

EUREKA SPRINGS v. WOODRUFF.

Decided March 26, 1892.

Municipal corporation—Annexation—Election.

The vote of municipal electors, on the question of annexation of contiguous territory must be taken on the day of the annual election of city officers.

Vogel v. Little Rock, ante, p. 609, followed.

APPEAL from *Carroll* Circuit Court, Eastern district.

E. S. MCDANIEL, Judge.

At the October term, 1890, the city of Eureka Springs, presented to the county court a petition asking that certain contiguous territory be annexed to it. Among other facts, it was alleged that an election had been held on September

22, 1890, to determine the will of the people of the city. B. E. Woodruff and others, owning land within the territory sought to be annexed, appeared and filed a protest against the proposed annexation, insisting, first, that the land was not such as the city had a right to annex; and second, that the election was invalid because held on September 22d, which, they contend, is an unlawful time for such an election.

After trial and judgment in the county court adverse to the city, an appeal was taken and a trial *de novo* had in the circuit court. That court found that September 22d, was not a proper time for holding an election on the subject of annexation, and dismissed the petition. The city took a bill of exceptions and appealed to this court.

G. J. Crump and *W. S. McCain* for appellant.

J. M. Pittman for appellee.

HEMINGWAY, J. The vote on the question of annexation, not having been taken on the day of the annual election for city officers, was unauthorized, and did not warrant the proceeding in the county court upon the petition of the city. *Vogel v. Little Rock, ante*, p. 609.

Affirm.