It is something like our sports, we get some overlapping and we get some—we don't make—it is not an issue of any sort but we do get quite a few from the boundary areas in the County.

[2082] Q Does the County, to your knowledge, have any plans to develop additional park sites or acquire additional park sites as well as those stated in the exhibits? A Yes, sir, we are actively involved right now in at least three areas in the North County area which we hope to purchase and develop without the aid of the Bureau of Outdoor Recreation.

Q That money would supplement existing County funds? A Yes, sir, it is a 75 percent maximum fund situation, with 25 percent local money and 25 percent State and 50 percent federal. As soon as the Fifth Planning District's revision of its master plan for parks is complete we hope to make application for this for at least three years in the County, mainly in the North County area.

I think we have fulfilled our obligation that was voted on as a bond issue earlier in other areas, even though we are still working on them. This is, then, the next immediate plan which will be for the parks in the North County.

* * *

[2091] **Franklin H. Moricle**

* * *

Direct Examination

By Mr. Fitzgerald:

Q Would you state your name, please, sir? A Franklin H. Moricle.

Q Where do you live, sir? A I live in Vinton.

Q And what is your occupation? A I work for the Roanoke County School Board, as science supervisor.

Q In that capacity do you have any other programs within the school system? A Yes, I do a school census every three years.

Q Do you also have access to the data processing capacity of the County school system? A Yes, sir.

Q Mr. Moricle, some weeks ago were you furnished with photostatic copies of the 16,382 petitions or signers of petitions that were filed in the Court? A Yes, sir.

Q Would you tell the Court whether or not you caused these signatures to be transposed to punch cards for [2092] use in the data process-

ing procedures? A Yes, I supervised getting the keypunch operators, punching the cards and having printouts.

Q Were these programmed to be able to determine the voting precincts or census areas where the people lived that signed the petitions? A Yes, sir.

Q And did you in fact determine from the use of the data processing the voting precincts of the people who signed the petitions? A Yes, by using a regular school census tract. We could break them down into each voting precinct and determine the number of people assigned the petition and each of those precincts.

Q Did this use of the punch cards, the data processing procedure, also eliminate any duplication of signatures? A Yes, sir.

Q And did you then cause a tabulation to be made of the numbers of persons signing the petitions and the voting precincts in which they lived? A Yes, sir.

Q Is this the listing of those? A Yes, sir.

[2093] Mr. Fitzgerald: If it please the Court, we would offer this as County Exhibit No. 1-H.

(County Exhibit No. 1-H was received in evidence.)

Mr. Fitzgerald: The voting precinct map has already been introduced, your Honors, and this can refer to that and the areas can be seen.

By Mr. Fitzgerald:

Q Mr. Moricle, were you also furnished the petitions that were filed in the Clerk's office on May 31 and handed up to the Court by Mr. Robrecht, and then withdrawn and turned over to you for analysis? A Yes, sir.

Q And did you also cause those signatures to be put on IBM or did the processing cards? A Yes, sir.

Q And by doing so were you able to eliminate any duplication of signatures on those petitions? A Yes, sir.

Q And did you also correlate those with the 16,000 some odd signatures to eliminate any duplication? A Yes, sir.

Q With respect to the petitions that were filed with respect to the proposed Kinsey petition, did you determine from those petitions how many people signed those petitions [2094] and were actually living in the territory of the Kinsey petition? A Yes, sir.

Q How many people actually lived within the territory that signed any petition opposed to annexation, living in the territory of the Kinsey petition? A Does that include both petitions?

Q Yes, sir. A 16,000 in the main one?

Q Yes, all the petitions handed to you. A Forty-two.

Q Forty-two signed petitions opposed to annexation? A Yes, sir.

Q Did you also have the list of signers of the original petition for annexation in the Kinsey case as established by the Commissioners? A Yes, sir.

Q And did you by use of the data processing check to find out how many of those persons that signed the original petition had signed petitions opposed to annexation either included in the 16,000 and some odd petitions or in the later petitions filed May 31 or whenever it was? A Yes, sir.

Q Tell the Court how many people who were signers of the original petition signed petitions opposed to annexation? [2095] A The printout shows that ten people in the Kinsey area that signed the original petition, the Kinsey petition, have also signed one or both of the others, of the 16,000 referred to or the May 31st petition.

Q Who are those people? A I can read the names?

Q Yes, sir. A Linda G. Akers, Virginia Garst Beard, Edward M. McGrady, Hilda McGrady, Brenda C. Mundy, Alonzia W. Stump, Tessie J. Taylor, William F. Taylor, E. A. Wieringo, Janie C. Wieringo.

Q Mr. Matthews has stated it was his information that eight had signed a petition against annexation. Your printout showed the ten, is that correct? A Correct.

Q Of the ten names you read, were any of those names persons living in the trailer park? A No.

Q With respect to the petitions that were filed in the Clerk's office on May the 31st, did you with respect to the Weddle territory cause those to be punched on the data processing cards? A Yes, sir.

Q Did you run those or have these run in the data [2096] processing to eliminate any duplication of names occurring on any of the other petitions? A Yes, sir.

Q Did you determine of these petitions that were filed, from these petitions and of those that were filed in the sixteen thousand and some how many people living in the area of the Weddle petition signed petitions opposed to annexation? A Yes, sir.

Q How many? A Three hundred and twenty-four.

Q And these are the original petitions that were handed to you to determine the size, is that correct? A Yes, sir.

Q In both the Kinsey case and the Weddle case? A Yes.

Q Mr. Moricle, did you also cause a map to be made of the Weddle petition area showing the general location of the signers as determined from the data processing? A Yes, sir, as close as possible with the property identified where that person signed, the number signed at that parcel of land or property.

Q Is this that map? A That's the map, yes.

Mr. Fitzgerald: Your Honors, I offer this as [2097] County Exhibit 1-I.

Q The purple squares on that map, do they indicate a signer? A Yes.

Q Of a petition against annexation? A One signer per square, yes.

Q And in running the IBM card in that instance you have eliminated all duplication of names if any such occurred; is that correct? A Yes, sir.

Q And the other names on the petitions that were filed on May 31st in any of the other numbers do not live in either the Weddle area itself or the Kinsey area; is that correct? A That's correct, they are outside of the area.

Mr. Fitzgerald: Your Honors, with that analysis and explanation, I offer again these petitions for what they may indicate. These are the ones that were filed in the Clerk's office on May 31st.

Judge Hoback: All right.

Mr. Musgrove: Your Honor, I would like to note an objection. I was looking at those before. They seem to have been prepared formally saying that "We wish to intervene in opposition to," or some such [2098] language, or some of them do. I didn't they all were in opposition to annexation.

As I recall the Court's order, it said the time back in March of a cutoff time of any intervenors intervening in this case and if that is the purpose of these petitions, to intervene in opposition, of course, I object to them as being way beyond the time limit set by the Court that any intervenors may enter into the case.

Mr. Fitzgerald: Your Honor, we offer them simply to show the basis upon which the information was obtained by Mr. Moricle and showing those that had signed petitions opposed to the annexation.

Judge Hoback: Objection overruled. The petitions are introduced for the purpose stated.

Mr. Fitzgerald: Those are all the questions I have.

Mr. Musgrove: I would just like to have a moment, if the Court please, to get some papers in front of me.

Judge Hoback: If you would like to look them over, Mr. Musgrove, we will take a recess to look them over. Would you like to have a recess to look them up?

[2099] Mr. Musgrove: I think I can get it just in a second here if the Court will give me that.

Judge Hoback: Senator, there are 324 in regard to the Weddle case. Are those on the May 31st petitions? Is that correct?

Mr. Fitzgerald: No, sir, on any petitions that are filed.

Judge Hoback: On any petitions that were filed?

Mr. Fitzgerald: Yes, sir.

Judge Hoback: You do not have, as you did in the Kinsey case,

any who originally signed who had changed their minds? That was not done in the Weddle case, is that correct?

Mr. Fitzgerald: I don't believe we made that analysis.

By Mr. Fitzgerald:

Q Did we? A 77.

Mr. Fitzgerald: So we did. I didn't know it.

Q How many had? A We found 77.

Q Original signers in the Weddle petition? A Yes.

Q Who signed later petitions? [2100] A Against annexation.

Judge Hoback: 77 out of how many, sir, of the original petition filed?

The Witness: In the original it was 400. Let's see, Weddle, 467.

Judge Boyd: We're on the original petition, 467?

The Witness: Yes, sir.

Judge Boyd: And 77 had changed their mind?

The Witness: 77 we found had signed other petitions that had been circulated.

Judge Hoback: Now, the 77 are included in the 324?

The Witness: Yes, sir.

TRANSCRIPT DATED JUNE 24, 1971

[2110] * * *

Charles H. Osterhoudt

* * *

Direct Examination

By Mr. Fitzgerald:

Q Will you state your name, please. A Charles H. Osterhoudt.

Q What is your residence address? A My residence is 7217 Lamarre Drive, Northwest, Hollins, Virginia, which is in Roanoke County.

Q What official position do you hold with the County of Roanoke? A I am presently a member of the Roanoke County Board of Supervisors and have been since January 1st, 1968.

Q What districts do you represent? A I represent the Catawba Magisterial District.

Q Is the Kinsey annexation area within your district? A I believe, sir, that would be what I referred to as the Crossroads Mall suit. Yes, sir, it is.

Q Would you tell the Court whether or not the County of Roanoke has adopted a tax rate to fund the 1971-'72 budget that has been introduced into evidence here? [2111] A Yes, sir, we have. We acted on that last night after a lengthy public hearing and did adopt a tax rate of $2.95 per hundred dollars of assessed valuation.

Q That funds the 1971-'72 budget that has been introduced into evidence? A Yes, sir, it does.

Q Will you tell the Court whether or not the Board of Supervisors has just accomplished a redistricting of the magisterial districts of the County? A Insofar as we are presently able to do so, yes, sir, we have. We adopted a magisterial redistricting plan as well as a precinct and polling place plan last evening. Of course, under the Voting Rights Act, this is all subject to the final approval of the Courts possibly and certainly the review of the Attorney General of the United States, as I understand it.

Q What is the differential in population in the districts that you have adopted? A We have complied with the guidelines given to us of plus or minus two and a half percent.

Q All right, sir.

Mr. Osterhoudt, from the time that you became a member of the Board—in what year was this, now? A I went on the Board in 1968, I was Vice Chairman [2112] in 1968, Chairman in '69 and '70, and I am presently just a member of the Board.

Q From the time you came on the Board have you participated in any effort or negotiations directed towards reconciling the differences between the City of Roanoke and the County of Roanoke with regard to the sewer service contract? A Yes, sir, on uncounted numbers of occasions, but many, many occasions, I was.

Q Just as briefly as possible recount the efforts that have taken place that you are familiar with since you have come on the Board and the result of them. A When this Board took office there was already existing from the previous Board a sewer negotiating committee and there was a turnover, complete turnover of personnel on the Board at January the 1st, 1968. A committee was appointed. One of those members resigned to run for the Salem City Council and in April, 1968, I was personally appointed. From that time on we met periodically with the City of Roanoke, sometimes on a fixed schedule and sometimes at the call of the Chairman of the negotiating committees for the City or the County.

Q Who were the persons representing the City of Roanoke? A The persons representing the City of Roanoke officially were two Councilmen, Mr. Hampton Thomas and Mr. [2113] Vincent Wheeler, and Julian Hirst, the City Manager and the committee for the County was Mr. Lee B. Eddy and myself and our executive officer, Mr. Matthews.

Q All right, sir. A We met on any number of occasions, sometimes it would be with the resolution of a specific problem of a technical nature but more often it would be to discuss a renegotiation of an existing contract between the City and the County.

[2114] Q Mr. Osterhoudt, would you state whether or not it was the assumption or knowledge of the Board or committee of the Board that the facilities of the treatment plant operated by the City were either at capacity or approaching capacity at this time? A The City would not provide us with specific figures as to the percentage of capacity, but I would say it was a matter of common knowledge with the committee and with the governing bodies that capacity was rapidly being approached if it wasn't already being exceeded.

Q Was this a concern of the Board of Supervisors of Roanoke County? A Yes, sir, I would say that it was, sir.

Q All right, go ahead. A The County in these negotiations was interested in an extension of the term of the contract and we were also interested in continuing assurance of access to sewerage treatment. The City seemed primarily interested in increasing the rate that the County was paying.

The County was told very early on by our engineers that we could

pay the City a substantially increased rate, I think three years ago—they told us if it was $110 a million gallons, if we could get it that cheaply we should take it because we could not build plants and treat it ourselves [2115] at a lesser price. This information was communicated at that time and on many subsequent occasions to the negotiating committee for the City of Roanoke.

Q The willingness of the County of Roanoke to increase the rate paid the City was communicated to the City? A I know that I have personally made such statements in meetings of that kind on numerous occasions, yes, sir.

Q Did there come a time when the negotiations ceased? A I would have to say that the entire proceeding, insofar as it related to an extension of the contract and renegotiation of the basic contract, was largely one of stall and delay on the part of the City of Roanoke, a very frustrating experience.

Finally—I would say about the 1st of October of last year—that would be 1970—we had a meeting which was attended by representatives of both bodies and I believe also by the press, at which time a representative of the City of Roanoke said point blank there would be no further negotiations of any kind related to an extension of the sewerage treatment contract until after the conclusion of the annexation cases.

Q Mr. Osterhoudt, has the Board of Supervisors [2116] taken a position on the current situation with respect to the position and action of the State Water Control Board? A Yes, sir, we have. We have done this actually on two different occasions. Prior to June 15 of this year when the State Water Control Board met and imposed a moratorium on sewer connections to the Roanoke plant on the Roanoke Valley, the Board of Supervisors passed an official resolution making it a matter of public record that we were willing to pay whatever our fair and equitable cost would be of all costs of sewerage treatment, plant construction and the like.

Also the new Chairman of the Board, Mr. Eddy, at the direction of the Board, appeared before the Council of the City of Roanoke and asked to be allowed to work cooperatively with the City and we also called upon the other governing bodies in the area to work cooperatively toward preventing the imposition of a moratorium on the Valley. I will be frank to say we got absolutely nowhere.

After the imposition of the moratorium the Board has acted again last night to pass a resolution and to take certain action on its part to try to protect the County's interest. I will be glad to read it or you can introduce it as you wish. This is the resolution.

Q Is it the purport of the resolution to offer the [2117] help of the County? A It offers the help of the County again to the City and it also says that the County is going to try to proceed on its own to do what it can to try to see that the moratorium ban be lifted and invites the City of Roanoke and the City of Salem to participate jointly with us in this effort.

There are some things that we feel that the County can do even though the City may not, such as prevention of infiltration, building a holding pond for use in times of high water and things of this nature. We are deeply concerned.

Q Mr. Osterhoudt, has the County reiterated its willingness to cooperate with the City of Roanoke in any matter where the joint effort or cooperative effort of the two jurisdictions can be beneficial to both? A Yes, sir, we have. On many previous occasions the County has taken the initiative in these areas. The list would be too long to enumerate but I would point most recently to April 29 of this year—I believe that was the date—I have the resolution here in my pocket. This was the day that the Court ruled on the all-County suit by the City of Roanoke and struck the evidence.

At that time the County felt reasonably assured that there would continue to be a Roanoke County and at that [2118] time, on that day, the Board of Supervisors passed a resolution which says, and I quote:

"Be it resolved that the Board of Supervisors of Roanoke County does again express its willingness and continuing desire to work together with any and all of the governments of the Roanoke Valley to provide governmental services and facilities on a regional basis and does likewise express the hope that this endeavor may find favor with the other governments of Roanoke Valley."

Copies were sent to Vinton, Salem, the City of Roanoke and the County of Botetourt.

Q Mr. Osterhoudt, can you tell the Court whether or not you have an opinion on the effect on the County of Roanoke if either of these proposed annexations are granted? A Yes, sir, I can and I do.

Q Would you state what that is? A Well, it is a rather detailed opinion, I think, dealing with both areas and then the question of annexation by the City in general.

Dealing first with the Crossroads Mall suit, as I call it, we have out there in the Crossroads Mall a substantial asset, tax asset, to Roanoke County from which we derive in the neighborhood of a half million dollars a year from sales taxes, business license taxes, real estate taxes and [2119] the like. This would be for Roanoke County an irreplaceable facility.

It could be argued that other shopping centers will be built and that they will be successful. This we do not know. But we do know that if this area is lost to Roanoke County the day will come when Roanoke County will have to make up a loss of approximately a half million dollars in its revenue. These are not accountants' figures. These are the raw figures and ideas that a governing official works with.

Insofar as the airport part of that suit is concerned, I would state this. The City of Roanoke has operated at that site an airport for some 30 years and it has been in Roanoke County all of that time. I would know of no real additional revenue that the City would derive from having that territory within the City.

Insofar as the school properties located in the area are concerned, the City of Roanoke bought and built those facilities knowing they were located in Roanoke and without any real hope or expectation, as far as I know, that they would ever be taken into the City.

Insofar as the citizens of the area are concerned, I think they lie in a very awkward geographical area, in my opinion, for service by the City of Roanoke. So as to the people that I represent in that suit area, I can see [2120] absolutely no benefit to be derived by them. I can see only harm to the County of Roanoke should the annexation be granted, and no great benefit to the City, as far as I am concerned.

Insofar as the Windsor Hills or Weddle case is concerned, this is an area of Roanoke County which is rather well urbanized. It is generally suburban in character. It is an area where Roanoke County has over the past decade and more spent a great deal of time, money and effort attempting to provide for these people the type of services they wanted and needed.

It would be my opinion that there would be a rather bad psychological effect in awarding this area to the City of Roanoke or to any other city, that being that the attitude might then grow in the County

that if you have an area that is urbanizing you don't want to try to look after it because as soon as you do the City will come out and take it away from you, which certainly would not benefit the citizens and it is not what your government is for.

We also have out there a rather extensive school property which we would like very much to keep in the County of Roanoke. As I think Mr. Burton has testified, it is a very important part of our long-range program and we would hate to see that territory taken out of Roanoke County.

Finally I would say that the citizens of that [2121] area are good quality citizens who do contribute a great deal to the life of Roanoke County and we would very much like to keep them and their loss would be unfortunate for us.

Q As to the effect, Mr. Osterhoudt, on the Valley in general? A In talking about annexation at this particular time and in this particular case, I have found over the past three years this opinion. When I first went on local government I thought it must be the people who were serving who made it impossible for us to cooperate. I am perhaps now convinced that it is the system. Maybe that is defense mechanism on my part.

I know that over the past three and a half years I have spent hundreds and hundreds of hours in literally hundreds and hundreds of meetings connected with seeking to find ways to provide governmental services on a cooperative basis with other governments to all the people of Roanoke Valley.

Insofar as these negotiations have concerned the City of Roanoke, I have found them to be largely fruitless and unrewarding. I can only ascribe that result to one situation, and in my mind and opinion that must be the attitude of the City of Roanoke that non-cooperation would strengthen their hand in any case of annexation.

[2122] It would be my opinion that if the City of Roanoke's attitude, which has become apparent to me, were to be rewarded at this time, that we would find ourselves in a situation where that particular approach to Valley problems has been rewarded by the award of territory, and yet the territorial ambitions of the City of Roanoke by what is before us would not be satisfied.

[2123] And we would find ourselves subjected to another decade and perhaps the entire future of the kind of bickering and daddling

and frustration that we have had for the last—as long as I have lived in this Valley, and it would seem to me, in my opinion, that cooperation and working together would be better served if it could once be learned that the acquisition of somebody else's wealth and population and territory does not necessarily solve your problem but may in fact only make it worse.

[2128] * * *

Daniel A. Robinson

* * *

Direct Examination

By Mr. Fitzgerald:

Q State your name. A Daniel A. Robinson.

Q What is your place of residence? A 2901 Barracks Road, Albemarle County, Virginia.

Q What is your occupation? A Certified Public Accountant and municipal consultant.

Q Your qualifications are set forth on County Exhibit No. 5, I believe, is that correct? A That is correct, sir.

Q Without going into those qualifications, Mr. Robinson, you have served as an executive officer of a county, is that correct? A Yes, sir. I was County consultant and director of finance of the County of Albemarle from 1948 to 1953.

Q And as such you were required in your duties to prepare and present and administer budgets of the County, is that [2129] correct? A That is correct, sir.

Q Mr. Robinson, have you made certain studies of the financial impact of the proposed annexations in the Kinsey petition and the Weddle petition? A Yes, sir, I have, sir.

Q Are these contained in the financial books? A Yes, sir.

Mr. Fitzgerald: I will need some for the Court if the Court will indulge us for a moment. May we suspend for just a moment, your Honor?

Judge Hoback: All right.

(Pause.)

Mr. Fitzgerald: Your Honor, the resolution that was introduced I ask that it be identified and accepted as County Exhibit 1-J.

Your Honor, we have three copies here and we will hand the Court that and we will give the Clerk another copy and we can proceed.

Your Honors, these exhibits are prenumbered and we offer them with the numbers as they are numbered.

By Mr. Fitzgerald:

Q Mr. Robinson, would you turn to the first exhibit, Exhibit 76. [2130] A Yes, sir.

Q And the book entitled "Financial Exhibits"?

Explain briefly what the information on this exhibit is. A County Exhibit 76 presents a comparison of assessed values of locally taxable property in the County of Roanoke and the tax rates and assessment ratios for the period 1964 to 1971. At the time this exhibit was prepared the tax rate of the County for '71 or fiscal '71-'72 had not been adopted, as the Court had been advised this morning, and it was adopted last evening.

I would point out one thing in particular starting with the real estate in 1971. This real estate is an estimate of the real estate assessibles for the fiscal year 1971-'72.

The County in 1971 went to a fiscal year assessment of locally taxable real estate. The tangible personal property is for the tax year 1971, January 1 of 1971, assessibles. Machinery and tools also represents the '71 tax year.

The public service assessible for '71 are estimates furnished to us by the State Corporation Commission for the year year again 1971.

And as you have been advised by Mr. Osterhoudt, the tax rates for real estate, tangible personal property, and machinery and tools for the year 1971, tax year 1971, on personal [2131] property, machinery and tools, and public service is now $2.95, and for real estate for the fiscal year '71-'72 is $2.95.

I would have no further comment on this exhibit except to state in Item 3 that we do have the ratio of assessed values to true values of locally taxed real estate for the years 1964, '66, '68 and '70.

Q '70 is an estimate, is that correct? A That is correct.

Q I refer you to Exhibit 77. A 77 presents a comparison of the assessed values of locally taxable real estate in the City of Roanoke,

and the tax rates and assessment ratios for the period 1964 through '70. At the time of the preparation of this exhibit no information was available for the year 1971.

Turning next to Exhibit 78, this presents a comparison of assessed values of locally taxable property in the town of and the City of Salem, and the tax rate and assessment ratios for the period 1964 to 1970, along with the other detailed data that was available at the time of the preparation of this exhibit as to tax rates and assessment ratios of locally taxable real estate.

Q During part of this period the City of Salem was part of the County of Roanoke? [2132] A That is correct.

Q And this shows what part, is that correct, during that time? A That shows the assessibles, the tax rates, and the assessment ratios for the continuing period from 1964 to 1970.

Q All right, sir. Exhibit 79. A Exhibit 79 is the statement of Roanoke County's long-term indebtedness projected to December 31, 1971, taking into account the bond issues that are currently outstanding, with adjustment for any and all maturities occurring between now and December 31, 1971, the earliest possible date that any annexation could take place.

So this is projected down to that point, December 31, 1971.

Q And shows the grand total at the bottom of page 2? A That is correct. The net long-term indebtedness projected to December 31 is $26,257,133.05.

[2133] Q Now, Mr. Robinson, on Exhibit 80, would you just tell the Court briefly what this is intended to do? A This is the basis upon which the County has determined the loss of net tax revenue should either one of these areas be granted.

Q Is this the basis by which you have made your greater determinations? A Yes, it is.

Judge Hoback: Which page is that, sir?

The Witness: 80.

Mr. Fitzgerald: It is just a definition.

Mr. Davenport: Your Honors, I would like the record to show that I think on the basis that Mr. Robinson has put it that this is the

basis he used for the rest of the exhibits and I think it is probably admissible. I don't agree that it is necessarily the right interpretation of the law.

By Mr. Fitzgerald:

Q Mr. Robinson, would I be correct in saying that in your determination, using this definition, of the loss of net tax revenue as a result of annexation, you first attempt to make the determination based on the operating budget of the County, is that correct? A That is correct, sir.

[2134] Q And you eliminate wherever possible items of nonrecurring expenses? A Nonrecurring expenses and—

Q And capital improvements? A Nonrevenue items, and we do employ the full debt service in there.

Q And the purpose of this is to show a true effect of the annexation if granted on the operations of the County both on the revenue side and the expenditure side? A That is correct. The recurring revenues and expenditures.

Q On the basis of this definition that you have used, do you look to see in the County's budget what effect the proposed annexation would have on the revenues of the County? A Yes, sir, as well as the expenditures.

Q And you also see what savings there would be on the expenditure side, is that correct? A That is correct.

Q And roughly speaking, the loss of net revenue is the difference between those two, is that true? A That is correct, employing the same effective tax rate required to meet these expenditures before annexation that would be employed should either case be granted.

[2135] Q The budget you use is the budget that will be in effect at the time annexation would take effect, is that correct? A That is correct.

Q The earliest date? A That is correct. We would be halfway through the 1971-72 budget year by the time any annexation could take place and that is the reason we have updated this to use as a basis for projecting the effect of annexation in the 1971-72 budget, rather than the '71 which now has only a week to go.

Q And in making these determinations you take the budget item by item to determine whether or not there is an effect and, if so, make an estimate of what effect, is that correct? A That is correct. We have analyzed and gone over each item of expenditure line by line, function by function, with the department heads of the County. I might say that we have consulted with every department head in the County except for the Courts. We felt it would not be proper for us to consult with the Courts but we have worked with the Clerk in this particular case and the executive officer, they knowing the functions and operations and costs of these two functions of the County.

Otherwise we have gone over, line by line, [2136] function by function, every item of expenditure with the department heads. We have gone over line by line, every item of revenue to determine what effect each of these proposed cases would have on the operation of the County from a financial standpoint.

Q Mr. Robinson, have you done this both for what is called the Weddle petition and also the Kinsey petition? A Yes, we have.

Q Now would you turn then to Exhibit 81 and tell the Court what part of that process this exhibit shows? A Exhibit 81 is a comparison of the actual operations of the County by function for the years 1969, '69 and '70, the operating budget for '71, the operating budget for '72, for each function of the County.

Turning to page 2 of this exhibit, we are dealing now with the Weddle case. It is our estimate that the operating expenditures for the County could be reduced and still provide the same level of service to the County—could be reduced $131,876.

Q Is it correct, Mr. Robinson, that the next to the last column on both of these pages shows your estimate of the amounts that these various items in the budget could be reduced? A That is correct, sir.

[2137] Q Now will you turn to Exhibit 82. A On 82, as we said a moment ago, we have eliminated all the nonrecurring and nonoperating expenditures. You will note at the top of this page it is a reconciliation of operating expenses to total expenditures, actual and budgeted, for the fiscal years ending June 30, 1968 through 1970.

On the first line the grand total of expenditures is shown. This is a composite of the County's total fiscal affairs. These figures are taken from the County's annual audit reports.

The figures on the second line are the total budget requirements. These are taken from the County's 1971 and 1972 budgets. You will see that these figures start with $13 million, $36 million odd dollars, $51 million and 67 million.

Coming down to the bottom, after we have eliminated the nonrecurring and nonoperating expenditures as well as debt service, because debt service will be reemployed at a later point in this exhibit, we now have an Item 5 for 1968 through 72 of 10 million, 12 million, 14 million, 17 million and 19 million odd dollars as the operating expenses for the County for this period from '68 to '72.

Q These are the expenses that are affected by the loss of assessibles, is that correct, or the loss of territory? A Yes, sir.

[2138] Q Now would you turn to Exhibit 83. A Exhibit 83 still deals with the Weddle petition suit. Exhibit 83 is a comparative statement of revenues other than current taxes, actual and budgeted, for the fiscal years June 30, 1968, through the budget of fiscal '71-72. This is put together by source and by item, starting first with local source funds other than current taxes for general government purposes on page 1 down through the beginning of page 2.

Then we have local sources for school purposes. There is a total of all funds from local sources other than current taxes. Then we start in at the bottom of page 2 with the items of revenue from the Commonwealth for general government purposes and turning to page 3, at the bottom of the page, we have Commonwealth funds for school purposes.

Turning to page 4 we continue with funds from the Commonwealth for school purposes and lastly, in Item 3, we have funds from the federal government for general government purposes and for school purposes.

Q Mr. Robinson, is it correct that the next to the last column on all these pages shows your estimate of the effect on these revenues on the County should this Weddle petition annexation area be granted? Is that correct? A That is correct. The total amount that we estimate as a reduction in revenues of the County other than [2139] current taxes would be $203,692.

Q That is the effect on the revenues of the County? A Other than current taxes, yes, sir.

Q Now would you refer to Exhibit 85? A Exhibit 85 is the reconciliation of revenues other than current taxes to total income, actual and budgeted, for the fiscal year ending June 30, 1968, to fiscal '71-72. Here again line 1, 1-A, represents the grand total of all the income of the County for fiscal '68 and '69 and '70 as taken from the County's audit report.

The second line, line 1-B, is the total income for the County based on its '71-72 budget.

From that we have deducted all nonrecurring and nonoperating income to bring it down to what we consider to be the true revenues of the County other than current taxes. This again you will find—

Q These are the revenues that are affected by any annexation of territory of the County? A That is correct, sir.

Q Now Exhibit 86. A Exhibit 86 is again a composite for the County's total operations to show the loss of net tax revenue should the Weddle petition be granted.

[2140] We have now come forward with what we consider the necessary expenses for general government operating expenses and school operating expenses plus the debt service.

On 1-E you will find the total necessary expenses, actual, for '68, '69 and '70, in the budget for '71, the budget for '72 without annexation, and the effect that the annexation would have on total necessary expenses of $302,343, including our only—

Q In this exhibit, Mr. Robinson, you have taken into account the reduction of expenditures that can be made, the loss of revenue that would be occasioned? A That is correct.

Q And the loss of assessibles, is that correct? A That is correct.

Q And in using these you have arrived, in your opinion, at the loss of net revenue for the year 1971-72, is that correct? A That is correct. If you come down to Item 3-C, what we have done with these—I might be able to point it out a little bit better on the board.

Q Do you have this on the big one on the board? A Yes, sir.

Q Then step to the board and point it out. This is a large reproduction of Exhibit 86, your Honors. [2141] A This exhibit contains all the factors of the County's financial operations. Item 1, A

through E, represents the total necessary expenses, actual, in '68, '69 and '70, the budget of '70-71 and the budget of '71-72, with the reduction column in here showing the effect that the proposed annexation would have on the County's financial operation. All operations are considered.

Then from that we have deducted the revenues available to the County, actual and projected, in the budgets for '71 and '72 to determine what current tax revenues would be required to meet the County's financial operation and what revenues have been required on a tax rate basis based on the assessibles that were available to the County in Item V.

In 1968 fiscal year you will note that the County had available $184,976,065 of assessibles. These requirements for current tax revenue, considering first the expenditures less the revenues available other than current taxes, were $3,338,030.

Applying the tax rate necessary to meet those requirements, using the assessibles, required $1.80 effective tax rate for that year, actual.

In 1969 the actual effective tax rate was $2.20.

Now I will reiterate that these are operations that do not include anything in the way of capital items [2142] whatsoever. They include only the recurring expenses for the general government and schools.

In 1969, as I said, the effective tax rate was $2.20. In 1970 the effective tax rate was $2.98. In 1970-71, in the budget, the amount required was 208 million odd dollars and the effective tax rate was $3.06.

In 1971-72, taking the assessibles of 226 million odd dollars estimated by the County in the '71-72 budget, it would require a $2.86 rate to meet the requirements of current tax revenues after considering what is available to meet the expenditures, an effective tax rate of $2.86.

To determine what effect this would have on the tax rate and also what effect it would have on the balance of the County, considering your reductions and revenues other than current taxes and reductions and expenditures, and the reduction in the County's assessibles should this annexation occur, we have then applied the current effective tax rate of $2.86 to the assessibles left in the County to determine what current tax revenues would be available, applying the same tax rate that is currently required. We find that we could produce, with the $211,000,000 at a $2.86 tax rate, $6,051,739.

The requirements would be $6,374,107. So this would be short by $322,368.

Q Is that figure your estimate, then, of the loss [2143] of net tax revenue? A That is correct, based on the 1971-72 budget.

Q Mr. Robinson, in attempting to estimate the prospective loss of the net tax revenues for five years subsequent to annexation, have you made any estimate as to what in your opinion is likely to occur in regard to the County's finances over a five-year period following annexation if it should be granted? A Yes, sir, I have.

Q I will refer you to County Exhibit 87. A County Exhibit 87 is simply a comparison of actual expenditures for all the counties in the State of Virginia for the period of 1961 through '69, the latest information available. It includes the revenues other than current taxes applied here to show the credibility of the methodology employed in making such projections.

We have also shown what effect this would have by using the same method, as far as Roanoke County is concerned, and we show the variance between the projection and the actual, using the base. From 1961 through '65, comparing this projection with actual operations that have taken place.

Q Mr. Robinson, it may be well if we establish now what method you used. You established or tried to determine the rate of average annual increase? [2144] A That is correct.

Q Over a time in the past you project what will happen in the future, is that correct? A That is correct, and you will note—

Q And you used the previous five years? A That is right.

Q And this Exhibit 87 shows, I believe, what has actually happened over the period of five years previous to this? A That is correct, both as to all the counties in Virginia as well as Roanoke County.

You will notice that the variance in Roanoke County is less than that for the State as a whole, both as to expenditures as well as revenues other than current taxes. There is variance in the projection.

Turning from this we then take the most current information available to us as far as Roanoke County and determine what the rate of average annual increase has been for the period 1968 through '72. We have used these projections to project into the future what

would happen to Roanoke County with and without annexation. I believe we have a larger copy of that exhibit.

Q Before you go to the larger one, Mr. Robinson, is it true in your opinion that if the rate of increase of [2145] expenditures is growing faster than the rate of increase of revenue and assessibles, that the loss of net revenue occasioned by the loss of any territory becomes greater over each of the five years? A That is correct, sir.

Q Now would you look at the board for your next exhibit. Is this the same as Exhibit 88? A Yes, sir.

Q Briefly, if you can, explain what this shows. A This again shows the County's necessary expenses, actual for '68, '69 and '70 with the '71 and '72 budgets. It shows the amount of increase by years and the percentage of increase year after year as well as the rate of average annual increase for the period '68 to '72.

You can see from this that the rate of annual average increase in necessary expenditures—this again has eliminated every item of capital outlay or nonrecurring and nonoperating expense items in the budget, as well as in the actual operation. We get an average rate of annual increase in Roanoke County for the period 1968 to '72 of necessary expenses, operations and debt service, of 19.57 percent.

Item II, total revenue other than current taxes, we show the actual '68, '69, '70 and the budget for '71 and '72, with the amount of increase year over year as well [2146] as the percentage of increase in each year.

Then in Item III, the other factor of the budget is the available assessables and what has taken place in that. It shows the County's actual in 1968 through the budget of '72.

Here we have the amount of increase and the percentage of increase or decrease. The Court may be interested in this item in '69, which is a $39 million reduction. This is due to the transition of the Town of Salem to a city first-class.

Here we have a rate of average annual increase for this five-year period of 5.17 percent.

The Court may be interested to see that up in revenues other than current taxes there is a compensating factor in revenues other than current taxes for the loss in assessibles because of the contract with the City of Salem for the purchasing of school and other services.

This is why you have such a tremendous increase of 32 percent in one year.

Here again, this is a composite of the County's total financial operation. These are the three factors that go into these operations, the necessary expenditures, revenues other than current taxes and the basis for the taxes is the assessibles.

From that exhibit we have projected the effect that [2147] this annexation will have, first showing what can be expected based on these projections if there is no annexation and what would happen if the Weddle petition case were granted. That is shown in the next exhibit.

Q Exhibit 89? A 89. We also have a blow-up of this.

Q Mr. Robinson, from these projections that you have made of the expenses, revenues and the assessibles, is it correct in your opinion that this will cause an increase in the loss of net revenue over the next five years? A That is correct, sir.

In the next half of this exhibit we have taken the County's operations without annexation in the 1971-72 budget. We have taken the figures from the previous exhibit, the rate of average annual increase, and projected the expenses at the rate of 19.57 percent. They are going from 22 million for '72 to 26 million in '73 and 32 million in '74. The reason for this line of increase is the fact that by the time any annexation would occur we will be halfway through the current 71-72 budget year. But our projections, as far as determining the loss based on the 71-72 budget, has been accumulated only so far as the year 1975-76.

[2148] Q Mr. Robinson, referring you to line 5 under Section B— A Loss of net tax revenue if proposed annexations are granted. You will note coming over here to the budget of '71-'72, the $322,368 is the same as we saw on the previous exhibit of loss in net tax revenue.

Q These subsequent figures across that line show the increased amount that you project each year? A That is correct.

We are applying again the same tax rates that would be required with the same assessibles without annexation to the assessibles that would remain, and we also show what the rate would be and what it would have to go to.

The rate in 1973 without annexation would be $3.21. It could

be expected to go to $3.38. And in comparison between the rate without annexation and with annexation, year by year, on through.

And the assessibles on line 7, current assessibles less the assessibles in the area proposed to be annexed giving us the net assessibles for the year had this annexation been in effect during this fiscal year '71-'72, and then projecting up, as I said, not only the other items in the budget, expenditures and revenues other than current taxes, we have projected the assessibles up at the same rate of growth [2149] that the County has experienced in the last five years.

Going back to your question, Mr. Fitzgerald, on line 5, the loss of net tax revenue for the five-year period considering 1971-'72 as one of those years, the total amount of loss of revenue to the County would go from $322,000 per year to $620,000 for a cumulative loss for this five year period of $2,297,401.

Q In arriving at that figure you have not added in the '76-'77 projection of $730,00? A That is correct, this year '76-'77 is not included in there.

Q Referring you to County Exhibit 90, do you find that your estimate of the increase in expenditures is validated by other information? A Yes, sir, I think so.

If the Court had nothing else whatsoever to go on other than what you have seen here, I don't think we can close our eyes to what is taking place not only in Roanoke County but on a national basis as far as the cost of living is concerned, and we have projected, we have plotted on this exhibit here the increase in the cost of living for the period 1957 to December 31, 1970, and actually the same as January 1, 1971.

Using the year 1957-'59 as 100, as a base, we have plotted the increase in the cost of living on through to the [2150] present, or, rather, January 1, 1971, and find that this is the rate of increase that we have had in the cost of living. This is reflected not only in the cost of living to the individual, it is also reflected in the cost of operations to governmental services, and Roanoke County is no exception to that.

And if you took any five-year period and went across here and projected it into another five-year period using the past years of experience, you would find that we would always come below the rate that you are actually experiencing in this factor as far as costs are concerned.

Q All right, sir. Will you return to the stand?

Mr. Robinson, would you state whether or not the same computations and studies that you made in the Weddle petition you made with respect to the Kinsey petition? Is that correct? A Yes, sir, we have. We have taken the budget operations function by function, line by line, as far as generally government costs and school costs are concerned, the effect that the Kinsey petition suit would have on the County's financial operations, and that is shown on—

Q Commencing with County Exhibit 91, Mr. Robinson, does this not show the effect of the Kinsey petition if granted on the expenses? A That's correct. And Exhibit 92 the effect on—

[2151] Q Just a moment. A Excuse me.

Q Turning to the bottom of page 2 of that exhibit, in your opinion the County could reduce its expenditures by $36,101, is that correct? A That is correct. Its loss of revenue is in other than current taxes in Exhibit 92.

Q The bottom of page 4? A Page 4. It will show revenues other than current taxes, a loss of $491,000.

Q Can you just— A I don't think I read that right. I'm sorry. I have got my bifocals.

Mr. Davenport: Where are you, Mr. Robinson?

The Witness: Page 4 of Exhibit 92.

A The last line and in the next to the last column the loss of revenue to the County if the Kinsey petition suits were granted other than current taxes would be $461,604.

Q What part of that is attributed to the loss of local sales tax? A Well, let's go back to page 1 down about six or eight lines in the next to the last column. You will find there local sales tax reduction of $301,708.

Another sizable item of loss would be two lines [2152] up, the County merchants and business licenses would be $42,000 odd.

And coming below the sales tax, we have another item here that would affect the garbage collection by $16,000, and coming down near the bottom of page 1, another sizable item would be the revenues from the City of Salem for the school contract of $117,000.

Q All right, sir. A These are major items.

Item by item was analyzed to determine the effect that the Kinsey annexation would have on the County if granted.

Q Well, Mr. Robinson, some of these items both in the Weddle computation and the Kinsey computation showed items of reductions of $1 perhaps or $8. A That is correct.

Q Is this done by a set method or formula that you used? A This is by analyzing the item itself to determine just what the revenue or expenditures of revenue is generated in the area or the expenditures that are incurred by the County in the area proposed to be annexed.

Q Turning to County Exhibit 93, have you done the same thing in this exhibit that you did in the Weddle petition [2153] case, showing the effect of the possible reductions in expenses, the loss of revenues other than current taxes, and the effect on current taxes by the loss of assessables? A Yes, sir.

Q Would you have the same testimony explaining this exhibit as you explained the one in the Weddle case? Is that correct? A That is correct, and I might say that the loss of revenue on County Exhibit 93 if the Kinsey petition were granted would be based on the '71-'72 budget, $541,959, the last column in Item IV of that exhibit.

Q That's the effect on the '71-'72 budget? A That is correct, sir.

Q Now, have you used the same method of projections in Exhibit 94 that you used in the Weddle petition? A That is correct, sir, and the effect is that the loss of revenue for the five-year period including the '71-'72 budget would be in Item V of this exhibit, in Item V (B) $3,996,683. Again, we have not carried this to the fiscal year '77.

Q You have shown what it would be? A Yes.

Q Turning now to County Exhibit 95, would you state what that exhibit shows? [2154] A County Exhibit 95 is population, an average effective tax rate on real estate in Virginia cities ranked according to population. What we have done here is to make an analysis and compute some averages to see what effect the population has on the average effective tax rate on real estate in the cities of Virginia

according to population, and we have done this for the year 1950 and the year 1970.

If you come down in the first section to the left, you will find at the bottom of this cities listed their average effective tax rate on real estate was 85 cents. Now, you take the first 25 percent of the cities—

Q Is this first in size of population? A This is first in population size.

You will find the first seven which is 25 percent of all of them, the effective rate is $1.09. If you take the last 25 percent you will find that the tax rate averages 73 cents.

We have done this again in the next two computations for the first third which is nine cities. We find here again the effective tax rate average is $1.70 as against the last third of 79 cents.

We have then taken it again by taking the first half of all the cities ranked by population in the first half which is 96 cents and in the last half is 76 cents.

[2155] Q You have done the same thing for the 1970 population? A That is correct, sir.

Q For the same cities? A That is correct.

Q The result of this would tend to show according to this exhibit that the larger the city the higher the effective tax rate, is that correct? A That is correct, sir.

Q Turn to Exhibit 96. A This Exhibit 96 is a statement of the population average effective true tax on real estate in the Virginia cities ranked according to population growth rate for the period 1950 to 1970.

Using the 1950, '60, and '70 U. S. Census and the rate of growth, we find the City of Virginia Beach is the top with 307 percent increase in its population, and working this on down city by city, according to the rate of growth, and we have then shown the average effective true tax rate per $100 of real estate computed by the State Department of Taxes to show what the change in the effective tax rate had been for these cities according to their rank and rate of growth and at the bottom of this page you will find the average true tax rate for '50, '56, '62, '64, '66, '68, '70, and the percent of [2156] change for the period of '50 to 1970.

Coming over on page 2 you will note that none of the following cities, Bedford, Covington, Alexandria, Fairfax, Franklin, Galax, Lexington, Norton, Salem, or South Boston are shown in the last column as a change from 1950 to 1970 because they were not cities in 1950.

Now, we have taken these cities according to the rate of growth and taken the first 25 percent again of seven cities and find that of the first seven, according to the rate of growth, their change in effective tax rate average has been 69.38 percent, and taking the seven at the bottom of the scale, which is 25 percent of them, that change from 1950 to 1970 has been 55.71 percent.

Q I believe you have also compared the first and last thirds? A That's correct, and the first—

Q And the first half and last half? A And the first half and last half, that's correct.

Q And have you attempted to show the faster the rate of growth, the faster or higher the tax rates have gone; is that correct? A That is correct.

Q Referring you to County Exhibit 97, Mr. Robinson, entitled "Pertinent Data," would you state whether or [2157] not the pertinent data listed on this exhibit indicates in any way the extent of loss of net revenues to the County? A Yes, it does.

Q Would you point out some of those statistics? A All right. First of all, we have shown—it won't take but just a second, if the Court will bear with me, to show what we have put in this exhibit. We have shown the area in square miles for the County, the Kinsey, the Weddle, the Vinton, the total county, and Salem where it was pertinent, and where it was not pertinent we did not include anything pertaining to the City of Salem.

For instance, in Item II the assessed values, we show the Weddle petition area or suit, the Kinsey suit, Vinton and the total county. Then we show the 1971 estimated assessed values, the percentage by class of property in each one of these suits as well as the County as a whole.

And next, the '71-'72 estimated sales, local sales tax collections for the two petition suits, for Vinton and for the County as a whole, and the percentage of sales tax that is affected.

You will note while there is only 2.16 percent of the County's sales tax generated in the Weddle case, it is 29.25 percent in the Kinsey area.

Q 29.25 percent, isn't that correct? [2158] A Right, 29.25.

In Item V, the estimated County license, business license in the Weddle petition suit is estimated to be $10,560 or 3.84 percent, as against the Kinsey suit of $42,185 or 15.34 percent.

Q These percents can be compared, Mr. Robinson, can they not, to the percent of area of the County that's being affected in Item No. I? A That is correct, sir.

Q All right, sir. A Next we have shown the estimates of the 1970 population in the petition suits as well as the Vinton, the County as a whole, and Salem, and the percentage of these populations.

Next we have shown the 1971 estimated school age population, ages seven to nineteen, in the two petition suits, Vinton, the County, and Salem, and the total of the County including Salem. Of course, this is a factor to be reckoned with as far as the school operation is concerned, and the percentage of the school children in each one of these areas both as to comparison including and excluding Salem.

Next, turning to page 2 we have 1971-'72 estimated school membership broken down between kindergarten through seventh grade, and the secondary, eighth through twelfth, or [2159] a total estimated school membership for 1971-'72 in the Weddle petition suit of 428 as against 74 in the Kinsey petition area.

Next we have shown the percentages of these school children both as to elementary and secondary and a total of the County.

In Item IX we have shown the per capita taxable wealth, all classes of property, in the Weddle petition suit and also a percentage of this to the County as a whole. For example, Item IX, go to column 6, the total County, the per capita taxable wealth of the County as a whole, it is $3,361. Going back to the Weddle suit, you will find it is $8,763 or 260 percent of the County.

In the Kinsey petition suit we find it is $20,148 or 599 percent of the County as a whole.

Q Now, Mr. Robinson, is that an indicator of the adverse economic effect on the County if these petitions were granted? A

Yes, it is very definitely an indicator of the impact that these suits will have on the County's financial operations.

Q All right. Go to Item No. X then. A Item X is the per pupil taxable wealth. First, go to column 6, again for the County as a whole, it is $12,266.

Q Is this for each pupil in the County school system, [2160] the wealth of the County behind that pupil; is that correct? A That is correct, sir.

Now, when you come back to the Weddle case you find instead of $12,266 it is $34,396 or 280.42 percent that of the County.

Q Greater than the County? A Greater than the County, yes, sir.

Going to the Kinsey suit, you see that it is $92,571 or 754.70 percent of that of the County as a whole.

Q Greater than the County as a whole, is that right? A That's right.

Going to line 11 we have analyzed the public welfare assistance cost of the County for the month of January to determine what amount and percentage of the County's total welfare cost was in each of these petition suits and the percentage of the County both excluding and including Salem because the County has a contract for the furnishing of these services in the City of Salem.

And, finally, the next two items, Items XII and XIII, show the loss of net taxable revenue to the County if these individual suits are granted as well as the debt that the County would expect the City to assume if the cases were granted.

The loss of net tax revenue again for the five-year [2161] period in the Weddle case is $2,297,401, and in the Kinsey suit, $3,996,683, and the percentage of debt based on the assessibles in the Weddle case of $1,707,816 or 6.5042 percent, and in the Kinsey case, $794,698 or 3.0266 percent of the County's total debt of $26,257,133.

Q Mr. Robinson, there has been considerable testimony on the part of some City witnesses as to the need of the City of Roanoke for broadening their tax base or for additional tax resources. In your studies have you formed any opinion on which jurisdiction has need of the resources included in these two petition suits? A Yes, I have. I think we only have to turn to one set of figures. If you will take this

bulletin that has been mentioned before, it is called "Facing Up 5" put out by the State Department of Taxation to give some comparative data on the school systems in Virginia, and if you will turn to Table 7 in that exhibit, we will find that the wealth per child, based on the 1968 values of real estate, and public service corporations—this is the latest publication of this comparison, it was published in 1971, January, 1971, it shows the State as a whole, this real estate and public service wealth behind each child, in the State to be $28,715. If we look to the City of Roanoke, the City of Roanoke has $28,937 behind each child.

[2162] Q You say behind each child. Are these school children, based on per school child? A Yes, and this is for the year 1969-'70.

If we look to Roanoke County, we find that Roanoke County only has $22,649 or $6,066 less than the State has at all, and Roanoke City has, taking the State as a whole, $222 above that of the average of the State as a whole.

The City's wealth behind each child compared to the County is 127.76 percent of the County. The City is again slightly over a hundred percent of the State as a whole or 100.77 percent of the whole. The County is only 78.87 percent of the State as a whole.

This one indicator, and it is the largest single cost of local government, not only in Roanoke County but in Roanoke City, but in most governmental units of the Commonwealth, and it is not so much who needs this taxable wealth but who needs it the most, and I say that it is extremely important and will have a long and lasting impact on the County if either one of these areas are lost by the County.

Q Do these figures indicate to you that the County of Roanoke is in need of this taxable wealth more so than the City of Roanoke? A Very definitely, sir.

Mr. Fitzgerald: We offer all of these exhibits.

[2163] Your witness.

Judge Hoback: We will have a recess at this point.

(Recess had.)

[2164] Mr. Fitzgerald: Your Honors, I did have another question or two relative to one subject that I neglected to ask Mr. Robinson.

By Mr. Fitzgerald:

Q Mr. Robinson, you have reviewed Mr. Zollman's work and exhibits in determining the loss of net tax revenue to the County as he has determined it, have you not? A Yes, sir.

Q What tax rate of the County did Mr. Zollman use in making his calculations? A The $2.45 rate, as I understand the testimony.

Q And the tax rate as now adopted by the County of Roanoke is $2.95? A Yes, sir.

Q And this would be the tax rate in effect at the earliest possible effective date of annexation, is that correct? A That is correct, sir.

Q Taking the exhibit relative to the Weddle petition and just using the tax rate of $2.95 instead of the $2.45 that Mr. Zollman used, what would the loss of net tax revenue be according to his calculations? A Using the same assessibles that Mr. Zollman has used of the 12 million odd dollars, the loss of net tax [2165] revenue would be $60,000 odd dollars greater than that shown in the exhibit of 223,000, the difference from that to $283,000 in round figures.

Q Mr. Robinson, can you give me what would be the loss of net tax revenue if you used the $2.95 tax rate in the Weddle petition according to Mr. Zollman's method and calculations? A $283,000 as against the figure that he shows of $223,000.

Q And you said $60,000, generally, or roughly speaking, that much greater? A Right.

Q And that is for what he calls the difficulty or the first year after annexation? A That is using the assessibles of 12 million odd dollars.

Q And that is for one year? A One year, yes, sir.

Judge Hoback: In the Weddle petition?

Mr. Fitzgerald: The Weddle petition.

By Mr. Fitzgerald:

Q Going to the Kinsey petition— A I might say that that is based on the '71 assessibles of real estate, not the fiscal '71-72. It is based [2166] on the '70 personal property, as I understand it, and based on the calendar assessibles for public service of '71.

Q And I believe you used more current assessibles? A On real estate and personal property, yes, sir.

Q So there are other differences there. But just using the difference in tax rate alone in the Kinsey case, using the $2.95 tax rate instead of the $2.45 tax rate, according to Mr. Zollman's figures what would the loss of net tax revenue be for the first year? A It would be $509,000 as opposed to the figure shown in the City's exhibit as $485,000 odd dollars.

Q Again Mr. Zollman used a different assessibles figure, is that correct? A Yes, sir. Actually he used assessibles in that case more than we did.

* * *

Cross Examination

[2191] By Mr. Davenport:

Q In case you have forgotten what my question is, how much do you expect the County to collect in local sales tax in the Weddle area in the '71-'72 year? A It is right here, Item No. IV, Exhibit 97, $23,220.

Q Right. Now let me ask you the next question. But because of losing the Weddle area you are going to lose $40,000 in local sales taxes according to Exhibit 83? A That's exactly right.

Q All right. A That's exactly what will happen.

Q That's all I want to know.

Mr. Fitzgerald: I would like him to finish the answer to that. He has tried two or three or four times. Mr. Davenport cuts him off.

Mr. Davenport: No, I haven't. I have been listening to him ad infinitum.

Judge Matthews: If he will just answer Mr. Davenport, then he will be given a chance to explain and if he doesn't, you can ask him.

Q Go ahead, explain it. [2192] A All right. If you go back again to Exhibit 83 to show $990,220 as the County's sales tax net, this is net, the budget shows $1,075,000, I believe, but the County only gets out of that $990,000 because the other is going to the town of Salem. Anytime that—

Q You mean—

Mr. Fitzgerald: Vinton.

The Witness: The town of Vinton.

A Anytime there is a change in the population ratio between Vinton and the County, the County's sales, net sales tax is affected. Because of this annexation the town of Vinton would have a higher percentage of the total population of the two governmental units because Vinton would not be losing any population.

We anticipate that there is some 1,680 people or 2.49 percent of the County's population in this area. This changes the ratio entirely. This is why you have got the difference between $23,000 in one place and you have got $40,000 in another. It is just that simple.

Q All right, sir. I am glad it is simple.

And the same situation relatively exists with reference to the Kinsey area, doesn't it? A I want to be sure I understand your question. The relative position as far as you mean the line items and [2193] items that you have reference to, Mr. Davenport?

Q I am talking about local sales tax. You expect to lose in the Kinsey area—I am looking at Exhibit 92—as a result of annexation to reduce the local tax by $301,708, is that right?

Mr. Davenport: Sheet 1, if the Court please, of Exhibit 92, about ten items down. A Yes, sir, and I think—yes, sir.

Q On Exhibit 97 it shows $314,000, doesn't it? A That's exactly right, and the reason why these figures come closer together here as compared with the other suit is because the population factor changes much less. If you go down on Exhibit 97 just a couple lines below this $314,000, you will see it is only .51 percent of the County's population that is affected. In the other case it is 2.49.

Q But whereas in the Weddle case you show a loss greater than you expect to get in the Kinsey case, you show that you expect to get more rather than show a loss. A That's exactly right.

Q It is exactly the reverse situation. A That's right, that's right. This is because of the population factor.

[2207] * * *

Redirect Examination

By Mr. Fitzgerald:

Q Mr. Davenport asked you about the cost of providing the garbage and trash collection in the Weddle area. Do your figures reflect in there the cost of providing garbage collections in the Weddle area and the possible reductions in cost if that area is deleted from the County system. A My figures reflect the possible reductions in cost that the County could effect if this area were eliminated from the County.

Q Does this necessarily reflect the cost of [2208] providing this service to the citizens? A No, sir.

Q For instance, can the County delete any part of the bulldozer machinery out of the landfill site if this area is annexed? A No, sir.

Q Can it delete a percentage of the bulldozing? A No, sir. I would say this, that as I recall it the personnel at the dump is on a salary basis. There are personnel reductions for those on an hourly basis but the personnel on a salary basis was not reduced. The operations were reduced based on the number of cubic yards of material that we anticipated would be covered there.

Q Simply put, Mr. Robinson, is it true that the County cannot reduce its expenditures to the same percentage as its revenues will be lost in that case? A No, sir.

Q Is that correct? A That is correct, sir.

Q Just to try to clarify the record on this question of local sales tax, are there two effects on the County's local sales tax if these annexations, either one of them, are granted, both from the basis of the sales tax collected in the area and encompassed in the petitions and [2209] on the portion of the tax Vinton will get? A That is correct, sir.

Q Is this why the loss to the County is greater in the Weddle case in its local sales tax than the amount collected from the Weddle area? A That is correct, sir.

Q For instance, Mr. Robinson, if half of the population of the County were being annexed and there were no sales tax collected in

that area, would the County still lose half of its sales tax? A It would lose—

Q Or roughly. A Based on the new ratio of population between what was left in the County and that population in Vinton.

Q So if there were no sales tax collection in the Weddle area the County would still have a sales tax loss as a result of the annexation of the Weddle area? A That is correct, sir.

* * *

[2212] **T. J. McDonald**

* * *

Direct Examination

By Mr. Fitzgerald:

Q State your name, please, sir. A T. J. McDonald.

Q And your residence address. A 4184 Ewell Road, Virginia Beach, consulting engineer and civil engineer.

Q And your experience and qualifications are set forth on County Exhibit No. 1, is that correct? A Yes, sir.

Q Mr. McDonald, you testified in 1960-61 in the annexation case between the City of Roanoke and the County of Roanoke, is that correct? A Yes, sir.

Q Would you state to the Court what differences you have observed in those cases and the cases before the Court at this time? A Yes, sir. There are, in my opinion, a number of significant differences, generally speaking, between the situation that existed in 1960 or 1961 and the situation that exists in 1970 and '71.

[2213] First as to the City, I think there are a number of general changes that can be mentioned. The first is extremely general. It is frequently held by students of government, for example, that the level of citizen participation in local governmental activities is a valid indicator of the general clinical condition of a city. It appears from what I have observed and heard in these proceedings that in Roanoke there is now ample citizen participation. I heard Mr. Hirst say that 220 people made up their boards and commissions, which appears to suggest that they have a large capacity for this kind of citizen participation.

Related closely to this kind of thing is the general administrative capability of a city. I think it can be said on the basis of everything I have learned in the studies I have made here and heard from the City's witnesses and read from the City's exhibits that the City has a very large administrative capability. Of course, it is designed for and oriented to an established municipality having a homogeneous development pattern as distinguished from a large rural urban complex such as Roanoke County has become.

The level of the general services of government, it seems to me, must be a valid indicator of a City's overall condition. The City's testimony and the City's organizational charts show quite clearly, in my opinion, that [2214] the general services of government in Roanoke have come to a high level for an all-urban community up to the present time.

Two slightly different services, water and sewer utilities, appear to me to be stronger in 1970 than they were in 1960. Just to cite one example, the Carvins Cove water supply has been augmented by the diversion of Tinker Creek floodwaters in Botetourt County, the diversion of the Catawba Creek flows into Carvin Cove reservoir. I understand they are now underway with a program for early completion.

The City's sewerage system, despite the current problems about degrees of treatment that need to be enhanced, which so many municipalities and counties alike are confronted with—the sewerage system is good. The sewer utility service is good.

These problems in particular the sewerage problems, are the kind which can and should be resolved on a regional basis, not in my opinion but I think in the opinion of all engineers and most informed people.

As to schools, I think there has never been much doubt that both the City's schools system and the County's school systems are excellent. The County has for many years been providing student transportation which the [2215] City has not yet come to grips with but which apparently they have to.

Any visitor to any city, I think, is bound to form definite impressions of what that city is really like and usually he is able to express them in pretty clearly understandable terms. These impressions that I am talking about form themselves from the large number of casual observations like the appearance of the streets, the way they are kept clean, the curbs and gutters and sidewalks, the public and private

buildings, trees, and park space, traffic problems and this sort of thing that everybody has to observe in a city.

These things, I think, can be loosely grouped as the amenities. It seems to me from general observation in Roanoke that in terms of the amenities Roanoke is better situated than it was ten years ago.

The same thing, I think, can be said of the general economic activity. Retail sales, or rather the local sales tax revenues, have been increasing substantially since 1966. The outlook, as I understand it, is for continued acceleration of retail sales in Roanoke.

In 1960 the impact of the viscose plant shutdown was acutely felt here. Now the viscose plant is occupied by a number of other industries.

[2216] As to social problems, these don't seem grave to me. The non-white faction of the population in Roanoke has increased from 17 percent in 1960 to 19.4 percent in 1970, according to the U. S. Census figures.

Social welfare costs have risen, of course, but this appears to be more a consequence of policies of the federal and state governments rather than due to any social deterioration.

All of these accomplishments, I would say, on the part of the City of Roanoke have been made without large annexations. There have been several small petition suits granted but no major annexations.

So much for the differences in the situation of Roanoke now and 10 years ago.

On the other side is the situation of Roanoke County now compared to what it was then. Then it had a population of about 46,000, leaving out Salem. Now it is about 67,000, Salem being a city. The effective true tax rate on real estate in 1962, very near to the 10-year period I am talking about, was 74 cents. By 1970 it had risen to 85 cents. The general debt in 1960 amounted to about 3.6 million. In 1970 it was about 21.7 million. This is a very important thing, of course, always with respect not only to the County in this case but also to the City since both are [2217] under the same requirement of a referendum on general obligation bond issues.

The school system has been greatly enlarged. The average daily school membership in 1960 was about 12,900 including Salem. In 1970 it was about 20,756, including Salem, which is still being provided school services by the County.

Since 1960 the County has had to expand its services to meet the total demands of all of these people and the school children, to keep

up with the development which has gone on, much of it residential which generates the greatest demands on a local government, and to see that such special services as water and sewer are provided as they are needed.

The County, of course, has managed to meet all of these demands, I think, in an admirable way despite the transition of Salem to city status which deprived the County of substantial tax resources. The only way the County could do this, of course, way by the utilization of the resources which were left to them and which existed in the developed area as a consequence of the Court's denial of the large annexation petition in 1960.

There are a number of other more specific indicators, I think, that might be looked at to measure some of these things.

[2218] Q Would you refer to what other indicators you have observed? A Yes, sir. The first is population densities which are expressed as the number of people per acre in a given area as a rule. I think population densities are a valid and succinct indicator of the extent to which there may be vacant land within any given area and also of the intensity to which the developed land in the area is used. This is all provided that the area is somewhat urban in character, that is to say, made up of land in the variety and general proportions of land uses usually associated with a maturely developed community.

And secondly, that the area is large enough for the statistics to have any meaning whatever.

[2219] For example, a four-unit apartment house could easily be built on one acre of land and there might be four persons per family, but you would give it a density for that one acre of land amounting to 16 percent per acre. If this were said this would be perfectly true, of course, but it doesn't have any meaning with respect to a larger area or community.

Likewise, most of these indicator figures, I think that their best use is in showing relatives. A large number of examples can be seen at a single glance.

Now, County Exhibit 24—

Q This is in the first book, the larger book? A Yes, sir.

Q 24? A Yes, sir.

Q All right. A This is captioned "Population Densities of 31

Virginia Cities in 1960." Actually there were 32 in 1960 but the data for one of them was not available in the published material.

The exhibit shows in numerical order the 31 cities. They are ranged in terms of density, the highest density being Alexandria at 9.33 persons per acre, and the lowest number, 31, being Newport News at 1.50 persons per acre.

[2220] Newport News in 1960, of course, was a consolidation city which gives it a special statistical character. It is old Newport News plus Warwick County and accounts for its very low population density. At the other end of the spectrum, Alexandria, with a density of 9.33 is a city that for a long time has been influenced by the high density of the Washington Metropolitan development.

Q Roanoke City in 1960 is where? A Roanoke is Item XI on Exhibit 24 with an average population density in 1960 of 5.80 persons per acre, and I might mention that the weighted average of all of these cities was 4.39 per acre.

Exhibit 25 gives the densities of 38 Virginia cities in 1970. In this case, Virginia Beach which was the small resort city in 1960, has now become the large consolidation city, Item XXXVII in the right-hand side group in this list, with a density of 0.87. It is still an extremely low density for cities.

Chesapeake was added between 1950 and '60, this being another consolidation city with an extremely low density, abnormally low density.

Roanoke has come from 5.80 to 5.29 persons per acre, but it is still in eleventh place of the most densely populated of the cities.

[2221] The weighted average for all of these cities in 1970 has dropped to 2.28 mainly because of the addition of Virginia Beach and Chesapeake with their extremely low and anomalous densities.

If all of the consolidation cities, and there are four of them—if all of them were extracted from this list of 1970 cities, the average density would become 5.27 which is only slightly lower than it was in 1960. This I think is a significant relationship. There is a reduction in over-all density reflected among the cities and this I think just gives a measure of the extent to which the older and established municipalities have adapted themselves to the contemporary trend, including such things as flight to the suburbs and the increase in use of the automobile.

Next, Exhibit No. 26 merely extends the comparative view of these population densities of cities a little bit further. It shows the densities of a number of American cities all over 25,000 population in 1960 by states and regions. I will try to be as brief as I can with this.

In the first group, if your Honors would look at the States of Virginia, Tennessee, North Carolina, Alabama, and West Virginia comprising a group of somewhat arbitrarily, the weighted average density over in the last column to the right of the cities in these several states ranges from 3.5 per [2222] acre to 5.8 per acre.

In the second group of Massachusetts, Connecticut, New Jersey, and Maryland, the North Atlantic states, the range is from 4.9 to 16.0 per acre.

In the third group it is from 6.2 to 9.6, and so on.

These figures are quite apparent.

Coming over to the next two columns to the left, the first group ranges from 0.5 to 12.6, and the second group from 0.9 to 2.7.

And so on through the list of these cities.

The next exhibit, 27, is simply a graphical presentation of the same figures that were mentioned in Exhibit 26.

Now, all of these things together suggest some general conclusions. The first is that southern cities tend to be a little less densely developed than those in other sections of the country.

Second, that larger cities everywhere tend to be more densely developed than smaller ones.

Third, that the tendency in recent years has been for cities to become a little less densely populated. Again this is a reflection of contemporary ways of life.

Finally, all these figures merely serve to give [2223] some dimensions to the transitions that have been occurring in recent years and to the way in which Roanoke and all of these other places have adjusted. It is very important, I think, perhaps the most important thing of all is that these figures show the very wide range of population densities with which cities can and do subsist as they have for years.

There seems to be no such thing as an ideal population density. Furthermore, whatever densities do exist, they can be regulated to some extent by the affirmative action of the governing bodies of municipalities through the ordinary tools of zoning and subdivision regulations and through their planning programs.

Q Mr. McDonald, have you taken into account land use in this

case? A Yes. In general terms, land use is essential to a complete understanding of the situation existing in any municipal, urban, rural complex. It lends itself to a fuller evaluation really of the character and problems in jurisdictions or in parts of a jurisdiction, again provided they are large enough for statistics to have any meaning.

Exhibit 28 in the County Book shows land use in Roanoke County including Vinton. This data is from a survey by the Regional Planning Commission and it shows the land use categories adopted by the Commission for that particular survey, [2224] the area in acres in each of the categories used, and the percent of the total of the area studied, which is Roanoke County.

It shows in the right-hand column on Exhibit 28 the total developed area in Roanoke County, according to that survey, was 20 percent, and vacant and agricultural land amounted to 80 percent.

Exhibit 29 is in precisely the same format, and the figures come from the same source, the Regional Planning Commission survey. In this case the total developed area in Roanoke amounts to 77.7 percent and vacant and agricultural land amounts to 22.3 percent. This is 3,856 acres of vacant and agricultural land. This is almost the inverse of the proportions of developed and vacant land in Roanoke County.

And simply to fill out the picture, Exhibit No. 30 shows comparable land use in Salem derived from the same source and arranged in the same format with one exception. In the category of land use in the case of this Salem exhibit, the words "and agriculture" following "vacant" are missing, but they should be there because the figures include vacant and agriculture land in the next to the last line toward the bottom.

There is one more land use exhibit in this group, No. 31, which shows land use in Weddle, in the Weddle petition area, and Roanoke County. The first line of Exhibit No. 31 shows for Roanoke County residential, commercial, industrial, public [2225] and semi-public streets and roads, total developed area, vacant and agriculture, for a total of 168,083 acres.

I might point out at this juncture, if your Honors please, the total figure of 168,083 acres for Roanoke County, including Vinton, is given on Exhibit 31, whereas on Exhibit 28 the total is 168,604. There are these relatively small discrepancies in areas in Roanoke County throughout these exhibits. The most reliable sources for the area of the County are in some disagreement. In the case of Exhibit 28, the

[2229] In the Weddle and Kinsey petition areas, in both, they both are pretty much alike in this respect: The percentages of nonwhite are less than 2.5, probably less than 2.0. The figures can't be exactly derived from the census report.

Q As compared to 6.9 and 3.1 for the County as a whole, is that correct? A Yes, sir.

Q All right, sir. Have you made any analysis of any particular criteria for municipal boundaries? A Yes, sir. These are frequently of considerable importance I think in annexation suits. They are numerous and are very diverse. They include conformity or at least compatibility with the ridges and streams and other topographic figures. They include streets and roads, railroads, power lines and other works. They include subdivisions, property lines, development patterns, land uses. In short, I think they include about all of the physical characteristics of any area.

The application then of these numerous criteria to any given situation becomes pretty subjective and I think always a variety of opinions will be found in every situation.

On the whole, while it is always important to find a rationale for the delineation of a municipal boundary, the question in my mind is just how much, how definitely it [2230] can be done in every annexation case.

The concept of a compact body is probably as important as any of this other criteria as a practical matter. I could observe in this case that the present corporate lots of Roanoke which is somewhat complicated and irregular got that way partly because of annexations, and I think this is always the case in municipal boundaries as they evolve through the years.

Q Do you see, Mr. McDonald, any improvement in any way in the municipal boundary by the granting of the petition for annexation here? A No, sir. I think it would perhaps be made somewhat more irregular.

There are a number of ways in which this boundary, particularly in the Weddle petition area, bears little relation to any of the topographic considerations. In the first place, the most pronounced feature topographically is Roanoke River which runs right through the Weddle petition area.

Q Mr. McDonald, have you made any observation concerning the interest of the people of the community in connection with this case? A Yes, sir. I have listened carefully to the City's witnesses testifying as to the way in which people shop and do their banking and carry on ordinary business in Roanoke under [2231] the general heading of community of interest. Another way to put it I think is that the people in Roanoke County and Salem and Botetourt and Bedford and Franklin and Montgomery and Craig and beyond, for that matter, come to Roanoke for all of these purposes and, in short, they all help to make Roanoke the large regional marketplace and trading center that it is. But this is the circumstance which contributes very largely to Roanoke's economic viability. The extent of this contribution can be inferred at least from the data given on County Exhibit 36 which is taxable sales and population, and on this exhibit Roanoke, Salem, Roanoke County, Botetourt County, Franklin, and Montgomery are all construed as being contributors through Roanoke taxable sales volume.

The exhibit shows the taxable sales for each of those jurisdictions, the percent of the total taxable sales for the group, the population of each jurisdiction, and the percent of the population for the total group.

It indicates on line 1 that taxable sales in Roanoke in 1970, amounting to $283,000,000 constituted 56 percent very nearly of the total taxable sales for the sixth jurisdiction area; whereas, the population of Roanoke County in 1970 was 33.7 percent of the total population of the area. Just an inferential indication of the extent to which all of these other jurisdictions contribute to the economic viability of [2232] Roanoke.

Q The fact that the City of Roanoke obtains over 55 percent of taxable sales in the area having 33.7 percent of the population, does that indicate to you that the City is in better shape than if it had to care for the additional population equal to its sales tax receipts? A Yes, very definitely. The service requirements of the businesses which produce these large revenues are much less than the service requirements of the equivalent population.

Q Have you made any observation as to the situation with the City of Roanoke as to its sources of revenue compared with other cities? A Yes, sir. On Exhibit 37 there are some statistics in this connection. The exhibit is captioned "Dollar Sources of City Revenues, 31 Virginia Cities in the Fiscal Year 1967."

The data comes from a report of the Auditor of Public Accounts on comparative cost of City Government for the year ended June 30, 1967. This report was the first of its kind and it is intended to be put out every two years. There is another one that has just recently become available, the second of the series, but I won't be able to render that into an exhibit for this proceeding.

Q What are your observations from these statistics? A First, I think it goes without saying that property [2233] has always been reserved as the tax asset to the localities and has in the past constituted the largest single item in the inventory of most Virginia cities and of the components of the property item, real estate is and has been for many years the largest.

On the first page of Exhibit 67, the extent to which these proportions prevail is shown.

The first page deals entirely with the revenue from local sources and the amount and percentage of revenue from local sources is given in the first two columns of figures. These figures range from a low of 19.75 percent of total revenue—this is in Franklin—up to 58.7 percent in Fairfax. These cities, incidentally, are arranged in alphabetical order this time in case your Honors want to follow them. The weighted average of all of these is about 33.5 percent, that is to say, the general property taxes comprise about 33.5 percent of the total City revenues.

In Roanoke it amounts to 33.72 percent, indicating Roanoke is in sort of a median position on the thing.

The second page merely shows revenues from the State and Federal Government and miscellaneous sources, all adding up to a total in the last column on the second page.

In addition to the relations of Roanoke between the upper and lower extremes in these percentage figures, the [2234] very wide range of the figures themselves is significant as being expressive of the variety of conditions under which cities can and do subsist and always have. Every city is a highly individual structure and one has to examine all of the social, economic, physical, and other characteristics of it and then can reconcile it with the statistical figures on cross or close to government, resources, and other factors.

Q In any event, Roanoke is about in the mean compared to these other cities, is that correct? A Yes, sir.

Another thing that is useful in giving some dimensions to the situa-

tion of cities with respect to revenue sources and local bodies is the composition of the local levies. Exhibit 38 gives the composition for the tax year 1968. That is another two-page exhibit. It shows first the total levy for each of the 37 cities, then the total dollars and the percentages from each of the items of real estate, personal property, machinery and tools and public service corporations, these being the chief components of the local levy.

It shows that real estate as a percentage of the total levy on locally taxable property ranges from 52 and a half percent in Norton, which is Item 24 on page 1 of the exhibit, up to 84.7 percent in Virginia Beach, which is Item 34 [2235] on the second page of the exhibit. It shows that the weighted average of real estate as a percentage of the total levy for all of the cities was 75 percent and that Roanoke, which is on line 29 on sheet 2, was 72.1 percent, indicating again on the whole that Roanoke is in a rather good position with respect to the tax burden it has to impose on property and that the property tax in this kind of situation does not become regressive. Whatever it might become in the future, it doesn't appear to be regressive at the present time.

Finally, in connection with this matter of tax burden and sources of revenue, the next two exhibits, 39 and 40, give the average effective true tax rates on real estate in Virginia cities from 1962 to 1970.

Looking at Exhibit 39, in 1962 the true tax rate on real estate in Roanoke was $1.02. Roanoke is about the middle of the right-hand column. By 1964 it had been increased to $1.03 and from then until 1970 it remained fairly constant, growing to $1.35, $1.41 and then back down to $1.38 between 1968 and 1970.

Q Does this also fall near the median of these cities? A Yes, the weighted average for all these cities was $1.28 in 1970, somewhat lower or a little bit lower than that for Roanoke. Again the range of intensity of these things [2236] is very important. In 1970 I think the highest true tax rate appears to be Richmond at $1.77 and some of the other larger cities also have high tax rates such as Alexandria at $1.62, Hampton at $1.38, Lynchburg at $1.31 and so on.

These figures suggest that the larger cities do have to have the higher true tax rates on real estate. This, incidentally, is corroborated by the studies that Mr. Robinson made and testified to in some of his exhibits about the tax burden being somewhat proportionate in general to the size of a city.

Exhibit 40 gives some similar data for representative counties. There are 33 counties and again they range over the State geographically. The weighted average of all of the counties was 99 cents, the true tax rate in 1970, the highest being Prince William at $1.28 and the lowest being Surry at 30 cents.

Roanoke County was 85 cents in 1970 and had maintained a fairly level range from 1964 when it was 81 cents, 1966, 84 cents, 1968, 87 cents, and 1970, 85 cents. It was a little bit lower than the median and fairly level for the last six years or so.

Q Mr. McDonald, there has been some testimony or claim made by certain city witnesses that the growth outside the City of Roanoke is what they term a spill-over from the [2237] City. Have you made any observations concerning this? A Yes, for a long time. I haven't prepared any exhibits but there is an exhibit in evidence in this proceeding, City Exhibit A-15, which shows the subdivisions as they developed from 1950 to 1960 and from 1960 to 1970.

The exhibit shows—and I will be glad to get it out, since I have located it in the City's exhibits—

Q Just go on and tell what it shows. A I can do that. It shows —and the Court may remember this—the subdivision itself from 1950 to 1960 in yellow patterns. It shows that those after 1960 are in red patterns. It is quite evident that a great many of the yellow group, that is, the earlier subdivisions, started in areas that were remote from the Roanoke Corporate Line.

In other words, geographically there is no sign of spill-over.

In 1950 Roanoke must have had a very substantial amount of vacant land—I don't know what the figure was but I say this because in 1960, about which I do know, it had over 5,000 acres, about 30 percent of its total area. Whatever it was that stimulated the development of these outlying area subdivisions, the yellow ones, it was not, in my opinion, any acute shortage of vacant land in Roanoke.

I suggest that it was probably only a [2238] manifestation of the tendency that was appearing everywhere for people to move into the suburbs who wanted to live there.

I think it was also evidence of an overall area development in a highly attractive environment in which there were then two major jurisdictions of government.

Q Is this the exhibit, Mr. McDonald, to which you referred? A Yes, sir, that is it. The remoteness of some of these early subdivisions beginning in 1950 from the corporate limits of Roanoke, I think is quite obvious.

It seems to me that this kind of area growth that has been going on in the Valley is capable of supporting three units of local government now that Salem has become a City, and in fact that it requires three units of government given the traditions of the area. It requires the services of three units of government to carry out the local functions within appropriate limits of cost.

Incidentally, I think it is quite obvious that the numbers of population in a municipality or a unit of local government need not be the most important thing so long as each unit has enough population and enough economic base to be viable. I think the most important requirement of all is that each political unit be able to cooperate with the other political units in the region.

[2239] Mr. Fitzgerald: May it please the Court, I have missed my estimate by probably 15 or 20 minutes. It is 1:00 o'clock now. If the Court wishes me to continue I will be glad to, or if the Court wishes to adjourn for lunch we can do that. I think we can finish in about 15 or 20 minutes with the direct examination.

Mr. Davenport: It is all right with me. I have no objection.

Judge Hoback: Supposing we go ahead and finish, then, and adjourn before cross-examination. Is that all right?

Mr. Davenport: Yes, sir.

By Mr. Fitzgerald:

Q Mr. McDonald, have you had experience in the siting at new industries in various jurisdictions? A Yes, sir, I have.

Q Would you comment on what has been testified to here by other witnesses for the City about there being difficulty in locating industries where you have to deal with more than one agency? A Yes, sir. I would observe first off that even if there were only one jurisdiction that had to be dealt with the location of a large industry or commercial establishment [2240] would never be simplified very much.

To begin with, before the sponsors of any such development even got down to the selection of a general area in which to put their devel-

opment they had probably studied a number of other areas, maybe in Tennessee or North Carolina or almost anywhere, and conferred with any number of other local officials in these other areas.

Then let's say they had selected a site in Roanoke County. Perhaps they do, then, have to consider the circumstance that Roanoke City has certain planning authority over the area in which they have selected a site. This doesn't mean anything more, I think, than that they have to ascertain what the requirements of Roanoke City in land use controls are and conform to them in their planning, which they want to do anyway, and which they would already have done with respect to all of these other sites and jurisdictions that they had been considering.

Then suppose they had to negotiate with Roanoke about water, as has been testified here, and with the County Public Service Authority about sewers. They have to negotiate with Appalachian about power. They have to negotiate with the Gas Company about gas and with the Telephone Company about communications, with the Norfolk and Western about rail service. There isn't any single clearing house agency with which any [2241] prospective developer of an industry or commercial establishment can negotiate.

On the whole, I doubt seriously that any important site selection was ever made or unmade simply by the necessity of dealing with more than one jurisdiction in developing.

Q In your observation of the area of the County of Roanoke and the City of Roanoke, have you seen any evidence that the area is lacking in industries because of the two jurisdictions existing? A No, sir, I know of no case like that.

Q Directing your attention to the petition of Weddle, can you state whether or not you have viewed that in relationship to certain factors of land use and density and assessed their values? A Yes, sir, we have done that. Exhibit 41 shows characteristics of the areas petitioned to be annexed in the Weddle petition. The characteristics are area makers, such as population, average population density, developed area, vacanted agriculture, percent vacant, assessed value of real estate, school children and assessed value of real estate per school child. All the figures for the Weddle area are given on the first line and for Roanoke County on the second line. The petitioned area as a percentage of the County is given on the third line.

[2242] I think it is important, and on the difference between the main portion of the Weddle petition area and the northerly portion of it. I wonder if I might have map Exhibit 46 put on the board.

Q It is in the book also, is it not? A Yes, sir, that map is in the book.

The Court will recall, I am sure, the marked difference in the character of the Weddle petition area north of Route 11 up to and beyond the Roanoke River from the residential character of that portion of it that is south of Route 11. Nearly everything north of Route 11, amounting to approximately 350 acres—this is about 23 percent of the total petition area. Most of this 350 acres is made up of the Blue Ridge industrial park and the partially developed property west of the industrial park over toward the Salem City line, the Norfolk and Western materiel yards and the Roanoke Electric Steel Company property. There is a small residential section just to the west of Blue Ridge Industrial Park.

But south of Route 11 is a different situation. It is almost exclusively residential, quite fully developed with many large lots and estates. The composite area even when it reaches its full development will probably not have a very high population density because of the development patterns that have already been established there.

[2243] In the residential part of the Weddle area water and sewer facilities are provided, largely by the Roanoke County Authority. If these utility services are not provided to any individuals it is probably because they are not required by those individuals since many of them have their own wells and septic tanks. Additional areas of the Weddle petition area will be provided with sewerage by the Roanoke County Authority in the near future. It is all in their current development program.

The residential part of the area has street lighting in several areas and more street lights can be provided throughout the area, as a matter of fact, if there is enough demand or necessity. Some portions of the area have curbs and gutters. The means are available to extend these curbs and gutters if sufficient demand or need should develop.

It goes without saying, of course, that none of these things can be done without expense and that the burden of the expense must fall either on the direct beneficiaries or on the public at large or both.

School bus transportation is provided in the area for those going

to County schools. Trash collection is provided, not from the general fund but by a direct charge against the beneficiaries of the residents served, as is usually the case in this kind of suburban territory in a county.

[2244] In the industrial part of the Weddle petition area the Court will recall, I am sure, the Blue Ridge Industrial Park. It is well equipped with the amenities. There are street lights. The streets had an orderly appearance. The area has water and sewer and all of the other things that are needed for an industrial park development.

The nature of the Norfolk and Western Railroad is such that it has everything that it requires in the way of services, either special or general services.

Roanoke Electric Steel is more or less self-contained. It has everything that it needs.

The entire area, then, in my opinion, lacks nothing of importance as to basic and special services or as to the general services of government, including schools and so forth.

As to the topographic conditions, which sometimes make it seem reasonable to annex territory, there are none here that I can see. No consideration was given in drawing the petition line to the most prominent feature which is, as I have already mentioned, the Roanoke River which runs right through the area petitioned to be annexed.

The petitioned area lies in the Barnhart Creek, Peters Creek and Mud Lick Creek water sheds. Peters Creek and Mud Lick water sheds both extend into the City of Roanoke, so [2245] there is no question of adhering to the water shed concept in this matter.

All three of these water sheds, incidentally, have sewerage facilities in them, put there either by the Roanoke County Authority or by Roanoke City. These sewer systems, for all practical purposes, are integrated. The City and the County, from an engineering point of view, serve somewhat indiscriminately within various water sheds.

Turning to the possible needs of the City for the territory making up the Weddle petition, it is difficult for me to see what they are. If there were an acute shortage of vacant land, of which the City has 22.3 percent—about 3,856 acres as shown on Exhibit 42—the addition of Weddle would only increase this to about 23.7 percent vacant land, also shown on Exhibit 42.

In population density, if it were too high—and it is only about 5.3

persons per acre in 1970—it would be reduced to about 5 per acre, which is also shown on Exhibit 42.

As to the impact on the County of such an annexation, using assessed values of real estate as an indicator, there would be a substantial imbalance in the transfer of tax resources and school children from the County to the City. The proportion is about $23,528 per school child—

[2246] Q Are these shown in the last column on Exhibit 42? A Yes, sir, the last column on the right. The assessed value of real estate per school child in the Weddle petition area is $23,528 as shown by these figures, compared to about $10,636 of real estate value per school child in the City of Roanoke and $9,792 in the County of Roanoke.

I would like to point something out here, Mr. Fitzgerald, if I may. There are some words on this exhibit that don't belong there. Note 6 should read: "1970 value increased by 3.01 percent." The following words should be stricken from the exhibit.

Q You had used that factor in estimating the assessed value of real estate in the City of Roanoke? A The factor of 3.01 percent was used for projecting the assessed value of real estate in the City of Roanoke from 1970 to 1971.

Q The significant thing is that the assessed value of real estate per school child in the County of Roanoke is roughly $9700 while in the Weddle area alone it is over $23,000, is that correct? A That is correct.

Q Do you have any further comments on the effect of the Weddle petition? A There is the obvious corollary that with the [2247] imbalance between assessed values of real estate as an indicator in this case—and the same thing is true of other values as well—but with the high assessed values and the small number of school children in the area proposed to be annexed the per capita reduction in the County would be materially greater than the per capita increase in the City.

If the desire of some of the residents of the Weddle area to be annexed to Roanoke for reasons of personal preference justified their annexation, it would still be difficult, it seems to me, to understand why the largely industrial area lying north of Route 11, which was simply appended to this petition area, ought to be included with them since this is the way in which the greatest detriment to the County will be felt.

Q Have you made the same observations or made observations pertaining particularly to the Kinsey area of the petition? A One casual observation I might make in connection with the Weddle petition is that the Court, I am sure, will not need any statistics to remind it that there is very little likelihood that the people who make up the work force in the industrial area—the Norfolk and Western and Roanoke Electric Steel and so on—live in the residential part of the Weddle petition area.

To the extent that they do live in Roanoke County [2248] they live in other parts of the County. The County has the responsibility of educating their children and providing other general services of government.

[2249] Q Do you base this on the apparent and the actual high value of the homes in the area of the Weddle petition? A Precisely.

Q What observations have you made with regard to the Kinsey petition? A There is an Exhibit No. 43 which shows land use in the Kinsey petition area along with land use in Roanoke County. The situation is a little different there.

There is a small amount of industrial land, 30 acres or more, in the Kinsey area and about 80 acres of commercial. The annexation in the Kinsey petition would have the effect of reducing the County's developed commercial area about nine and a half percent compared to a reduction of about 1.1 percent in the overall area.

Q It is about ten times the effect on the commercial area than on the overall area? A Yes, sir, it has a concentrated effect on the developed commercial land.

Q On Exhibit 44 what do you show? A Exhibit 44 shows some of the characteristics of the area petitioned to be annexed and Exhibit 45 shows these same characteristics of the area petitioned, together with Roanoke. It is a composite of the area and the present City.

[2250] I would like to beg leave to make the same change in note 6 on Exhibit 45 as was done on Exhibit 42.

Q That is to strike the language after 3.01 percent? A Yes.

Q What observations have you made with regard to the impact upon the County and the City if this petition were granted? A Here in terms of the disparity between numbers of school children and as-

sessed values of real estate as an indicator, the disparity is even greater than it was in the Weddle case. The assessed value of real estate per school child in Kinsey amounts to $65,000 compared to $9,792 in the County in general.

Q So the Kinsey area compared to the County in general as to assessed value per school child is about sevenfold, is that correct? A Yes, sir.

Q Would this materially affect the assessed value per school child if added to the City? A Not materially.

Q The City would still have between 10 and $11,000 per school child, is that correct? A Yes, sir, it would be spread over approximately [2251] 19,000 school children in that case.

Q Briefly, Mr. McDonald, what are your observations with relation to the Kinsey area? A In my opinion the area lacks nothing of importance as to basic and special services or as to the general services of government, and including schools, law enforcement, fire protection and the like, or as to the amenities. It is a well-developed area containing well-planned and suitably arranged and disposed public facilities and small residential sections in an attractive, open environment.

As to the topographic conditions in the Kinsey area, there are none here that I can see that would make it necessary for a City to annex the territory to it. There are no problems of natural barriers that I can think of. The petition area lies in the Peters Creek, Carvins Creek and Lick Rum watersheds. Each of these extends into Roanoke City so the topographic boundaries or limits are not of great significance here.

Each of the three watersheds has sewerage facilities in it which are a part of the Roanoke City system or the County system, and again the serving of the areas is done on a practical basis by whichever utility system is best able to serve it, generally speaking. Again I will mention [2252] that these systems are integrated for practical purposes, as they should be.

As to community of interests, it is a little difficult for me to attach much significance to this in the generally accepted sense, since there are relatively few people involved in an area which is not very much a residential area. The airport is the largest feature of this area. The

location of the shopping center is not expressive of a community of interest in one direction or another, in my opinion. These facilities are located without much concern about jurisdictional lines except as they affect economic feasibility, which they obviously did not in this case since the shopping center has been developed and is obviously successful.

The location of the airport is not expressive of a community of interests. It is difficult to see how its operation would be facilitated in the slightest by having the airport annexed. It is not at all uncommon for municipally-owned airports to be located outside the City. Lynchburg and Richmond are two obvious examples.

The location of the two City schools, in my opinion, is not expressive of any community of interest and again it is not an uncommon situation. Campbell County had a school in Lynchburg for years. Frederick County has one or more [2253] in Winchester. Richmond has a new school in Chesterfield a few years ago. Falls Church has two schools in Fairfax County, and both of these in areas that were subjected to annexation suits within a 10-year period.

Fairfax County has a number of schools in the City of Fairfax. And so it goes. These things are the results of practical planning conclusions that dictate development.

Reciprocally, since there doesn't appear to be any need for these facilities to be in Roanoke in order to carry on their intended functions as they have been doing for many years, some of them, there does not appear to be any need for the City to have them except as desirable sources of additional revenue.

In this case, again if there were an acute shortage of vacant land in the City, the addition of Kinsey would change it from about 22.3 percent to about 23.4 percent, which is a relatively modest change, I should think.

The population density would be affected a little more largely by the annexation. It would be reduced from about 5.3 to about 4.8, but this is obviously because so much of the acreage there is taken up with the airport and it will never develop as to population.

Again in the Kinsey case the development pattern is pretty definitely fixed. It will always be a low-density [2254] area unless the airport might be abandoned, for example, and I don't think it is practical to think about that.

I have already mentioned the imbalance in the assessed value of

real estate and the number of school children, but the greatest loss by far to the County would be in the sales tax related to the shopping center. County Exhibit 97 in Item IV, just to remind your honors, shows that the Kinsey area accounts for 29.25 percent of all the County local sales tax.

Q Have you made any observation as to the range or extent of County services now being provided by Roanoke County? A Yes, sir, I have counted 23 functions which are carried out by the County. Them aren't many of them that are peculiar to Roanoke County. These are functions that nearly all counties have to carry out. Twenty-three of them are well-identified. There may be more.

Q Most of them, I think, have been already testified to, Mr. McDonald. They range, I believe, from law enforcement and schools to parks, libraries, recreation and things of that sort. Is that correct? A Yes, sir; administration of justice, law enforcement, elections, assessments, welfare, schools, public health, agriculture and home economics, taxation, finance, fire and rescue service, protection of livestock, planning and [2255] zoning, water and sewer utilities, trash and garbage disposal, public works, recreation, libraries, highway safety, civil defense, building permits and inspections, purchasing, plumbing and electrical inspections. There may be more.

These things all get a little subjective. These are all clearly defined functions. Most of these cities have to carry out most of the same functions, though not all of them. Most cities for example don't have the function of agriculture and home economics. But the important thing, of course, which is all well known to your Honors, is the means by which the counties and cities carry out these diverse functions and which are different in many ways. It would be entirely unnecessary for me to describe in detail how each of them is done. A number of the County witnesses have already described some of these things. Organization charts related to some of them have been added as exhibits.

I might mention that most of these organization charts are functional charts. It has been shown by County witnesses that in some cases more than a single function is carried out by one individual, one employee or one official, for example. This is a typical way in which the Counties accomplish all of these numerous and complex functions and at the same time manage to control the cost of local government. Instead of

having an individual or a group of individuals [2256] assigned to each separate function, they sometimes assign two or three functions to one individual.

Q In your observations, Mr. McDonald, is the County of Roanoke providing adequate services for the needs of the people of the areas sought for annexation? A Yes, sir. There are two ways of reaching a conclusion on it. One is by my own observation. In my own observation and by comparison with other county governments with which I am familiar, Roanoke County is providing a very adequate overall service of government to its people.

Another corroborative thing in this connection is the attitude of the people of the County to whom I have talked and listened in these proceedings who have obviously the same feeling.

Q Mr. McDonald, from your experience and studies and observations made for the 1960 and 1961 annexation proceeding between the City and County of Roanoke, would you state whether or not in your opinion the level of services and the services have been increased and raised by the County of Roanoke up to this time? A Yes, sir, they have been raised.

Q Would you state whether or not your observations in summary concerning the City of Roanoke indicate that the need of the City to annex these two areas is less now than [2257] demonstrated in the 1960-61 case? A Yes, I think it is less, as I have already testified in the beginning. The situation as I see it of the City of Roanoke is better in many respects, in many important respects, than it was in 1960 or '61 and therefore I would say that there was less need on the part of the City for the annexation of the Weddle and Kinsey petition areas.

COURT'S OPINION

Entered September 30, 1971

The proceedings had herein involved five separate annexation cases. The following is a brief resume of the proceedings which let to the consolidation of the five cases.

On October 11, 1965, Ivan R. Young et al in what has been denominated The Corridor Petition filed a petition seeking annexation to the then Town of Salem. A Three-Judge Court was duly convened, a view taken of the area involved, and evidence heard in open Court. The Annexation Court by Order dated August 17, 1966, granted the annexation of the area to the then Town of Salem. However, certain petitioners in what has been designated as The Windsor Hills Area, filed a petition on May 19, 1966, under the style of *Blanche Weddle et al* v. *the City of Roanoke et al,* seeking annexation of that area to the City of Roanoke. After the Annexation Order of August 17, 1966, the County of Roanoke and the City of Roanoke appealed this decision, and the Supreme Court of Appeals of Virginia remanded the Ivan R. Young case to be consolidated with the Windsor Hills Petition, the date of the Mandate being March 4, 1968. See *City of Roanoke* v. *Young,* 208 Va. 618 (1968).

An additional petition was filed by petitioners on July 1, 1966, under the style of *Roy C. Kinsey et al* v. *City of Roanoke et al* seeking the annexation to the City of Roanoke of an area designated as Airport or Crossroads Area. Thereafter, still another petition was filed by petitioners on June 4, 1968, under the style of *Willis et al* v. *City of Salem et al* seeking the annexation of an area designated as Glenvar Area to the City of Salem.

The City of Roanoke on June 9, 1969, brought an annexation proceeding against the County of Roanoke seeking annexation of the entire County.

Numerous conferences and proceedings were had in each of the above-mentioned annexation proceedings, a number of them being before Three-Judge Courts designated by The Supreme Court of Appeals of Virginia in each case, but in view of the decision in *Young* v. *City of Roanoke* (supra) on January 6, 1970, an Order was entered consolidating all five of the annexation proceedings, and in which Order it was requested that the Supreme Court of Appeals of Virginia vacate prior designations and designate the original Court in the *Young* v.

Town of Salem case as the Three-Judge Court to hear the consolidated cases. This designation was duly entered by The Supreme Court of Appeals of Virginia on January 16, 1970, and the prior designations were superseded, although the designation provided that any action had or taken thereto in any of the consolidated cases should not be affected by that designation.

Numerous pre-trial conferences were thereafter held, and by Order entered July 24, 1970, a cut-off date of October 30, 1970, was fixed for the filing of any additional pleadings. A Pre-trial conference was set for October 30, 1970, and a trial date fixed for April 12, 1971. In the meantime various and sundry motions and briefs in support thereof were filed by The County of Roanoke contesting the right of the City of Roanoke to seek annexation of the entire County, but these motions were all denied by the Annexation Court in the Order of July 24, 1970.

Thereafter the County of Roanoke sought to obtain a Writ of Prohibition in the Supreme Court of Appeals of Virginia, and accordingly moved the Annexation Court to change the cut-off date of October 30, 1970, and the trial date of April 12, 1971, which motion was granted conditioned on the County filing not later than October 13, 1970, the application for a Writ of Prohibition in the Supreme Court of Appeals of Virginia. The application for said Writ was duly filed, and by Order of the Supreme Court of Appeals of Virginia entered on December 12, 1970, the Writ of Prohibition was denied.

On January 30, 1971, an Order was entered fixing March 20, 1971, as the date for an additional pre-trial conference for the purposes set forth in Section 15.1-1040 of the 1950 Code of Virginia, as amended, and fixed April 19, 1971, as a trial date.

In view of the complexities involved, it was concluded at the pre-trial conference that the Annexation Court should, after taking a view of the area involved, first proceed with the trial of the *City of Roanoke* v. *the County of Roanoke* Annexation case, as this case embraced the entire County of Roanoke.

In the interest of clarity the five annexation cases consolidated herein will now be dealt with separately in this Opinion.

1. *City of Roanoke* v. *County of Roanoke.*

A view of the County was had on April 19 and 20, 1971, and at the conclusion thereof the Court convened and heard evidence presented by the City of Roanoke in support of its petition on April 21, 22, 26, 27

and 28, and at the conclusion of such presentation, the County of Roanoke move the Court to strike the evidence of the City of Roanoke, and the Court heard arguments on this motion on April 29, 1971. The Motion of the County was joined in by Counsel of the Petitioners in the case of *Ivan R. Young et al* v. *City of Salem,* Counsel for the petitioners in *Willis* v. *City of Salem* (Glenvar area), Counsel for various intervenors, and the motion was not opposed by Counsel for the City of Salem. Arguments on this motion are set forth in the record beginning on page 1150 (See Volume 7 of the transcript of proceedings) and the Court, after having heard the arguments of Counsel, and having considered the evidence introduced by the City of Roanoke, was of the unanimous opinion that the City had failed to bear the burden of proof required to establish that it was either necessary or expedient for the City of Roanoke to annex the entire County of Roanoke, including the Town of Vinton, and considering the best interests of the City of Roanoke, the County of Roanoke, including the Town of Vinton, and the best interests, services to be rendered, and the needs of the area proposed to be annexed. The Court concurred in the assertions and analysis of the proceedings set forth at length in the argument by Counsel for the County of Roanoke in support of the motion, as well as the Opinion of the Court in the recent case of *Johnston* v. *County of Fairfax,* 211 Va. 378, 177 S.E. (2) 606 (1970).

Accordingly, an Order was entered striking the evidence of the City of Roanoke presented in support of the petition to annex the entire County of Roanoke, including the Town of Vinton, and the Court in said Order fixed May 31, 1971, as the time to proceed to hear the remaining petitions for annexation, either to the City of Roanoke or to the City of Salem, as the case might be.

After this, the City of Roanoke moved the Court for permission to introduce additional evidence as to certain areas less than the entire County, and which motion was opposed by Counsel for the County of Roanoke. The motion of the City of Roanoke was denied as to any additional evidence unless requested by the Court. In opposing the motion, the County of Roanoke contended that the City of Roanoke's case was required to be based on the Annexation Ordinance of the city which sought annexation of the entire County; that this was the case as shown by the pleadings that the County was required to defend, and, that if, after the entire case was tried, the City were to be permitted to

then take evidence as to the differnt areas, it would amount to another annexation proceeding, and place an undue burden on the County to defend each of the different areas. Certainly this would greatly prolong the annexation proceedings, and while it is quite true that Section 15.1-1042 of the 1950 Code of Virginia, as amended, empowers the Court to include a greater or smaller area than that described in the ordinance or petition, nevertheless, in the opinion of the Court this provision does not authorize the reopening of a case to hear evidence as to segments of an area after a full hearing of the case for the entire area has been heard and the annexation thereof has been denied.

Section 15.1-1041 of said Code provides:

> "a. The Court shall hear the case upon the evidence introduced as evidence is introduced in civil cases."

This the Court did and for reasons set forth, denied the Petition of the City of Roanoke to annex the entire County, which was the case brought by the City of Roanoke as authorized by the City Ordinance and which has now been disposed of by this Court.

If the motion of the City of Roanoke were now to be granted to introduce evidence as to certain other areas less than the entire County, then, no doubt, in other future annexation cases, the City would undertake to annex an entire County, and, failing this, would come back in the same proceeding and assert their right to introduce evidence for areas less than the entire County, which would not be in accordance with the trial of any civil case, or, in the opinion of this Court, in compliance with the provisions of the Code of Virginia dealing with annexation proceedings in general.

> "A defendant is supposed to know the plaintiff's grievances only from his statement of them in his pleading. Pleadings are as essential as proof, and no relief should be granted that does not substantially accord with the case as made in the pleading. *Stanley* v. *Mullins,* 187 Va. 193, 196, 45 S.E. 2d 881, 883; *Potts* v. *Mathieson Alkali Works,* 165 Va. 196, 207, 181 S.E. 521, 525. The relief granted should in any event have been limited to the grievance complained of in the petition." See *Bank of Giles County* v. *Mason,* 199 Va. 176, 180, 98 S.E. (2) 905 (1957.)

See *City of Norfolk* v. *County of Princess Anne,* 200 Va. 105, 104 S.E. (2) 11. (1958). In this case the City of Norfolk instituted annexation proceedings for the annexation of certain territory lying in the County. After the trial Court announced its decision as to the territory to be annexed, which was less than that sought in the annexation petition, the City then moved the Court to reconsider its decision and admit additional evidence to be offered by the City showing the necessity for and expediency of ordering the annexation of more territory. The trial Court overruled the motion.

The Supreme Court of Appeals of Virginia in its per curiam Opinion, stated at page 106 of 200 Va.:

> "Assuming, without deciding, that the lower court had the authority under the statute to grant the motion, the assignment is without merit. There had been a full hearing as to what territory should be annexed and the issue had been decided. No valid reason was advanced why the city, which had had full opportunity to present its evidence to sustain its case, should, after decision of the issue, be allowed additional opportunity to present evidence to better its case. Clearly the refusal of the lower court to entertain the motion was within its sound judicial discretion."

It became apparent during the hearing that representatives of Roanoke City and Salem had in private meetings agreed upon a division of the County of Roanoke as shown by a certain yellow line offered in evidence. The evidence, in the opinion of this Court did not justify such a partition, and however meritorious this might be in a consolidation effort, it could not be accomplished in this annexation proceeding. It actually contradicted the City of Roanoke's assertion that it should have the entire County and at the same time attempted to place Salem in an annexing position when Salem was under a five-year moratorium resulting from a prior annexation proceeding instituted by Salem.

The City of Roanoke having been afforded full opportunity to present its case seeking annexation of the entire County, which was denied, has shown no reason why it should now be afforded an additional opportunity to present evidence to better its case and to seek to annex areas less than the entire County.

In the Order entered on April 29, 1971, it was provided that the remaining petitions for annexation would be heard commencing on May 31, 1971.

2. *Ivan R. Young* v. *City of Salem.*

On May 31, 1971, additional views were had by the Court of different areas embraced within the areas sought by petitioners to be annexed either to the City of Roanoke or to the City of Salem, and evidence was introduced in behalf of such petitioners, and Counsel for the various petitioners having rested their cases, the County of Roanoke moved the Court to strike the evidence in each of said petitions, and by Order entered on June 22, 1971, the motion was sustained in the case of *Ivan R. Young* v. *Town of Salem et al* (now City of Salem). The only evidence introduced in this case was evidence by some of the petitioners who now informed the Court that they did not desire to be annexed by the City of Salem, that the petition to be annexed was filed when Salem was a town and not a city, and that the petitioners, or those testifying, desired to remain as a part of the County of Roanoke. No evidence was introduced on behalf of the City of Salem, nor was the motion opposed by any party except the City of Roanoke.

Accordingly, the Court sustained the motion of the County of Roanoke to dismiss said petition, and the same was accordingly dismissed.

The Court in said Order continued until June 8, 1971, the motion of the County of Roanoke to dismiss the petition of *Willis* v. *City of Salem* and overruled the motion of Counsel for the County of Roanoke to dismiss the petitions of *Weddle* v. *City of Roanoke* and *Kinsey* v. *City of Roanoke,* and fixed June 21, 1971, to hear such evidence as the City of Roanoke desired to introduce in regard to the petitions of *Weddle and Kinsey* v. *City of Roanoke,* and the evidence of any intervenors and the County of Roanoke in opposition to said annexations.

3. *Willis et al* v. *City of Salem.*

On May 31, 1971, Counsel for the petitioners who had sought annexation to the City of Salem of the area designated Glenvar Area moved the Court that said petition be dismissed for reasons that the basis of said petition no longer existed, and the petitioners no longer desired the annexation proposed. This motion was continued until June 8, 1971, as shown by the Order entered as of June 22, 1971, carrying out the rulings of the Court on May 31, 1971.

On June 1, 1971, Counsel for the petitioners again advised the Court that a majority of the petitioners and other residents in the said

area desired to withdraw their petition for annexation and again moved the Court that this petition be dismissed, and which motion the Court took under advisement until June 8, 1971. On this date the attorney for the petitioners again advised the Court that further investigation disclosed that an overwhelming majority of the petitioners and others in the area desired that the petition be withdrawn.

Accordingly, the Court sustained this motion and Ordered that the cause be dismissed from the docket by Order entered June 21, 1971, no evidence having been presented to the Court by any of the petitioners in support of said annexation. The City of Salem excepted to the action of the Court sustaining said motion. However, the City of Salem was the defendant in said annexation proceeding, which was brought by the petitioners, and at the time Salem could not have sought annexation of any area, five years not having elapsed since the final order in the last annexation case instituted by it. Code Sec. 15.1-1055.

4. *Weddle* v. *City of Roanoke*—Windsor Hills Area.

Evidence was introduced by some of the petitioners and the City of Roanoke in support of the annexation of the area embraced in this petition, and also evidence was introduced by intervenors and others in the area, and by the County of Roanoke, in opposition to the annexation of this area. While is is quite true that the wishes of the people in the area are not controlling, nevertheless, as pointed out in decisions of the Supreme Court of Appeals of Virginia, the wishes of the qualified voters of an area should be given consideration. See *Johnston* v. *County of Fairfax,* 211 Va. 378, 383 (1970) supra. Although the Weddle annexation case was the result of a petition filed by qualified voters of the area, nevertheless, since said petition was filed numerous petitions in opposition to any annexation have been filed therein. The Court was advised that more than 16,000 signatures appear on these petitions in opposition to any annexation. The record discloses that the chief arguments for annexation by those asserting that annexation should be granted, was that the area needs more police and fire protection, and water and sewer services. However, other residents of the area contend that all of these utilities were adequately supplied, and witnesses on behalf of the County have testified that additional utilities are planned to be furnished by the Roanoke County Public Service Authority, and that these can be furnished quicker than the City of Roanoke can fur-

nish them. The evidence discloses that there is under construction in this area a large intermediate school, and that it is necessary for the County program. (See Record, pages 2038-2040.) However, the City did not see fit to develop the school needs, if any of this area, but on the contrary, through the evidence of the City Manager alone, asserted that the City would either purchase this school or let the County retain it. (See Record, pages 1560-1561)

It appeared from the evidence that the County transports all of its students, while, except for a few exceptions, the City does not. Also that any asserted needed facilities in said area to be furnished by the City would have to be financed by bond issues to be approved by the voters, (See Record page 1599) and actually had not been approved by City Council.

On the other hand the evidence disclosed that the Roanoke County Sanitation Authority had plans to add facilities in the area. Also, many citizens of this area have testified no need exists for annexation and that all necessary services were already being furnished.

The burden of proof was on the Petitioners to show both necessity and expediency for this area to be annexed to the City. The area is largely settled and is urban in nature, but is receiving all services required. Consequently, even after permitting the City to introduce evidence after the Petitioners had rested their case, and Counsel for the County had made a motion to strike, this Court is of the opinion that no annexation should be granted in this case of this entire area.

See *Johnston* v. *County of Fairfax,* 211 Va. 378 (1970) at page 384, where it is stated:

> "Before an annexation court may extend a city's boundaries the court must be satisfied, and the evidence must support the findings, that the proposed annexation is both necessary and expedient. *County of Norfolk* v. *City of Portsmouth,* 186 Va. 1032, 1045, 45 S.E. 2d 136, 142 (1947). This principle is applicable in all annexation proceedings, whether they are brought, as in the present case, by fifty-one per centum of the qualified voters of the area sought to be annexed under Code Sec. 15.1-1034, or by a city under the provisions of Code Sec. 15.1-1033. *Mowry* v. *City of Virginia Beach,* 198 Va. 205, 209, 93 S.E. 2d 323, 326 (1956)."

Having reached this decision this Court does not pass on the sufficiency of the Petition, although a serious question exists inasmuch

as it appears from former proceedings that signatures were obtained and then the area was described, instead of describing the area first and then obtaining the signatures for the petition.

However, the evidence, including the view, does show that a need exists in the City of Roanoke for some additional vacant or undeveloped land, and industrial sites, and that the Blue Ridge Park for Industry in the Windsor Hills Petition area was developed primarily through the efforts of the City of Roanoke, and is furnished utilities by the City, and that a portion of the Norfolk and Western material yards in this area juts into the City of Roanoke. Accordingly, it is the opinion of this Court that the following described portion of the area embraced within the Weddle Petition (The Windsor Hills Area) should be annexed to the City of Roanoke, and which portion gives a reasonably compact area and boundary:

> Beginning at Mud Lick Creek and the Norfolk & Western Railway right of way, formerly Virginian Railway right of way; thence with said railroad right of way and the property line of the Blue Ridge Park for Industry to a point where the west property line of the Blue Ridge Park for Industry leaves the railway right of way; thence following the west property line of the Blue Ridge Park for Industry to Roanoke River; thence crossing Roanoke River to the north property line of the Norfolk & Western right of way; thence with the Norfolk & Western right of way to the east property line of Roanoke Electric Steel; thence with the Roanoke Electric Steel property line to Peters Creek and the Roanoke City corporate line; thence with the Roanoke City corporate line in an easterly and southerly direction to the Roanoke River; thence with Roanoke River in a southwesterly direction to Mud Lick Creek; thence with Mud Lick Creek south to the place of Beginning and embracing the Blue Ridge Park for Industry and the aforementioned portion of the Norfolk & Western material yards.

There is excluded, however, the property of Roanoke Electric Steel now situate in the County of Roanoke, Virginia, as it is the opinion of this Court that the property should remain in the County and that the tax income therefrom is required by the County to offset to some degree the loss of the revenue realized from the Blue Ridge Park for Industry, and the Norfolk & Western Material yards, which the Court deems necessary in balancing the equities.

5. *Kinsey* v. *City of Roanoke*—Airport—Crossroads Area.

The discussion of Number 4 above is applicable to the areas embraced herein. The chief claim by the Petitioners and the City is that a good portion of this area is now owned by the City, namely: The Airport and William Fleming High School areas. The evidence reveals that some benefit will result from having this in the City Corporate Limits. In addition, some of the Petitioners, namely: the developers of Arrow Wood Country Club and the operators of the Hudgins Trailer Park have also expressed a desire to be included within the City Corporate Limits, but here again other residents of the area have testified in opposition to the annexation. After the Petitioners rested their case and a Motion to strike was not sustained by the Court, the City of Roanoke, though actually a defendant, was permitted to introduce evidence to substantiate the Petitioners' case.

In *Fairfax County* v. *Town of Fairfax,* 201 Va. 362, 111 S.E. 2d, 428 (1959) the factors to be considered in determining whether annexation is necessary and expedient are set forth. It was there stated at page 367 of 201 Va.:

> "In determining whether annexation is necessary and expedient for a city or town, factors to be considered are its size, its crowded condition, its past growth, its need in the reasonably near future for development and expansion, the health of the community, whether the terms proposed are reasonable, fair and just, and whether proper provision will be made for future management (citing cases); the result of the development promised by the combination of the resources of two urban communities under a single political unit in the light of the best interests of the State, the town, or city, the county, and the territory proposed to be annexed, (citing cases); community of interest, if any, between the town or city and the area proposed to be annexed, (citing cases); and financial ability of the town or city to provide for development after annexation. (Citing cases.)"

The above referred to principles were also set forth in *Rockingham County* v. *Timberville,* 201 Va. 303, 110 S.E. 390 (1959). It was there stated at page 308 of 201 Va.:

> "In determining the necessity for and the expediency of enlarging the corporate boundaries of a city or town consideration should be

given to the health of the community, its size, its crowded conditions, its past growth, and its need in the reasonably near future for development and expansion." (Citing cases.)

and further:

"To increase the revenue of a city is not a ground of itself justifying annexation, nor is the loss of revenues by the county from which the territory is to be detached a defense to the proceedings. (Citing cases)

"The Court must consider the best interests of the state, the city or town, the county, and the territory to be annexed. (Citing cases)

"It is no defense to annexation for individual residents of, or industries located in, the county to assert that they do not need or desire the governmental services rendered by the city, since it is not a question of whether they need the city government but rather whether the area needs it." (Citing cases)

The evidence reveals that Roanoke City lost population since the last census and even though the wealth of the City had increased and that there was some available areas for expansion, and that redevelopment programs are under way, additional areas are required by the City.

The evidence also is quite clear that the revenue from the Crossroads Mall Shopping Center is one of the main sources of revenue for the County and that the loss thereof would impose a serious impact on the ability of the County to continue to offer all of the urban services which the County is required to furnish, especially education, to the remaining portion of the County. In this connection it has been conceded by all of the parties that both the City and the County have excellent school systems with the County furnishing transportation to and from the schools, and that the police and fire protection of the county is sufficient, and that the County is engaged in a program for libraries, parks and in some instances is furnishing water and the Roanoke County Sanitation Authority is in the process of enlarging the sewer system to be available in areas where this does not now exist.

This results in a typical problem of a city requiring additional area and revenue, and an urban county likewise being faced with a problem

of continuing urban services with a diminished revenue in the event the chief sources of revenue are lost by annexation to a city.

Under all of the circumstances, and after having considered the view, the evidence, the burden of proof required, the necessity for and expediency of annextion, and considering the best interests of the County and the City, the best interests, services to be rendered, and the needs of the areas proposed to be annexed, and the best interests of the remaining portion of the County, and after balancing the equities, this Court is of the opinion that the major portion of the area embraced within this petition should be annexed by the City of Roanoke, but that there should be excepted and excluded therefrom the portion of said area lying East of Route 1889 and East of the Coulter line and North of Old Route 117, with the exception of any areas therein now owned by the City of Roanoke in the Woodrum Airport property, which are to be included in the area annexed.

The remaining portion of the property embraced within the Kinsey Petition will not only result in a reasonably compact boundary, but will also afford the City needed lands for expansion and future growth, and will also place within the corporate limits the Airport, William Fleming High School and Ruffner Junior High School, properties already owned by the City.

Accordingly, an appropriate Order may be prepared carrying out the decision of this Court, and which said Order shall include appropriate descriptions of the annexed areas and shall direct the City of Roanoke to furnish any and all municipal services and utilities required by the areas annexed in the Weddle and Kinsey Petitions and which are now furnished to the other citizens of Roanoke. The Order shall likewise provide that the City of Roanoke shall assume the proper pro rata shares of the County indebtedness, and shall pay to the County of Roanoke any and all sums that may be appropriate as set forth in Section 15.1-1042 of the Code of Virginia.

These items shall be agreed upon by the experts for the City and the County, but in the event no agreement is reached, this Court shall be convened for the purpose of hearing evidence as to these items and to determine these amounts. The Order shall likewise provide that the effective date of annexation shall be December 31, 1971. The Court requests that Counsel for the County of Roanoke prepare the appropriate Order, submitting it to opposing Counsel and then present it for entry to this Court.

This has been, to say the least, a unique proceeding involving as it has four separate annexation cases instituted by petitioners, and one annexation proceeding brought by a City seeking to annex an entire County. These have all been necessarily consolidated and heard by the Court, resulting in many unusual and heretofore unanswered problems. It has been apparent that there has been a lack of cooperation by the authorities of all governmental bodies concerned, which has resulted in an adversary and antagonistic approach to the many problems existing in an urban region and which has greatly hampered the development of the entire area and the development of much needed services desired by all of the citizens, and which it is the obligation of the governments to furnish whether they be city or county.

Dated: September 25, 1971

/s/ F. L. Hoback
Judge

/s/ Raymond J. Boyd
Judge

I concur in this opinion insofar as it applies to the cases of *City of Roanoke* v. *County of Roanoke* (No. 1), *Ivan V. Young* v. *City of Salem* (No. 2) and *Willis et al* v. *City of Salem* (No. 3).

I dissent from the majority opinion, however, insofar as it applies to *Weddle* v. *City of Roanoke* (No. 4), and *Kinsey* v. *City of Roanoke* (No. 5) as I am of the opinion that the City has shown a need, necessity and expediency for additional property.

/s/ Jack M. Matthews
Judge

FINAL ORDER

Entered February 29, 1972

These proceedings came on again to be heard commencing on June 21, 1971, pursuant to adjournment on June 1, 1971, and orders of this Court entered herein on May 31 and June 22, 1971.

I

In the case of the *City of Roanoke* v. *County of Roanoke,* the Court having previously granted the Motion of the County of Roanoke to strike the evidence and for the reasons set forth in the opinion of the Court of September 25, 1971, this case is hereby dismissed, to which action the City of Roanoke duly except.

Subsequently, on June 21, 1971, the City of Roanoke moved the Court to hear evidence and made offer of proof in support of annexing areas less than all of the County of Roanoke but not described in any of the proceedings before the Court. The Court denied said motion and rejected such proof, and the City of Roanoke duly excepted.

II

In the case of *Ivan R. Young, et al* v. *City of Salem,* the Court having granted the motion of the County of Roanoke to strike the evidence, for the reasons set forth in the written opinion of the Court of September 25, 1971, this case is hereby dismissed.

III

In the case of *Robert M. Willis, et al* v. *City of Salem, et al,* the Court having previously granted the motion of petitioners therein to dismiss the petition, this case is hereby dismissed.

IV

In the cases of *Blanche W. Weddle, et al* v. *City of Roanoke, et al* and *Roy C. Kinsey, Sr., et al* v. *City of Roanoke, et al,* the Court heard the evidence of the petitioners commencing on May 31, 1971. At the conclusion of all evidence offered in support of said petitions for annexation, the County of Roanoke moved to strike the evidence for the reason that the petitioners had failed to bear the burden of proof which motion the Court denied and continued the case until June 21, 1971, to hear any evidence the City of Roanoke desired to present in support of said petitions and the evidence of any intervenors and the County of Roanoke in opposition thereto, to which actions of the Court counsel for the County of Roanoke duly excepted.

In accordance with said adjournment and order, evidence was presented by the City of Roanoke on behalf and in support of the peti-

tioners, *Blanche W. Weddle, et al* v. *City of Roanoke, et al* and *Roy C. Kinsey, Sr., et al* v. *City of Roanoke.* At the conclusion of such evidence offered in behalf of said petitioners, counsel for the County of Roanoke again moved the Court to strike the evidence of the petitioners and deny the annexation requested on the grounds that such evidence did not show the annexation of the territories sought to be necessary and expedient. Upon consideration of said Motion to Strike, the Court denied such; to which action of the Court counsel for the County of Roanoke duly excepted.

Thereupon, the County of Roanoke and intervenors opposed to the annexations sought in the said petitions of *Weddle, et al* and *Kinsey, et al* presented evidence in opposition to the granting the said proposed annexation, followed by evidence in rebuttal. At the conclusion of such, on June 24, 1971, the Court adjourned until June 29, 1971, for argument of counsel.

Whereupon on June 29, 1971, argument of counsel for all parties was heard at the conclusion of which the Court took the matter under advisement. After mature consideration, the Court entered its written opinion herein on September 25, 1971.

For the reasons as set forth in the said written opinion of the Court and upon all of the evidence herein, the Court is of the opinion that it is necessary and expedient to annex to the City of Roanoke parts of the areas sought to be annexed in the petitions of *Blanche Weddle, et al* v. *City of Roanoke, et al* and *Roy C. Kinsey, Sr., et al* v. *City of Roanoke, et al.* The descriptions of the said areas hereby annexed are set forth in Appendix A attached hereto and made a part hereof and are as shown on the plats attached hereto and made a part hereof prepared in the office of the City Engineer of the City of Roanoke, Virginia, as Plan No. 5299 and Plan No. 5299-1.

The City of Roanoke, upon the effective date of this annexation, shall commence to provide full and complete municipal services, facilities, and utilities, unless otherwise provided, required by such areas annexed and which are now furnished to the citizens of the City of Roanoke.

The City of Roanoke is further ordered to, within five (5) years from the effective date of this order, construct or provide all capital improvements to the areas annexed as are set forth as needed in said areas in the evidence or exhibits of the City of Roanoke herein.

V

In order to compensate the County of Roanoke pursuant to § 15.1-1042, the City of Roanoke is hereby ordered as follows:

Debt Assumption

The City of Roanoke shall assume a just proportion of the debt of Roanoke County which the parties agree and the Court determines to be 2.4262 per cent of the remaining net outstanding bonded debt as of midnight December 31 of the year in which said annexation becomes effective, as shown by County Exhibit No. 79 of the Record, the net principal amount of said indebtedness as of December 31, 1971, being $26,257,133.05, with interest at the rate or rates provided in said bonds and maturing thereon and due from midnight December 31 of the year in which annexation becomes effective until paid.

The City of Roanoke is not to incur any obligation to any creditor of Roanoke County with respect to such assumption of debt, but the City of Roanoke is hereby ordered to pay to Roanoke County cash sums for its share as determined above toward payment of principal and interest as the same become due and payable. Each such payment shall be made not less than ten days before the maturity date of the installment in respect to which such payment is required. The parties further agree and the Court hereby orders that in the event the City of Salem assumes the payment of any of the said net debt of the County by reason of its transition from town to city status on January 1, 1968, the net debt of the County set forth herein shall be reduced by such amount which the City of Salem assumes and is obligated to pay and the debt to be assumed by the City of Roanoke shall be reduced accordingly.

Provided, further, that in the first payment to be made hereunder, the City of Roanoke shall receive a credit of $1,045.14 for prior debt payment not otherwise taken into account in the computation of net debt.

Prospective Loss of Net Tax Revenue

The City of Roanoke is hereby ordered to pay to the County of Roanoke for its prospective loss of net tax revenues for the period of five years after the effective date of annexation incurred by the annexation of said areas the sum of $637,795.00 which shall be payable in five (5) equal annual installments commencing on January 1, following

the effective date of annexation, and continuing on each and every January 1 thereafter until fully paid.

Inasmuch as the County of Roanoke assesses real property and renders bills for the taxes thereon on a fiscal year basis, the properties included in the annexation area are hereby exonerated from a proportionate part thereof for the first six months of the calender year in which they are a part of the City of Roanoke as a result of annexation; and the County shall refund any overpayments that may have been made.

Public Improvements

For the value of public improvements in the said areas which the County desires the City to acquire, consisting of street lights and standards therefor, the City shall pay to the County on the effective date of annexation the sum of $7,196.00.

VI

The County of Roanoke shall continue to provide education in its public schools for the school-age children of the areas hereby annexed to the end of the school year after the effective date of this annexation. During such period of time and no later than June 1st following the effective date of annexation, the City of Roanoke shall pay to the County of Roanoke tuition for the accommodation, transportation, and instruction of such students based on the per-pupil cost to the County of Roanoke from County funds. For such period of time, all funds available for such purposes in addition to County funds shall be paid to the County of Roanoke.

VII

The provisions of this order and the annexation provided for shall take effect and be in force from and after midnight December 31, 1972.

In the event that any party to these proceedings files a notice of appeal and assignment of error within the time allowed by law, the effectiveness and issuance of this order shall be suspended and continue to be so suspended during the pendency of such appeal until December 31st of the year of termination of such appeal unless reversed or modified by order of the Supreme Court of Virginia. All costs of this proceeding shall be borne by the City of Roanoke in accordance with

Section 15.1-1045 of the Code of Virginia, and the City of Roanoke shall pay to the Town of Vinton the sum of $272.50 and to the County of Roanoke the sum of $5,050.45 for the costs incurred in preparing certain data for the City of Roanoke as directed by the Court.

The Clerk of this Court is directed to mail on the effective date hereof a certified copy of this order to the Division of State Planning and Community Affairs, Auditor of Public Accounts, the Comptroller, State Corporation Commission, and Department of Taxation of the Commonwealth of Virginia. For such purposes, it is determined that the population of the areas annexed is 328 persons; and the school-age population is 73.

VIII

Forasmuch as the foregoing fails to grant all of the areas sought, the petitioners duly except.

Forasmuch as the foregoing fails to grant all of the areas sought, as well as areas in addition thereto, the City of Roanoke duly excepts.

Forasmuch as the foregoing annexes any territory of the County of Roanoke to the City of Roanoke, the County of Roanoke and intervenors opposed except.

And This Order Is Final.

Enter this ..... day of ....., 197...

F. L. Hoback, Judge
20th Judicial Circuit

Raymond J. Boyd, Judge
27th Judicial Circuit
Majority of the Court

This order is concurred inasfar as it applies to the cases of *City of Roanoke* v. *County of Roanoke; Ivan R. Young, et al* v. *City of Salem, et al; Robert M. Willis, et al* v. *City of Salem, et al.* This order is dissented from insofar as it applies to the case of *Blanche W. Weddle, et al* v. *City of Roanoke, et al* and *Roy C. Kinsey, et al* v. *City of Roanoke, et al* for the reasons stated in the opinion of the Court dated September 25, 1971.

Jack M. Matthews, Judge
21st Judicial Circuit

* * *

NOTICE OF APPEAL AND ASSIGNMENTS OF ERROR
(City of Roanoke)

Notice of Appeal

The City of Roanoke hereby gives notice that it will appeal from the final order entered by the three judge annexation court on February 29, 1972, in *Ivan R. Young, et al* v. *City of Salem, et al,* Docket No. 152-1965; *Blanche Weddle, et al* v. *City of Roanoke, et al,* Docket No. 98-1966; *Roy C. Kinsey, Sr., et al* v. *City of Roanoke, et al,* Docket No. 126-1966; *Robert M. Willis, et al* v. *City of Salem, et al,* Docket No. 108-1968; *City of Roanoke* v. *County of Roanoke,* Docket No. 85-1969, which cases were consolidated into this cause by order of said court entered January 6, 1970, to proceed under the short style set forth in the caption above.

No transcript, statement of facts, testimony or other incidents of the cases will hereafter be filed.

Assignments of Error

The City of Roanoke assigns as error the following:

1. The court erred in sustaining the motion of the County of Roanoke to strike the evidence of the City of Roanoke and in dismissing the annexation petition of the City of Roanoke.

2. The court erred in denying the City of Roanoke's motion to present evidence of necessity and expediency for the annexation of specified areas of Roanoke County, after having sustained the County of Roanoke's motion to strike the evidence of the City of Roanoke which pertained to the necessity and expediency of annexing the whole of Roanoke County and the Town of Vinton.

3. The court erred in its failure to hear the consolidated cases together as is required by Va. Code Ann. § 15.1-1037(a) (Repl. Vol. 1964).

4. The territory awarded to the City of Roanoke in the cases of *Blanche Weddle, et al* v. *City of Roanoke, et al* and *Roy C. Kinsey, Sr., et al* v. *City of Roanoke, et al* is insufficient as a matter of law.

* * *

NOTICE OF APPEAL AND ASSIGNMENTS OF ERROR
(City of Salem)

Filed April 19, 1972

The City of Salem hereby gives notice that it will appeal from the final order entered by the Three-Judge Annexation Court on February 29, 1972 and hereby assigns the following errors committed by the said Court:

(1) The Court erred in its failure to hear the consolidated cases together, as is required by Section 15.1-1037(a) of the 1950 Code of Virginia, as amended.

(2) The Court erred in dismissing the petition of Robert M. Willis, et als, to be annexed to the City of Salem.

* * *

NOTICE OF APPEAL AND ASSIGNMENTS OF ERROR
(Weddle)

Filed April 28, 1972

Notice Of Appeal

The petitioners, Blanche Weddle, et al, in the case of *Blanche Weddle, et al* v. *City of Roanoke, et al,* Docket No. 98-1966, which case was consolidated with the captioned case by order of the special three judge Annexation Court, hereby give notice that they will appeal from the final order entered by said Court on February 29, 1972.

No transcript, statement of facts, testimony or other incidents of trial will hereafter be filed.

Assignments Of Error

The petitioners, Blanche Weddle, et al, assign as error the following:

1. The Court erred in its failure to hear the consolidated cases together, as is required by Section 15.1-1037(a) of the 1950 Code of Virginia, as amended.

2. The Court erred in its failure to find that necessity and expediency required the annexation of the entire territory described in the petition to the City of Roanoke.

3. The Court erred in its failure to grant the petition of the petitioners and award the entire territory described in the petition to the City of Roanoke.

* * *

NOTICE OF APPEAL AND ASSIGNMENTS OF ERROR
(Kinsey)

Filed April 28, 1972

Notice Of Appeal

The petitioners, Roy C. Kinsey, Sr., et al, in the case of *Roy C. Kinsey, Sr., et al* v. *City of Roanoke, et al,* Docket No. 126-1966, which case was consolidated with the caption case by order of the special three judge Annexation Court, hereby give Notice that they will appeal from the final order entered by said Court on February 29, 1972.

No transcript, statement of facts, testimony or other incidents of trial will hereafter be filed.

Assignments Of Error

The petitioners, Roy C. Kinsey, Sr., et al, assign as error the following:

1. The Court erred in its failure to hear the consolidated cases together, as is required by Section 15.1-1037(a) of the 1950 Code of Virginia, as amended.

2. The Court erred in its failure to find that necessity and expediency required the annexation of the entire territory described in the petition to the City of Roanoke.

3. The Court erred in its failure to grant the petition of the petitioners and award the entire territory described in the petition to the City of Roanoke.

* * *

ASSIGNMENTS OF CROSS-ERROR ON BEHALF OF THE COUNTY OF ROANOKE

Filed May 2, 1972

Comes now the County of Roanoke, by counsel, and assigns as cross-error the following, the City of Roanoke and City of Salem having heretofore filed assignments of error:

1. The Court erred in refusing to grant the exceptions of the County of Roanoke to the Commissioner's Report and Plea to the Jurisdiction of the Court in the case of *Blanche W. Weddle, et al* v. *City of Roanoke, et al,* Docket No. 98-1966.

2. The Court erred in refusing to grant the motion to dismiss the suit of *Blanche W. Weddle, et al* v. *City of Roanoke, et al.,* No. 98-1966, made by the County of Roanoke initially on November 7, 1966, renewed on April 11, 1967, and filed again upon consolidation of all pending cases on February 6, 1970.

3. The Court erred in refusing to grant the motion to dismiss the case of *Ivan R. Young, et al* v. *the Town of Salem, et al,* Docket No. 152-1965, filed by the County of Roanoke on February 6, 1970.

4. The Court erred in refusing to grant the Plea to the Jurisdiction filed by the County of Roanoke in the case of *City of Roanoke* v. *the County of Roanoke, et al,* Docket No. 85-1969.

5. The Court erred in refusing to sustain the Demurrer filed by the County of Roanoke in the case of *City of Roanoke* v. *County of Roanoke,* Docket No. 85-1969.

6. The Court erred in refusing to grant the Motion to Strike in the cases of *Blanche W. Weddle, et al* v. *City of Roanoke, et al,* Docket No. 98-1966 and *Roy C. Kinsey, Sr., et al* v. *City of Roanoke, et al,* Docket No. 126-1966, made by the County of Roanoke at the conclusion of all the evidence offered in support of said petitions for annexation.

7. The Court erred in permitting the City of Roanoke to present evidence in support of annexation in the cases of *Blanche W. Weddle, et al* v. *City of Roanoke, et al.,* Docket No. 98-1966 and *Roy C. Kinsey, Sr., et al* v. *City of Roanoke, et al,* Docket No. 126-1966, after the proponents for said annexation had rested their case, over the objections of the Defendant, County of Roanoke.

8. The Court erred in refusing to grant the Motion to Strike made by the County of Roanoke in the cases of *Blanche W. Weddle, et al.* v. *City of Roanoke, et al,* Docket No. 98-1966, and *Roy C. Kinsey, Sr., et al* v. *City of Roanoke, et al,* Docket No. 126-1966, made at the conclusion of the additional evidence offered by the City of Roanoke in support of annexation on June 21, 1971.

9. The Court erred in its judgment in granting annexation of territory of the County of Roanoke in the cases of *Blanche W. Weddle, et al* v. *City of Roanoke, et al,* Docket No. 98-1966, and *Roy C. Kinsey, Sr., et al* v. *City of Roanoke, et al,* Docket No. 126-1966, to the City of Roanoke in that the Petitioners had failed to bear the burden of proof required and such was contrary to the law and evidence.

* * *