

The Border War Still Isn't Over

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Salem Township Trustee

By **ELDON PITTS**
Star Staff Reporter

The legality of Chesterfield's attempt to annex about 70 acres of Delaware County — land that Daleville residents want to incorporate into an official town — might be decided soon.

A pre-trial conference on the suit, filed against Chesterfield by several Daleville residents, has been set for 9 a.m. July 27 in Delaware Superior Court 2.

Indianapolis attorney Paul Jasper, a former Indiana Supreme Court justice, has been appointed by the court to hear the case.

The trial "is going to be a landmark case," according to Charles Steigerwalt, president of Chesterfield Town Board. The court will be asked to decide whether recently-enacted legislation (Senate Bill 111) applies to Chesterfield.

The law retroactively prohibits annexation of land across county lines without permission of the commissioners of the neighboring county. Chesterfield, a Madison County town, has not received such permission from Delaware County commissioners.

Late last year, Anderson City Council, which has authority to approve or deny either proposal, OK'd Chesterfield's proposal but denied Daleville's.

The border war might have been over by now had it not been for a series of complications.

First, a group of Delaware County landowners sued, claiming the area Chesterfield sought to annex was not as compact as it should have been.

In response, the Chesterfield Town Board late last year passed an ordinance amending its proposal to make the area smaller. There was an obligatory 60-day remonstrance period that held up the measure's effective date until late February.

By that time, the Indiana General Assembly had changed the rules and had made the new restrictions retroactive to the first of the year.

Can the legislature do that? That is the key question the judge will have to decide.

Steigerwalt thinks Chesterfield will win the case.

"I still feel certain we'll whip that," he said, "because that bill was sneaked through."

Even though it is law, he said, "it was something that should not have been done. It was something that was not intended to be done. I found this out from talking to our legislature."

The bill originally was aimed at a dispute between Lawrence and McCordsville. Residents of McCordsville in Hancock County told legislators they had heard rumors that neighboring Lawrence — which is in Marion County — was thinking about swallowing them up.

Officials in Lawrence denied they had any such thoughts, but the legislature passed the law anyway. State Sen. Michael K. Rogers, R-New Castle, authored the legislation.

Rogers' original bill was amended to make its impact statewide. Rep. Stephen C. Moberly, R-Shelbyville, said he wasn't even aware of the Chesterfield-Daleville dispute when he proposed the change.

The border war involves a business district near I-69. Both towns want the area because of businesses already there and because of its potential for future development.

"That's probably, in my estimation, one of the most valuable pieces of ground in this county," said Steigerwalt. "You turn off the Interstate and go directly into Anderson or directly into Muncie."

On March 11, the same day the suit originally was filed, Anderson City Council decided not to consider Daleville's petition to incorporate because it included the disputed land.

The case later was given to Delaware County Court 1 Judge Betty Shelton Cole. She disqualified herself, however, and chose a panel of judges from which the two towns could pick.

All of the possible judges were ruled out, however, and the case was sent to the Supreme Court for appointment of a judge.

"I'm glad it's finally coming to a head," said Salem Township Trustee James Pugsley.

"We (the Committee for the Incorporation of Daleville) were going to go back to Anderson City Council and ask them to reconsider our request and probably take out the questionable annexation acreage," Pugsley said Thursday.

Since the pre-trial conference has been set, he said, the committee will put the incorporation petition "on the

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back burner" until it sees how the trial is progressing.

If it appears the trial is going to be too long, Pugsley said, the committee probably will take the petition back to Anderson — minus the disputed territory.

That way, Pugsley said, at least a town election could be held and the government could begin operating. If Daleville wins the suit, he said, the town could go back to Anderson later to annex the disputed territory.

"We felt like if we submitted our request to Anderson again and we were turned down," Pugsley said, "we would go ahead and file a suit for damages for their reluctance to do this."

It is something Daleville doesn't want to do, he said, "except as a last resort.

"If we're going to have people sit in judgment of something that's being done in another county," Pugsley said, "as far as I'm concerned, it's time we take action."

Since Daleville is not incorporated, it has no tax revenue. The town's street lights are kept on by voluntary contributions.

Indiana & Michigan Electric Co. increased its street light service rate by \$614.86, effective June 5. I&M officials said they will turn off all street lights in Daleville if the bill is not paid.

Officials of the Daleville Street Light Committee are asking residents to increase their contributions to keep the lights on.

"Time is beginning to run out on

us," Pugsley said. "There's a lot of things, like this street light situation, soon to become critical."

If the town were incorporated, he said, the cost could be paid out of tax revenues. That, he said, "would share the burden a little more equally among everybody."

"We take the position that it's ours," Steigerwalt said of the 70 acres. "And until a judge says different, that's how I accept it."

The possibility of a compromise between the two communities has been mentioned. Pugsley said Daleville would be willing to delete about 1½ acres of the disputed land, containing a water tower, so Chesterfield would have control of that.

"It would eliminate this whole hassle," Pugsley said.

He said he believes the county commissioners would go along with that proposal.

"I think for all parties concerned, a little bit of give and take would save everybody a lot of money," said Pugsley. "On down the road, the proposal could be profitable for Chesterfield.

"I'm quite sure," he said, "that Daleville could consider purchasing water from this source. It is actually closer to the center of Daleville than it is to the center of Chesterfield."

"I can't speak for other members of the town board," Steigerwalt said, "but I feel certain that, yes, we would talk about it.

"I would only talk to the point of having them allow us to annex that ground. Nothing short of that would I agree to."