
VOTING, ANNEXATION, AND METROPOLITAN STRUCTURE: A COMMENT ON GILLETTE

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This Comment on Professor Gillette's article¹ offers an economic way of thinking about voting on annexation and incorporation. It is not a criticism of his article in the ordinary sense. Indeed, the major conclusion that follows from the analytical model is that concurrent voting on annexation, which Gillette generally favors, is economically desirable.

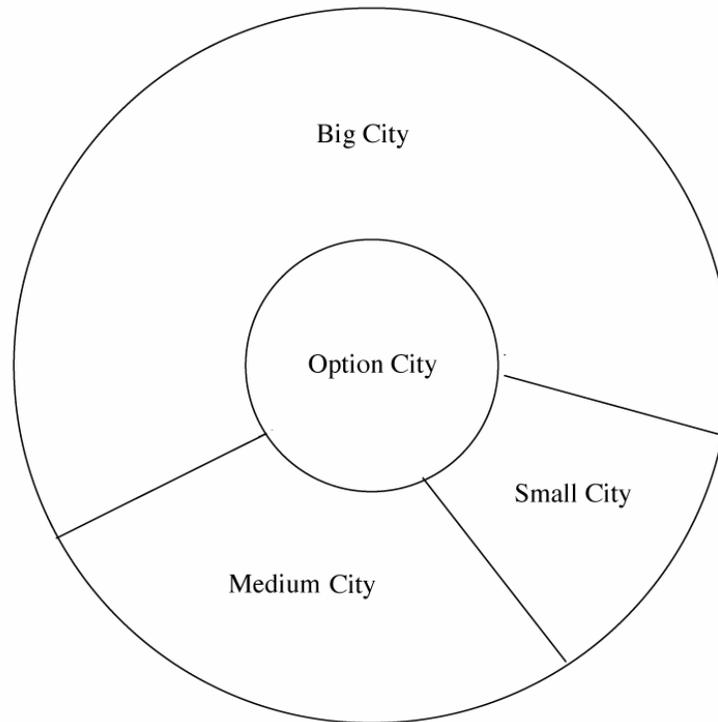
To be clear, concurrent voting means here that the annexation must be approved by a majority of voters or their representatives in the existing city that seeks to annex some territory and by a majority of the voters in the territory to be annexed. If the proposed annexation fails to achieve a majority in either jurisdiction, the proposal fails. In what follows, the more critical majority is that of the territory to be annexed, not that of the annexing city.

The contribution of this Comment is rather one of perspective. Annexation and incorporation decisions affect how a metropolitan area is governed, and governance of metropolitan areas affects their economic performance. My model shows that the prospect of capital gains in land values will, in some plausible situations, normally make voters make the right decisions for the larger metropolitan area. In order not to be too Pollyannaish about this process, I will conclude by pointing out some situations in which this sanguine result might not apply.

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1. Clayton P. Gillette, *Voting with Your Hands: Direct Democracy in Annexation*, 78 S. CAL. L. REV. 835 (2005).

FIGURE 1.



Consider a metropolitan area with three types of local governments. There is one Big City, a few Medium Cities, and numerous Small Cities. The archetypes are represented here as segments of a donut, as shown in Figure 1. The hole in the donut is an unincorporated area designated as Option City. Its options are to be joined with the Big City to make it even bigger, to join with the Small City to make yet another Medium City, or to incorporate as another Small City. The advantages and drawbacks of each option will be described below. It will then be argued that Gillette's "concurrent majority" approach would normally balance each option so as to do the right thing for the metropolitan area.

The advantage of the Big City is that it is large enough to internalize the benefits of job creation. This metropolitan area (the whole circle in the diagram) must compete with other metropolitan areas (not shown but numerous) for job-creating businesses. These businesses benefit the population of the entire metropolitan area by raising wages in all communities. The businesses, however, are somewhat problematic in their

neighborhood effects, so they tend to be unwelcome in residential districts. The Big City's government, however, responds not just to neighborhood interests, but also to employment interests. Unlike the Small and Medium City, then, the Big City is more welcoming to commerce and industry.²

The drawback of the Big City is that it is so large that it has become less responsive to voters.³ It requires a large bureaucracy, which is costly to maintain and whose employees regard more government spending as better for themselves. The Big City also contains more low-income families, in large part because it provides low-cost public transportation for them and undertakes some redistributive services.⁴ Hence taxes are high and voter's interests are sometimes neglected. Annexation of the hole in the donut will thus increase job-creating activity in the metropolitan area, but reduce voter satisfaction with local government services.

The advantage of the Small City is that its government is highly responsive to the demands of its resident voters, most of whom own their homes.⁵ Hence homeowner services are well provided in the Small City, and voters themselves are pleased by the participatory nature of the small government.⁶ The drawbacks of the Small City are that it tends to discourage job-creating industry⁷ and it is too small to achieve economies of scale in provision of public goods.⁸ The "Not In My Backyard"

2. For evidence that bigger cities are more prodevelopment, see Paul G. Lewis, *Looking Outward or Turning Inward? Motivations for Development Decisions in California Central Cities and Suburbs*, 36 URB. AFF. REV. 696 (2001). See generally BERNARD J. FRIEDEN & LYNN B. SAGALYN, DOWNTOWN, INC. (1989) (studying at length several downtown redevelopment campaigns); PAUL E. PETERSON, CITY LIMITS 131-49 (1981) (discussing city developmental policies).

3. See ROBERT A. DAHL & EDWARD R. TUFTE, SIZE AND DEMOCRACY 66-68 (1973); Howard S. Bloom & Helen F. Ladd, *Property Tax Revaluation and Tax Levy Growth*, 11 J. URB. ECON. 73, 75-77 (1982); Geoffrey K. Turnbull & Peter M. Mitias, *The Median Voter Model Across Levels of Government*, 99 PUB. CHOICE 119, 122, 129 (1999).

4. See Edward L. Glaeser, Matthew Kahn, & Jordan Rappaport, *Why Do the Poor Live in Cities?* (Harvard Inst. of Econ. Research, Working Paper No. 1891, 2000), available at <http://post.economics.harvard.edu/hier/2000papers/HIER1891.pdf>.

5. See WILLIAM A. FISCHER, THE HOMEVOTER HYPOTHESIS 1-16 (2001).

6. See J. Eric Oliver, *City Size and Civic Involvement in Metropolitan America*, 94 AM. POL. SCI. REV. 361 (2000).

7. See William F. Fox, *Fiscal Differentials and Industrial Location: Some Empirical Evidence*, 18 URB. STUD. 105 (1981). Many small cities were created by their residents specifically to resist the prodevelopment inclination of the larger county or city. See Richard M. Cion, *Accommodation Par Excellence: The Lakewood Plan*, in METROPOLITAN POLITICS: A READER 224, 224-31 (Michael N. Danielson ed., 2d ed. 1971); FISCHER, *supra* note 5, at 241-42; GARY J. MILLER, CITIES BY CONTRACT 86-87 (1981).

8. If, however, there are numerous small cities and a larger jurisdiction can provide municipal services by contract or through cooperative relationships, the tax disadvantages of a "too small" city may be moot. See Roger B. Parks & Ronald J. Oakerson, *Comparative Metropolitan Organization:*

syndrome is powerful in Small City, so job-creation will be neglected, and its too-small size will mean that property taxes will be fairly high.

Medium City achieves the economies of scale necessary for the efficient provision of public services. However, it is too small (compared to Big City) to internalize the benefits of job creation, and it is too large (compared to Small City) to respond to neighborhood concerns. Taxes are lowest in the medium city, but if the entire metropolitan area were composed of medium cities, job creation would be too low and residential satisfaction with public services might be less than ideal. (It is assumed here that prospective residents of the metropolitan area have heterogeneous tastes for local government, so that some prefer a low-tax residential city even if it is not as responsive to their demands as a small city.)

The ideal course for Option City in this setting will depend on which type of city the metropolitan area needs most, compared to *other* metropolitan areas with which it competes for jobs and residents. The voters in Option City are residents of the area, and I will initially assume that the majority of voters are owners of undeveloped land that might profitably be converted to residential or commercial use. Many could be farmers or heirs to farms, but others might be residents who happen to own some land that could still be subdivided.⁹ This would generally track the distinction between incorporated and unincorporated places in much of the South and West¹⁰ in which the county provides “rural services” outside of the urban area until the area becomes ripe for development. (My depiction of the unincorporated area as the “hole in the donut” in Figure 1 has this visually backwards, but I have chosen the image because it more neatly presents the annexation options.)

Suppose that the metropolitan area has plenty of sites for industry (mostly in Big City), but that the types of residential enclaves provided by Small City are scarce relative to other metropolitan areas. In this case,

Service Production and Governance Structures in St. Louis, Missouri, and Allegheny County, Pennsylvania, PUBLIUS: J. FEDERALISM, Winter 1993, at 19. The other advantage of having numerous small cities is that it permits prospective residents to “vote with their feet” to select the public goods they are willing to pay for. See Charles M. Tiebout, *A Pure Theory of Local Expenditures*, 64 J. POL. ECON. 416, 418–20 (1956). The argument in the text will assume that cooperative arrangements cannot be formed and that there are already enough municipalities for residents to choose from.

9. See Lizbeth Pyle, *The Land Market Beyond the Urban Fringe*, 75 GEOGRAPHICAL REV. 32 (1985); James A. Thorson, *Zoning Policy Changes and the Urban Fringe Land Market*, 22 J. AM. REAL EST. & URB. ECON. ASS'N 527 (1994).

10. Thomas D. Galloway & John D. Landis, *How Cities Expand: Does State Law Make a Difference?*, GROWTH & CHANGE, Oct. 1986, at 26, 30–32.

Option City should incorporate as another Small City, resisting annexation offers by Big City, Medium City, and Small City, the last of which would create another Medium City. The reasons for voting for incorporation by residents or landowners in Option City would not necessarily be altruistic. They would find that their property values would be higher as an independent city than as part of any of the other existing cities.

Suppose, however, that job creation is a problem for this metropolitan area. There are plenty of Small and Medium Cities, but Big City does not have enough room to accommodate new businesses. In this case, self-interested Option City residents would find that their property values would be increased if they voted to annex themselves to Big City. Of course, if Option City incorporated on its own, it might also be able to get those same benefits, but it is possible that businesses would be overly wary of locating in a newly incorporated Small City. Business interests would have less influence in the government of a Small City and be less able to fend off unfavorable regulations and taxes once they committed themselves to locating in a particular jurisdiction.¹¹

As a third exercise, suppose that Medium Cities are in short supply in the metropolitan area. There are plenty of small, boutique cities to satisfy high-end demanders of residential services (that is, plenty of Small Cities), and there is a Big City large enough to promote economic growth. What is needed is another Medium City, whose local taxes are low. In this case, Option City should vote to join a Small City to form another Medium City. Self-interested voters in Option City would approve this annexation because it would raise their property values more than the other two options of joining with Big City or incorporating as another Small City.

In the scenarios just sketched, it has been assumed that the residents of Option City get to vote on their future status and that the prospective suitor also has to consent to the union. The system would go awry if Option City residents could be annexed by whichever jurisdiction voted to acquire them and provide them with local services. This would be true even if the votes of Option City and the acquiring jurisdiction were pooled with those of Option City, because Option City is usually lightly populated compared to its neighbors. In most cases, annexation would go to the first bidder, since Big and Medium Cities have more population, and even Small City might be able to force an annexation on an unwilling Option City. If independent

11. See Werner Troesken, *The Sources of Public Ownership: Historical Evidence from the Gas Industry*, 13 J. L. ECON. & ORG. 1 (1997).

incorporation were allowed, it is likely that Option City residents might choose to incorporate rather than wait for annexation, even if annexation with one of its neighbors were economically preferable, because delay might cause it to be annexed by the wrong place. (I am assuming here that incorporation ends the process, which seems realistic if consolidation is more difficult to consummate than annexation.)

But why would a jurisdiction annex Option City if it did not add to the net value of land in the metropolitan area? The reason is that annexation of Option City might add to the value of all three types of jurisdictions, but only one of those annexations would add to the net value of the metropolitan area. For example, annexation of Option City to Big City might add two percent to the value of Big City, but annexation to Small City would add ten percent to the value of Small City (which would then become a Medium City). In this situation, it could be best for the metropolitan area to have Small City annex Option City, but Big City would still gain if it acted first. If annexation law privileged Big City over Small City and Big City could act without regard to the wishes of Option City residents, then the annexation by Big City would not maximize the value of land in the metropolitan area. In this situation, a concurrent majority rule guards against annexations that would not benefit the metropolitan area as a whole.

The other possible problem with concurrent majority voting is that the majority of residents of Option City might not be in a position to gain from the increased land values that arise through annexation. If the majority of voters were renters, they would not necessarily gain much through annexation, even if it doubled the worth of property in the area. If the majority of voters were homeowners, they might own so little land (the rest of the area of Option City being owned by absentee landowners) that the gains in value of the undeveloped land in Option City would not accrue to them. It might be possible in either of these cases for the owners of undeveloped land or the government of the acquiring city (Big, Medium or Small) to arrange for compensatory services or payments to voters, but the transaction costs of such side-payments might be considerable.

In such a situation, Option City residents might prefer to avoid annexation altogether and choose to incorporate as another Small City. This might cause too many Small Cities to be created in the metropolitan area, which could then reduce the overall attractiveness of the area vis-à-vis other locations. To avoid excessive incorporations of this type, it might be justifiable to give some special privileges to owners of undeveloped land. It

might also be a rationale for making incorporation somewhat more difficult than annexation.

