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248 Ga. 98, 281 S.E.2d 537

Supreme Court of Georgia.  
The UPSON COUNTY SCHOOL DISTRICT et al.  
v.  
CITY OF THOMASTON et al.  
No. 37658.  
Sept. 8, 1981.

County school district brought action against city, seeking declaration that county school district consisted of all areas outside corporate limits of city as they existed on date 1945 Constitution was adopted. The Superior Court, Upson County, Andrew J. Whalen, Jr., J., ruled that local annexation acts and ordinances were constitutional and that they extended limits of city school district by operation of law, and county school district appealed. The Supreme Court, Hill, P. J., held that: (1) local acts and ordinances annexing territory into city did not violate constitutional proscription against passage of law referring to more than one subject matter or containing matter different from that expressed in title thereof; (2) abolition of city school districts by repeal of cities' corporate charters did not violate uniformity requirement of State Constitution; (3) expansion of city school district was not in violation of uniformity requirement of State Constitution; (4) provision of State Constitution prohibiting establishment of new independent school systems did not prevent growth of city school systems; (5) expansion of city school system did not violate State Constitution provision governing establishment of area school systems; (6) trial court correctly employed doctrine of argumentum ab inconvenienti; and (7) absent clear expression of legislative intent to the contrary or valid agreement between **school** systems involved, **annexation** of territory into corporate limits of municipality operating independent **school** system also extended limits of city school system so that limits of city school district remained coterminous with city's corporate limits. Judgment affirmed.

West Headnotes

[1] [KeyCite Notes](#) 

↳ [361 Statutes](#)

↳ [361III Subjects and Titles of Acts](#)

↳ [361k107 Acts Relating to One or More Subjects](#)

↳ [361k107\(5\) k. Counties, Towns, and Municipalities. Most Cited Cases](#)

Local acts and ordinances annexing territory into city did not violate constitutional proscription against passage of law which refers to more than one subject matter or which contains matter different from that expressed in title thereof merely because one consequence of such acts and ordinances was removal of property from county school district. Const. Art. 3, § 7, Par. 4.

[2] [KeyCite Notes](#) 

↳ [361 Statutes](#)

↳ [361III Subjects and Titles of Acts](#)

↳ [361k109.1 Form, Requisites, and Sufficiency of Title](#)

↳ [361k109.2 k. In General; Generality and Comprehensiveness. Most Cited Cases](#)  
(Formerly 361k109.1)

Act which does not specify all of its consequences and effects in its title does not necessarily violate constitutional proscription of passage of law referring to more than one subject matter or containing matter different from that expressed in title thereof. Const. Art. 3, § 7, Par. 4.

[3] KeyCite Notes 

- ↔ 268 Municipal Corporations
  - ↔ 268I Creation, Alteration, Existence, and Dissolution
    - ↔ 268I(C) Amendment, Repeal, or Forfeiture of Charter, and Dissolution
      - ↔ 268k51 k. Dissolution of Corporation. Most Cited Cases

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- ↔ 345 Schools KeyCite Notes
    - ↔ 345II Public Schools
      - ↔ 345II(B) Creation, Alteration, Existence, and Dissolution of Districts
        - ↔ 345k31 Alteration and Creation of New Districts
          - ↔ 345k33 k. Consolidation, and Union Districts. Most Cited Cases

Statute governing procedure to be followed prior to annulment of special school law and merger of school system with county school system was intended to apply where citizens of municipality wish to abolish their city school system and become part of county school system without abolishing city; it was not intended to be prerequisite to abolition of city itself. Code, § 32-1201.

[4] KeyCite Notes 

- ↔ 345 Schools
  - ↔ 345II Public Schools
    - ↔ 345II(B) Creation, Alteration, Existence, and Dissolution of Districts
      - ↔ 345k44 k. Dissolution. Most Cited Cases

Abolition of city school districts by repeal of cities' corporate charters did not violate uniformity requirement of State Constitution. Const. Art. 1, § 2, Par. 7.

[5] KeyCite Notes 

- ↔ 345 Schools
  - ↔ 345II Public Schools
    - ↔ 345II(B) Creation, Alteration, Existence, and Dissolution of Districts
      - ↔ 345k23 Creation and Organization
        - ↔ 345k25 k. Independent and Other Districts in Incorporated Cities, Towns, and Villages. Most Cited Cases

Statute providing that each county shall compose one school district was not intended to prevent existence or growth of independent school systems. Code, § 32-901; Laws 1919, p. 288, §§ 76, 128; Const. Art. 8, § 5, Pars. 2, 6.

[6] KeyCite Notes 

- ↔ 345 Schools
  - ↔ 345II Public Schools
    - ↔ 345II(B) Creation, Alteration, Existence, and Dissolution of Districts
      - ↔ 345k31 Alteration and Creation of New Districts
        - ↔ 345k31.1 k. In General. Most Cited Cases

(Formerly 345k31)

Expansion of city school district was not at variance with statute providing that each county shall compose one school district, and thus was not violative of uniformity requirement of State Constitution. Code, § 32-901; Art. 1, § 2, Par. 7.



[7] KeyCite Notes

- ↔ 345 Schools
  - ↔ 345II Public Schools
    - ↔ 345II(B) Creation, Alteration, Existence, and Dissolution of Districts
      - ↔ 345k31 Alteration and Creation of New Districts
        - ↔ 345k31.1 k. In General. Most Cited Cases  
(Formerly 345k31)

Prohibition of "establishment" of new independent school systems is prohibition on their "creation" and does not prevent growth of city school systems. Const. Art. 8, § 5, Par. 6.



[8] KeyCite Notes

- ↔ 345 Schools
  - ↔ 345II Public Schools
    - ↔ 345II(B) Creation, Alteration, Existence, and Dissolution of Districts
      - ↔ 345k23 Creation and Organization
        - ↔ 345k25 k. Independent and Other Districts in Incorporated Cities, Towns, and Villages.  
Most Cited Cases

Territorial expansion of existing city **school** system by **annexation** of territory into corporate limits of city is not "creation" or "establishment" of independent school system in contravention of State Constitution. Const. Art. 8, § 5, Par. 6.



[9] KeyCite Notes

- ↔ 345 Schools
  - ↔ 345II Public Schools
    - ↔ 345II(B) Creation, Alteration, Existence, and Dissolution of Districts
      - ↔ 345k31 Alteration and Creation of New Districts
        - ↔ 345k33 k. Consolidation, and Union Districts. Most Cited Cases

Statute authorizing consolidation and merger of school districts and systems into area schools is not exclusive means by which school district lines may be changed. Const. Art. 8, § 5, Par. 1.



[10] KeyCite Notes

- ↔ 345 Schools
  - ↔ 345II Public Schools
    - ↔ 345II(B) Creation, Alteration, Existence, and Dissolution of Districts
      - ↔ 345k23 Creation and Organization
        - ↔ 345k24 In General
          - ↔ 345k24(1) k. In General. Most Cited Cases

Area school district is different legal entity and is managed by different officials than county or independent school district. Const. Art. 8, § 5, Pars. 1, 2, 5.



[11] [KeyCite Notes](#)

↳ [345 Schools](#)

↳ [345II Public Schools](#)

↳ [345II\(B\) Creation, Alteration, Existence, and Dissolution of Districts](#)

↳ [345k23 Creation and Organization](#)

↳ [345k24 In General](#)

↳ [345k24\(1\) k. In General. Most Cited Cases](#)

There is no need for area school district where there are existing county and city school systems capable of expansion. Const. Art. 8, § 5, Par. 1.



[12] [KeyCite Notes](#)

↳ [345 Schools](#)

↳ [345II Public Schools](#)

↳ [345II\(B\) Creation, Alteration, Existence, and Dissolution of Districts](#)

↳ [345k31 Alteration and Creation of New Districts](#)

↳ [345k33 k. Consolidation, and Union Districts. Most Cited Cases](#)



↳ [345 Schools KeyCite Notes](#)

↳ [345II Public Schools](#)

↳ [345II\(B\) Creation, Alteration, Existence, and Dissolution of Districts](#)

↳ [345k44 k. Dissolution. Most Cited Cases](#)

Legislature did not intend that independent school district could never be abolished and have its territory become part of county school district when it adopted constitutional provision governing establishment of area school districts. Code, § 32-1201; Const. Art. 8, § 5, Par. 1.



[KeyCite Notes](#)

[13]

↳ [268 Municipal Corporations](#)

↳ [268I Creation, Alteration, Existence, and Dissolution](#)

↳ [268I\(B\) Territorial Extent and Subdivisions, Annexation, Consolidation, and Division](#)

↳ [268k26 Alteration and Creation of New Municipalities](#)

↳ [268k33 Proceedings](#)

↳ [268k33\(8\) k. Review. Most Cited Cases](#)

Trial court in action brought by county school district against city seeking declaration that county school district consisted of all areas outside corporate limits of city as they existed on date 1945 Constitution was adopted did not err in utilizing doctrine of argumentum ab inconvenienti and considering consequences which would result to property owners if annexation ordinances were declared invalid.



[14] [KeyCite Notes](#)

↔ 268 Municipal Corporations

↔ 268I Creation, Alteration, Existence, and Dissolution

↔ 268I(B) Territorial Extent and Subdivisions, Annexation, Consolidation, and Division

↔ 268k26 Alteration and Creation of New Municipalities

↔ 268k29 Annexation of Territory

↔ 268k29(4) k. Territory Which May Be Annexed. Most Cited Cases

Fact that city's annexations result in one taxing political entity gaining or losing taxable property provides no basis to void annexations otherwise valid.



[15] KeyCite Notes

↔ 345 Schools

↔ 345II Public Schools

↔ 345II(B) Creation, Alteration, Existence, and Dissolution of Districts

↔ 345k23 Creation and Organization

↔ 345k25 k. Independent and Other Districts in Incorporated Cities, Towns, and Villages.

Most Cited Cases

Constitutional provision that each county, exclusive of any independent school system now in existence in county, shall compose one school district does not give county school districts constitutional status superior to existing independent school systems. Const. Art. 8, § 5, Par. 2.



[16] KeyCite Notes

↔ 361 Statutes

↔ 361VI Construction and Operation

↔ 361VI(A) General Rules of Construction

↔ 361k213 Extrinsic Aids to Construction

↔ 361k219 Executive Construction

↔ 361k219(5) k. Particular Officers, Construction By. Most Cited Cases



↔ 361 Statutes KeyCite Notes

↔ 361VI Construction and Operation

↔ 361VI(A) General Rules of Construction

↔ 361k213 Extrinsic Aids to Construction

↔ 361k220 k. Legislative Construction. Most Cited Cases

Although not binding on courts, long-standing and unquestioned interpretation of State Constitution by General Assembly or Attorney General constitutes weighty argument in favor of such interpretation.



[17] KeyCite Notes

↔ 345 Schools

↔ 345II Public Schools

↔ 345II(B) Creation, Alteration, Existence, and Dissolution of Districts

↔ 345k30 k. Territorial Extent and Boundaries. Most Cited Cases

In absence of expression of legislative intent clearly to contrary or valid agreement between **school**

systems involved, **annexation** of territory into corporate limits of municipality operating independent **school** system also extended limits of city school system, so that limits of city school system remained coterminous with city's corporate limits.

**\*\*539 \*106** Richard T. Bridges, Bridges, Connell & Snow, Thomaston, for City of Thomaston et al. Ronald A. Barfield, Adams, Barfield & Dunaway, Thomaston, for The Upson County School Dist. et al.

**\*98** HILL, Presiding Justice.

This case presents the question of whether the annexation of territory into the corporate limits of a municipality operating an independent public school system also extends the limits of the city school system. We hold that, absent an expression of legislative intent clearly to the contrary or valid agreement between the **school** systems involved, municipal **annexation** extends the limits of an independent public **school** system operated by the municipality.

As of 1945, four public school systems existed, or were authorized, in Upson County, Georgia: the county school system and three independent school systems operated by the City of Thomaston, the City of Silvertown and the Village of East Thomaston. Since that time, by a number of local acts and ordinances, the City of Thomaston has annexed all of the territory which comprised the Silvertown and East Thomaston school systems [FN1] and a portion of the territory which comprised the Upson County school system.[FN2] Although the local acts and ordinances did not expressly provide for expansion of the City of Thomaston **School** District, with each **annexation** the City of Thomaston Board of Education extended the limits of the City of Thomaston School District so that they remained coterminous **\*\*540** with Thomaston's corporate limits and assumed the management and educational responsibilities for the students in the annexed areas.[FN3]

FN1. Silvertown and East Thomaston were authorized to operate independent school systems by Ga.L. 1929, p. 1287, and Ga.L. 1923, p. 633, respectively. The charters of the City of Silvertown and the Village of East Thomaston were repealed in 1958 and 1968, respectively. Ga.L. 1958, p. 2242; Ga.L. 1968, p. 2561. The territory which they occupied was annexed into the City of Thomaston by separate acts in those same years. Ga.L. 1958, p. 2264; Ga.L. 1968, p. 2698. Neither the repealing acts nor the annexation acts discuss their effect on the Silvertown or East Thomaston school systems.

FN2. Ga.L. 1979, p. 3686; Ga.L. 1975, p. 3666; Ga.L. 1973, p. 3279; Ga.L. 1971, p. 4060; Ga.L. 1970, p. 2502; Ga.L. 1969, p. 2649; Ga.L. 1968, p. 2698; Ga.L. 1967, p. 2944; Ga.L. 1966, p. 2412; Ga.L. 1965, p. 2717; Ga.L. 1964, p. 2517; Ga.L. 1963, p. 2690; Ga.L. 1962, p. 2693; Ga.L. 1960, p. 2698; Ga.L. 1959, p. 2003; Ga.L. 1958, pp. 2264, 2879. Annexations were

made pursuant to the authority delegated to municipalities by the General Assembly in Code Ann. s 69-902 (the 100% method).

FN3. There are twenty-seven other cities in Georgia that both operate independent school systems and have annexed territory since 1945. The school districts in these cities also have been continually expanded to encompass areas annexed into the cities' corporate limits. The Attorney General of Georgia twice has approved this practice. See Op. Att'y Gen. 1960-61, p. 134; Op. Att'y Gen. 1956-56, p. 168.

**\*99** One consequence of the expansion of the Thomaston School District has been a decline in the school tax base for Upson County. The charter of the City of Thomaston authorizes the city to levy a school tax "upon all taxable property within the corporate limits of the City of Thomaston." Ga.L.

1933, pp. 1070, 1103. The county operates its school system by taxation of real property located in the Upson County School District. Property annexed into the City of Thomaston is removed from the county **school** tax digest and thus with each such **annexation** the city's tax base increases while the county's declines.

The Upson County School District (county) brought suit against the City of Thomaston (city), contending that the city's unilateral **annexations** and the resulting decreases in the county's **school** tax base made long-range fiscal planning impossible, reduced the county's bonding capacity and were impoverishing the county school system, without a vote by the citizens adversely affected. The county asserted that the expansion of the city school district violated various provisions of the Constitution of Georgia and sought a declaration that the county school district consists of all areas outside the corporate limits of Thomaston as they existed on the date the 1945 Constitution was adopted. The validity of the annexations to the city itself was conceded. The trial court ruled that the local annexation acts and ordinances were constitutional and that they extended the limits of the city school district by operation of law, and concluded that the county school district consists only of the area outside the present corporate limits of Thomaston. The county appeals these rulings.



[1] [2] 1. The county first asserts that the local acts and ordinances annexing territory into the city since 1945 violate Art. III, Sec. VII, Par. IV, of the 1976 Constitution of Georgia (Code Ann. s 2-1304) (and its predecessor in the 1945 Constitution), which provides "(n)o law shall pass which refers to more than one subject matter, or contains matter different from what is expressed in the title thereof." [FN4] The county argues that the annexation acts refer to more than one subject matter because they both annex property into the **\*100** city school district and remove property from the county school district, and contain matter different from that expressed in their titles because they result in the removal of territory from the county school district.

FN4. The trial court found that the county had failed to argue or present evidence on this contention and ruled that it had been abandoned. The county asserts this ruling was erroneous. However, the trial court also held that all of the annexation acts were valid as against any constitutional attack made by the county and, in view of our decision on the merits of this issue, it is unnecessary to consider whether abandonment in fact occurred.



No express provision of the acts describes the effect of the **annexations** on the **school** districts involved. Thus, they do not violate the provision that no law shall pass which "refers" to more than one subject matter; if anything, they may contain matter different from what is expressed in their titles. However, the shifting of school district boundaries is merely one of the several consequences of annexation, not a "subject matter" contained in the annexation acts. For example, one effect of annexation is to render the annexed territory subject to taxation by the city. An act which provides for annexation but does not provide for taxation of the annexed territory does not contain matter different from what is expressed in the title within the meaning of the constitutional prohibition. Thus, an act which does not specify all of its consequences and effects in its title does not **\*\*541** necessarily violate Code Ann. s 2-1304, supra. Such is the case here.



City of Chamblee v. Village of North Atlanta, 217 Ga. 517, 123 S.E.2d 663 (1962), and Schneider v. City of Folkston, 207 Ga. 434, 62 S.E.2d 177 (1950), cited by the county, are inapposite because they involved attempts to amend the charters (laws) of two municipalities by the same annexation act, the title to which referred to the charter of only one municipality. There is no law describing the boundaries of the Upson County School District and hence the cited cases are inapplicable.



2. The county next contends that the local acts repealing the charters of the City of Silvertown and the Village of East Thomaston (see fn. 1, supra) are special laws at variance with Code Ann. s 32-1201, a general law, and hence are violative of the uniformity requirement of the Georgia Constitution (Art. I, Sec. II, Par. VII, of the 1976 Constitution, Code Ann. s 2-207) which requires that "(l)aws of a general nature shall have uniform operation throughout the State, and no special law shall be enacted in any case for which provision has been made by an existing general law."





Section 32-1201 provides "(w)henever the citizens of a municipality or independent school district authorized by law to establish and maintain a system of schools by local taxation, in whole or in part, and which is operating a system of public schools independent of the county school system, wish to

annul their special school law and become a part of the county school system, they shall present and file with the mayor or chief executive officer of the city a petition signed by one-fourth of the qualified voters of their territory, **\*101** and said mayor or chief executive officer shall then within not less than 20 days and not more than 60 days thereafter call an election." The county argues that s 32-1201 requires that an election be held prior to the abolition of an independent school system and, because no election was held prior to the repeal of Silvertown's and East Thomaston's charters, their school systems are either still in existence or the territory which they occupied became a part of the county school system.

[3]  [4]  Code s 32-1201 was intended to apply where the citizens of a municipality wish to abolish their city school system and become part of the county school system, without abolishing the city. It was not intended to be a prerequisite to abolition of the city itself. Thus, s 32-1201 is not applicable and the abolition of the Silvertown and East Thomaston school districts by repeal of their corporate charters did not violate the uniformity requirement of our Constitution.

[5]  [6]  3. The county argues that each expansion of the city school district is at variance with Code Ann. s 32-901 and therefore also violative of the uniformity requirement, Code Ann. s 2-207, supra. Section 32-901 provides that "(e)ach and every county shall compose one school district, and shall be confided to the control and management of a county board of education." This Code section, enacted in 1919, Ga.L.1919, pp. 288, 320, s 76, was not intended to prevent the existence, or growth, of independent school systems. See Ga.L.1919, pp. 288, 340, s 128. See also Art. VIII, Sec. V, Par. II, of the 1976 Constitution (Code Ann. s 2-5302); Art. VIII, Sec. V, Par. VI, of the 1976 Constitution (Code Ann. s 2- 5306); Code Ann. s 32-1101. This enumeration of error is without merit.

[7]  [8]  4. The county next asserts that the expansion of the city school district violates Art. VIII, Sec. V, Par. VI, of the 1976 Constitution (Code Ann. s 2-5306), which provides "(a)uthority is hereby granted to municipal corporations to maintain existing independent school systems, and support the same as authorized by special or general law, and such existing systems may add thereto colleges. No independent school system shall hereafter be established." The county would have us interpret the language of this provision to prevent the growth of city school systems. We decline to do so. Section 2-5306 specifically authorizes **\*\*542** municipalities who were operating independent school systems as of 1945 to maintain their school systems and only prohibits the "establishment" of new independent school systems hereafter. Records of Constitutional Commission, 1943-44, Vol. 2, p. 82. We do not interpret the word "maintain" as a constitutional prohibition upon the growth of municipal school systems. The prohibition on the "establishment" of new independent school systems is a prohibition on their "creation". **\*102** See Bailey v. County Board of Education of Elbert County, 213 Ga. 308, 311, 99 S.E.2d 124 (1957); see also Georgia Public-Service Commission v. Georgia Power Company, 182 Ga. 706(4), 186 S.E. 839 (1936). The territorial expansion of an existing city **school** system by **annexation** of territory into the corporate limits of the city is not the "creation" or "establishment" of an independent school system in contravention of Code s 2-5306.

[9]  [10]  [11]  [12]  5. The county further argues that the expansion of the city school system violates Art. VIII, Sec. V, Par. I, of the 1976 Constitution (Code Ann. s 2-5301) (Ga.L.1966, p. 1026). Section 2-5301 provides "(a)uthority is granted to county and area boards of education to establish and maintain public schools within their limits. The General Assembly may, by special or local law, provide for consolidation and merger of any two or more county school districts, independent school systems, or any portion or combination thereof, into a single area school district under the control and management of an area board of education. No such consolidation or merger shall become effective until approved by a majority of the voters voting in each of the school districts or school systems affected in a referendum held thereon in each school district or school system being consolidated or merged, prov'ded 51% of the registered voters in each district or system concerned shall vote in such election and provided a majority of said voters voting shall vote in the affirmative. Any area school district so established shall constitute a separate political subdivision of this State, and the school districts or school systems or portions thereof incorporated therein shall stand abolished, and title to all school properties and assets therein shall vest in the area board of



education."

The county contends that s 2-5301 sets forth the only method by which any portion of a county school system can be merged into an independent school system and, because the referendum required by s 2-5301 was not held prior to the expansion of the city school district in this case, such expansion is invalid. The city responds by arguing that s 2-5301 does not prescribe the exclusive method by which school systems can be merged. Rather, s 2-5301 merely establishes a procedure by which two school districts or any portions thereof can be combined to create a new entity, an area school district, which is separate and distinct from either of the merged school districts.

We find the city's argument persuasive. Section 2-5301 authorizes consolidation and merger of school districts and systems into area schools. It does not state that it is the exclusive method by which school district lines may be changed and we decline to construe it as such. An area school district is a different legal entity and is managed by different officials than a county or independent school district. See Art. VIII, Sec. V, Par. II, of the 1976 Constitution (Code **\*103** Ann. s 2-5302); Art. VIII, Sec. V, Par. V, of the 1976 Constitution (Code Ann. s 2-5305). There is no need for an area school district where there are existing county and city school systems capable of expansion. To interpret s 2-5301 as being exclusive would require that an "area school district" be created whenever any two school districts or portions thereof are consolidated. Thus, an independent school district could never be abolished and have its territory become a part of the county school district. Such a result is contrary to the express language of Code Ann. s 32-1201, *supra*, and this result was not intended when s 2-5301 was adopted.



[13] 6. The county asserts that the trial court erroneously employed the doctrine of argumentum ab inconvenienti to take into consideration the consequences to property **\*\*543** owners if the annexation acts were held to be unconstitutional.

The doctrine of argumentum ab inconvenienti was adopted by a majority of this court in City of Gainesville v. Hall County Board of Education, 233 Ga. 77, 209 S.E.2d 637 (1974), a case also involving the validity of annexations by a municipality. "This seems an appropriate case in which to apply the Latin maxim 'argumentum ab inconvenienti,' as urged by former Chief Justice Almand in his concurring opinion in Plantation Pipe Line (Co. v. City of Bremen, 227 Ga. 1, 178 S.E.2d 868 (1971)). This calls for a consideration of the inconvenience which would result to property owners if such (annexation) ordinances were declared invalid at this point in time." City of Gainesville v. Hall County Board of Education, *supra*, 233 Ga. at 81, 209 S.E.2d 637. See also Gormley v. Taylor, 44 Ga. 76, 85-86 (1871).

Although we have held that the doctrine of argumentum ab inconvenienti is not applicable to clear and plain constitutional violations, Calhoun County v. Early County, 205 Ga. 169(3), 52 S.E.2d 854 (1949), we said there that the doctrine will be applied when the constitutional question is close and doubtful, 205 Ga. at 175, 52 S.E.2d 854. Hence the trial court did not err in utilizing the doctrine and considering the consequences.

7. The county's final argument is that the extensions of the city school district limits are void because they were made without affirmative authority. This brings us to the overriding question in this case: Does the annexation of territory into the corporate limits of a municipality operating an independent school system also extend the limits of the city school system? The City of Thomaston, of course, had the necessary authority to annex the territory involved (see footnotes 1 and 2).



[14] As evidenced by its complaint, the primary concern of the county in bringing this action was the shrinkage in its **school** tax base caused by the city's **annexations**. However, as we have previously **\*104** stated, "the fact that such annexations result in one taxing political entity gaining or losing taxable property provides no basis to void annexations otherwise valid." City of Gainesville v. Hall County Board of Education, *supra*, 233 Ga. at 80, 209 S.E.2d 637.

A question similar to that presented here was involved in Board of Education of Fulton County v. Board of Education of College Park, 147 Ga. 776, 95 S.E. 684 (1918). In that case the General Assembly had passed an act creating the Board of Education of College Park and authorizing a public school system within the city's limits. A portion of the city was located in Fulton County and the school lands in that area had been purchased by and were under the control of the Board of Education of Fulton County. In upholding an injunction prohibiting the Fulton County Board of Education from interfering with the College Park Board of Education's use, control and title to the school property located in Fulton County, this court stated "(w)here a municipality is authorized by the General

Assembly to create a public-school system coextensive with its corporate limits, a part or all of which territory has theretofore been included within the system of public schools operated by the county, forming a portion of a school district, the municipality succeeds to the control of educational matters and to the title to the real estate held as public-school property within its territory...."

**\*\*544** [FN5]

FN5. The evidence also showed that the State Department of Audits removes annexed territory from the county school tax digest.

**\*105** The county argues that even though College Park may have correctly stated the law as it then existed, a different result is required after the enactment of the 1945 Georgia Constitution and, consequently, the opinions of the Attorney General are incorrect statements of present law. The county contends that Art. VIII, Sec. V, Par. II, of the 1976 Constitution (Code Ann. s 2-5302) (formerly Art. VIII, Sec. V, Par. I, of the 1945 Constitution, Code Ann. s 2-6801) elevates county school districts to a "constitutional status" over and above independent school districts and, therefore, county school district boundaries can only be decreased in a manner specifically authorized by the Constitution. Because the Constitution itself makes no provision for **annexations** of territory located within a county **school** district by a municipality operating an independent **school** system, the county reasons that such **annexations** cannot constitutionally decrease the county **school** district.



[15] The fallacy with the county's argument is evident from the language of s 2-5302: "(E)ach county, exclusive of any independent school system now in existence in a county, shall compose one school district and shall be confined to the control and management of a County Board of Education." (Emphasis supplied.) This provision does not give county school districts constitutional status superior to existing independent school systems.



[16] Over the years since the 1945 Constitution was proposed and ratified, none of the three branches of government in this state has perceived that s 2-5302 or any other provision of the 1945 or 1976 Constitutions alters the result reached in the College Park case. On the contrary, all three branches have either implicitly or explicitly assumed that College Park continued to be controlling authority. [FN6] Although not binding on the courts, a long-standing and unquestioned interpretation of the Constitution by the General Assembly or the Attorney General constitutes a "weighty argument in favor of such interpretation...." *Epping v. City of Columbus*, 117 Ga. 263(7), 43 S.E. 803 (1903), overruled on other grounds, *Harrell v. Town of Whigham*, 141 Ga. 322, 326, 80 S.E. 1010 (1913).

FN6. The General Assembly has recognized that municipal **annexations** extend the city's **school** system in at least two instances: First when it removed the **school** district barrier to municipal **annexations** in Ga.L.1971, p. 399, following *Plantation Pipe Line Co. v. City of Bremen*, supra; again when after authorizing annexation by ordinance in 1962 (Ga.L.1962, p. 119; the 100% method) and 1966 (Ga.L.1966, p. 409; the 60% method), it revised the revenue code in 1978 and expressly permitted municipalities operating independent school systems to levy a school tax "upon all taxable property within the limits of the municipality." (Emphasis supplied.) Code Ann. s 91A-1706(a), Ga.L.1978, pp. 309, 479. Similarly, this court implicitly recognized that municipal **annexations** of territory located

within county **school** districts removes the annexed territory from the county school districts in *City of Gainesville v. Hall County Board of Education*, supra; and *Plantation Pipe Line Company v. City of Bremen*, supra, although neither case involved the same constitutional attacks which the county raises here. And, as previously noted, the Attorney General directly bas:d two opinions on the authority of *Board of Education of Fulton County v. Board of Education of College Park*, supra, and the Department of Education and Department of Audits have operated in accordance therewith.



[17] **\*106** We think the Attorney General has correctly stated the law and we hold that, in the absence of an expression of legislative intent clearly to the contrary or a valid agreement between the **school** systems involved, **\*\*545** the **annexation** of territory into the corporate limits of a municipality operating an independent school system also extends the limits of the city school system, so that the limits of the city school district remain coterminous with the city's corporate limits. See Board of Education of Fulton County v. Board of Education of College Park, supra; City of Gainesville v. Hall County Board of Education, supra. In doing so, we decline to follow Thomas v. Spragen, 213 S.W.2d 452, 308 Ky. 97 (1948), which reached the opposite result. If municipal **annexation** poses undue hardships on county **school** systems, then the General Assembly can provide solutions over and above those already provided (e. g., Code Ann. s 2-5301, supra, division 5).

Judgment affirmed.

JORDAN, C. J., and MARSHALL, CLARKE, SMITH and GREGORY, JJ., concur.

Ga., 1981.

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