

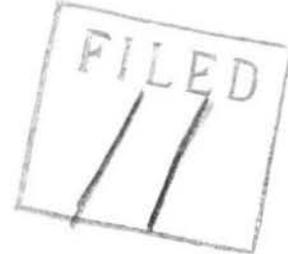
SECRETARY OF STATE:

RECORDER OF DEEDS:

OFFICERS: Commissions should not issue to persons claiming to have been elected to the office of Recorder of Deeds in counties having less than 20,000 population.

12-8

December 8, 1934



Honorable Dwight H. Brown
Secretary of State
Jefferson City
Missouri

Dear Mr. Brown:

This department acknowledges receipt of your letter dated December 6, 1934, as follows:

"This office is now receiving from the Clerks of the County Courts of the several counties of the state, lists of the elected county officers, for the purpose of obtaining Commissions through this office.

Some of the counties with a population of less than 20,000 are requesting Commissions for a Recorder of Deeds. The requests state that such officers were elected on the 6th day of November, 1934. The Fifty-seventh General Assembly at its regular session passed an Act, which is found on page 360 of the Laws of that year, which provided that the Clerks of the Circuit Courts shall be ex-officio Recorders in their respective counties, except in counties containing 20,000 or more. This seems to eliminate the officers known as Recorder of Deeds in the county of less than 20,000.

December 8, 1934

I desire your official opinion as to whether or not we should issue a Commission to Recorder of Deeds in counties less than 20,000. Will you kindly advise at the earliest possible date."

Section 11528 Laws of Missouri 1933, at page 360, reads as follows:

"Sec.11528. Circuit clerks to serve in certain counties. -
The clerks of the circuit courts shall be ex officio recorders in their respective counties, except in counties containing 20,000 inhabitants or more."

In opinions heretofore issued by this department we have assumed the constitutionality of the section of the law above quoted, without directly passing on the same, and that is the policy of this office at this time.

We therefore advise that you should refuse to issue commissions to persons claiming to have been elected to the office of Recorder of Deeds at the November, 1934, election in counties containing less than 20,000 inhabitants.

Yours very truly,

GILBERT LAMB
Assistant Attorney General

APPROVED:

ROY McKITTRICK
Attorney General.

GL:LC