

COUNTY COURTS; COUNTY COURT HAS EXCLUSIVE CONTROL OVER
MOTOR VEHICLES OWNED BY COUNTY.

July 15, 1942.



Honorable Paul E. Bradley
Prosecuting Attorney
Jasper County
Joplin, Missouri

Dear Mr. Bradley:

The Attorney-General hereby acknowledges receipt of your letter from your office, of July 13, 1942, in which you requested an opinion from our Department. The request, omitting caption and signature, is as follows:

"The County Court of Jasper County has requested that I write to your office for an opinion concerning the County Engineer and Surveyor's Office. The County Surveyor is appointed County Highway Engineer also, and receives a salary of \$2,000.00 per year. He has an Assistant Engineer who receives \$1200.00 per year.

"The County Court some years ago did away with Road Overseers and the County Highway Engineer looks after and oversees the county roads in all Townships under the County jurisdiction.

"The County Court purchased a Chevrolet car for the use of the Highway Engineer. The Engineer uses the car to drive to and from his work and to oversee and inspect the County roads. The County garage and buildings are located in Carthage, the County Seat, but the Engineer lives in Joplin. He uses this car to drive back and forth to his home and also from his home to work to any place in the County where he is to oversee or inspect the roads.

"The County Court is divided on the question of the use of this car, namely, whether the car should be left in Carthage and driven from Carthage each day to the place of work or whether the car should be in the custody of the Highway Engineer and driven to and from his home in Joplin and from his home in Joplin to other points where he works in the County.

"In searching the statutes and laws I find no provision for furnishing the Highway Engineer with a car or transportation. The Special Road District had the same problem and requires their cars to be stored at their headquarters and driven from that headquarter each day with the strict accounting for mileage. The Highway Engineer contends that he is on duty and on call 24 hours a day and that it is nearer for him to drive from Joplin to the northwest part of the County than it would be to come to Carthage and then go to the northwest part of the County.

"The County Court also uses this car to inspect farms for prospective loans from the school funds and to make trips involving County business.

"The main contention and concern of the County Court is whether the County Engineer should be allowed to drive the car back and forth to his home in Joplin or whether he should leave it in Carthage and start from here each morning, keeping account of the mileage and places visited, which he does not do under the present system.

"We would thank you for an early reply and opinion in regard to the above matter."

The matter about which you have asked in your request is one on which there seem to be no statutes. As I understand

July 15, 1942

the matter from your letter the Chevrolet automobile in question is the property of the county of Jasper and is not the property of the Highway Engineer. I will refer you to Article VI, Section 36 of the Constitution of Missouri, which reads as follows:

"County courts.--In each county there shall be a county court, which shall be a court of record, and shall have jurisdiction to transact all county and such other business as may be prescribed by law. The court shall consist of one or more judges, not exceeding three, of whom the probate judge may be one, as may be provided by law."

As can be seen from the above constitutional provision the county courts of the various counties in the State of Missouri have jurisdiction to transact all the county business in their respective counties. The car in question was apparently purchased by the county court of Jasper County, who, under the provisions of the Constitution, would have the control and custody of this car, and under and by virtue of their powers would have the right to say in what manner such car was to be used.

With respect to the County Highway Engineer, I will cite you to Section 8661, R. S. Mo. 1939, which provides as follows:

"The county highway engineer shall be custodian of all tools, material and machinery belonging to the road districts and to the county, except as may be otherwise provided by law. When delivering to any road overseer the tools and machinery belonging to the district, he shall require from the overseer an inventory and receipt for all such tools and machinery, and the overseer shall be responsible for the proper care and handling of said tools and machinery, and shall see that they are properly kept when not in use, and shall account for the same to the county highway engineer."

July 15, 1942

It seems that the above section is the only section under which the county highway engineer could contend that he had custody and control over the automobile and we do not think that a Chevrolet automobile would be termed as part of the "tools, material and machinery belonging to the road districts and to the county." We believe that the question as to expense and convenience of the car being kept in either Joplin or Carthage, is a matter to be gone into by the County Court of Jasper County, who would have the right to rule as to the manner in which the car should be operated.

CONCLUSION

Therefore, it is the opinion of this Department that this is a matter to be governed by the County Court of Jasper County, who, under Article VI, Section 36, of the Constitution of Missouri, have the power to control the operation of the automobile in question.

Respectfully submitted,

JOHN S. PHILLIPS
Assistant Attorney-General

APPROVED:

VANE C. THURLO
(Acting) Attorney-General

JSP:EG