

OPEN AND CLOSED  
RANGE:  
TOWNSHIPS:

The portion of Flatwood Township in  
Ripley County which became annexed  
to Johnston Township on September  
15, 1952, became open range.

---



April 19, 1957

Honorable Paul Simon  
Representative Ripley County  
Doniphan, Missouri

Dear Sir:

Your recent request for an official opinion reads:

"On September 2, 1952, the township of Flatwood in Ripley County voted on whether to restrain livestock from running at large, the issue carried. Then a petition was sent to the county court by 25% of the voters of Flatwood Township and a large part of the township was put in Johnston Township, on Sept. 15, 1952, which has open range. I would like an opinion as to whether the part of what is now Johnston Township which was in Flatwood Township at the time of the election is now open or closed range."

Ripley County not being a township organization county, we believe the law applicable to this situation is Section 47.010, RSMo 1949, which reads:

"Each county court may divide the county into convenient townships, and as occasion may require erect new townships, subdivide townships already established, organize better township lines, and may, upon the petition in writing, of not less than twenty-five per cent of the legally qualified voters of each township affected, as such vote was cast in the last preced-

Honorable Paul Simon

ing general election for the office receiving the greatest number of votes in the township or townships affected, consolidate two or more existing townships into one township, or otherwise reduce the number of townships, or change the boundary lines thereof, as may be deemed advisable."

We assume that the consolidation of a portion of Flatwood Township with Johnston Township was effected under the above section.

The question with which we are now faced is whether that portion of Flatwood Township which became a part of Johnston Township is open or closed range, since that portion of Flatwood Township which has become a part of Johnston Township was at the time of its annexation closed range.

We would first note that the Missouri state law (Chapter 270, RSMo 1949) recognizes only two complete units so far as open and closed range is concerned. These are counties and townships.

In the case of municipalities, territory which is annexed to the municipality becomes subject to the ordinances and regulations of the municipality to which it becomes attached.

Since Johnston Township was open range and since a portion of Flatwood Township became annexed to it, and since the law only recognizes open and closed range units as being counties and entire townships, we believe that that portion of Flatwood Township which became annexed to Johnston Township became open range at the time of its annexation, because it became a part of Johnston Township.

In the case of State v. Hall, 28 S.W. 2d 1026, at l. c. 1028, the Supreme Court of Missouri, in its opinion stated:

"The county court had created Westport township, and, as created, the General Assembly designated it as

Honorable Paul Simon

forming a part of the territorial jurisdiction, for the purpose stated, of the Kansas City division of the circuit court. The designation, as declaratory of the jurisdiction of the Kansas City division of the circuit court in mechanic's lien cases, could not remain operative, except during the legal existence of Westport township. When it ceased to exist through the exercise of the power of the county court and was attached to and became a part of Washington township, which was and had always been within the jurisdiction of the Independence division of the circuit court, the mechanic's lien cases arising in that part of Westport township, attached to and made a part of Washington township, became cognizable in the Independence division of the circuit court. To hold otherwise would be to quibble with words and defeat the purpose of the Constitution and the legislation thereunder defining the power of county courts. The power of the latter to create, re-create, or abolish is clear and complete, and there is nothing in the act of 1871, supra, either in express terms or by reasonable implication to sustain the conclusion that it was intended to limit, much less destroy, that power."

From the above, it will be seen that in a situation such as we have here when a portion of one township becomes annexed to another township such territory so annexed loses its former identity and becomes subject to the law governing the township to which it becomes annexed. In the instant case, the particular law in which we are interested is the open range law which prevails in Johnston Township and which would, accordingly, prevail in that portion of Flatwood Township which became annexed to and

Honorable Paul Simon

a part of Johnston Township.

CONCLUSION

It is the opinion of this department that the portion of Flatwood Township in Ripley County which became annexed to Johnston Township on September 15, 1952, became open range.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Hugh P. Williamson.

Very truly yours,

John M. Dalton  
Attorney General

HPW:lc