

ANNEXATION: Order of the county court of Oregon County made February 7, 1927, did effect the annexation of Standley's Second Addition to the Village of Koshkonong.



March 23, 1955

Honorable Percy W. Gullie  
Prosecuting Attorney  
Oregon County  
Alton, Missouri

Dear Sir:

Your recent (February 17, 1955) request for an official opinion sets forth the various acts taken relative to the attempted annexation of Standley's Second Addition to the town of Koshkonong, in Oregon County. The issue which you present is whether the acts done did effect an annexation. We have taken note of the first, second, and third orders of the county court in regard to this matter. We do not feel that it is necessary for us to attempt to decide the effect of these first three orders in order for us to reach a decision upon this matter, inasmuch as we believe that the fourth and last order, entered on February 7, 1927, did effect such an annexation. That order, as set forth by you, reads as follows:

"STANDLEY'S SECOND ADDITION, ADDED TO  
THE VILLAGE OF KOSHKONONG

"Be it remembered that a petition heretofore filed by the Board of Trustees of the Village of Koshkonong, asking the Court to add to the Corporate Village of Koshkonong a certain addition to-wit: Stanley's Second Addition as therein stated, and after due consideration of the premises and hearing such evidence as was offered by said Board, it is therefore ordered and adjudged by the

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Court that the following addition to-wit: Stanley's Second Addition be added and annexed to the original Corporation of the Village and is hereby included in the incorporated limits of the Village of Koshkonong and shall hereafter be a part of the original incorporation and entitled to all the privileges thereto pertaining to said incorporation, Said Second Addition being described as follows to-wit:

"Commencing at the center of Section 5, Township 22, Range 6, Oregon County, Missouri, run thence East 490 feet, thence South 1290 feet to right-of-way of Frisco railroad, thence in a North-westerly direction along the North line of said railroad right of way to the North and South center line of said Section 5, thence North on said center Section line to place of beginning, all being in the North-west Quarter of the South-east Quarter of said Section 5, a plat of which addition as certified to by Wade Heiskell, County Surveyor in and for our said County of Oregon, is hereto attached and made a part hereof."

The above order is certainly sufficient to effect annexation, and the presumption of law is that the county court acted properly and upon the basis of a proper petition. In the present instance there is no proof to the contrary. In the case of Hollowell v. Schuyler County, 18 S. W. (2d) 498, at 499, the Missouri Supreme Court stated:

"The county court is a court of record. We must presume that the judges of that court performed their duty in accordance with law. They could not have rejected the claim without holding that emergency clause unconstitutional. Therefore we must presume that they did hold it unconstitutional in the absence of any record showing to the contrary. A judgment is presumed to be regular, and in support of its validity the court which rendered it

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must be presumed to have found every fact and correctly reached every conclusion of law necessary to its validity. Therefore the constitutional question was then in the case."

Other cases of like import could be noted, but we do not feel that it is necessary for us to do so.

CONCLUSION

It is the opinion of this department that the order of the county court of Oregon County, made February 7, 1927, did effect the annexation of Standley's Second Addition to the Village of Koshkonong.

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

Yours very truly,

John M. Dalton  
Attorney General

HPW:vlw