

TRANSFER OF REGISTRATION OF
VOTERS AND COST THEREOF:

In a situation where there is re-establishment of voting wards in the city of Carthage, the necessary adjustment as to the ward and precinct location of registered voters should be made by a transfer of registration by the county clerk of Jasper County.

The cost of such transfer should properly be borne by Jasper County.

December 8, 1959

Honorable William C. Myers, Jr.
Prosecuting Attorney
Jasper County
Carthage, Missouri



Dear Mr. Myers:

Your recent request for an official opinion reads:

"Mr. J. C. Baird, County Clerk of Jasper County has requested that I obtain the opinion of your office on the following matter:

"The City Council of the City of Carthage will on the 26th day of October, 1959, pass an ordinance re-establishing the wards of the City of Carthage and creating two precincts in each ward. This will vitally effect registration of voters as the registration books now exist in my office.

'I am now faced with the question whether or not a reregistration by the citizens of the City of Carthage will be necessary or whether a transfer of registration should be made in my office only.

'In either manner of handling this matter there will be costs not budgeted. My second question is, should this cost be borne by the City of Carthage or Jasper County?'"

We note that Chapter 116, RSMo, Cum. Supp. 1957, is applicable to cities of ten thousand or more, and that Jasper County does not have registration of voters.

I note that your first question is whether it will be necessary to have a reregistration of the voters of Carthage or whether your office should make a transfer of registration.

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Chapter 116, supra, makes no specific statement on this matter. Inferentially, however, the chapter does, it seems to us, indicate that in the situation which you present reregistration is not called for. Section 116.010, RSMo, Cum. Supp. 1957, states in part (par. 1):

"* * * After so registering (the first and original registration provided for), * * * a qualified elector * * * shall not be again required to register, unless obliged to do so by the terms of this chapter. * * *"
(Words in parenthesis ours)

Section 116.080, RSMo, Cum. Supp. 1957, pertains to reregistration. This section reads:

"On or near the first day of each calendar month succeeding the general permanent registration herein provided for, the prosecuting attorney of the county shall furnish to the county clerk, in writing, over his signature, the names of all persons disqualified as voters coming to his knowledge during the month by reason of a conviction for crime, and the prosecuting attorney shall be affirmatively charged with knowledge of convictions in his own county; the registrar of vital statistics shall furnish the county clerk, in writing, a list of all persons dying during the month; the clerk of the probate court shall furnish the county clerk, in writing, a list of all persons during the month declared incapable of managing his property and for whom a guardian of his person and estate is accordingly appointed; the presiding judge of the county court shall furnish the county clerk with a list, in writing of all persons during the month committed to a state insane asylum as an insane person or committed to the poor farm as a pauper. The county clerk shall accept the reports of the above public officers as true for purposes of canceling registrations. It shall be the duty of the county clerk to check the registration book for absent voters. When said registration shows that any registered voter has not voted for the last two general elections, or the primaries preceding same, the county clerk shall notify the voter by mail of such fact and that unless within thirty days he send to the county clerk a signed application for reinstatement of his registration or personally apply for such reinstatement his registration will be canceled. Such application for reinstatement shall be in writing, signed by the voter and stating his address and the fact that he is a qualified voter.
If the county clerk, upon comparison of such signature

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with the signature upon the proper affidavit of registration, shall be satisfied that both were written by the same person, the registration shall be reinstated. If the voter cannot sign his name, he shall be required to appear in person before the county clerk to be identified in the prescribed manner; otherwise, said voter shall not be entitled to vote until he or she shall have again registered as herein provided for new registrations."

Section 116.010, RSMo, Cum. Supp. 1957, as amended, numbered paragraph 2, also pertains to reregistration, but has no bearing here since it simply provides that any voter, in a city of not less than 30,000 and not more than 50,000 inhabitants in a county not having county wide registration, who was registered prior to July 1, 1955, shall be required to reregister under the provisions of Chapter 116, and that no registration in such city made before July 1, 1955, is valid after July 1, 1958.

Section 116.070, RSMo 1949, also pertains to reregistration, but only to people who change their surname, or who change their address within the city, none of which pertains to the present situation.

It will be noted that no where in the above sections is any provision made for a mass reregistration under the circumstances which are present in the situation which you set forth. We again revert to the quotation from Section 116.010 which states that a voter shall not be required to reregister unless obliged to do so by the terms of this chapter.

In Section 116.060, RSMo, Cum. Supp. 1957, we note, with reference to the records of registration which the law provides the county clerk shall keep, that "all three records shall be continuously revised and kept up to date. The county clerk, on the day before any election for which registration is made, shall deliver, or cause to be delivered, to the judges of election . . . proper registration records for their respective precincts . . ." We also note the following in Section 116.030:

"* * * If on election day it shall come to the attention of the county clerk that through an inadvertance, a registration card has been placed in the wrong precinct binder, the county clerk shall correct such error on the blue registration record and shall send such record to the proper voting precinct."

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The above, it would appear, gives the county clerk the authority, and indeed lays upon him the obligation, to keep his records in such a condition that the proper registered voter is shown as being registered in the proper precinct. If the county clerk is authorized to do this on what would be a comparatively small scale, we believe that he would be also authorized to do it in such a situation as you present. Inasmuch as the county clerk has the address of all registered voters in the city of Carthage and will have the boundaries of the new precincts when they are established, it would appear to be entirely possible for him to make such an adjustment, and that it would be entirely feasible for him to do so. And furthermore, as we noted above, we find nothing in Chapter 116, or elsewhere, which would authorize the call for a completely new mass registration of all voters.

Your second question is whether the cost involved, either in a reregistration or in a transfer in your office, should be borne by the city of Carthage or Jasper County.

In this connection we direct your attention to Section 116.030, RSMo, Cum. Supp. 1957, which reads:

"Any qualified elector who registers as herein provided shall be entitled to vote in the election precinct where his or her name is registered and in which he or she is registered as a resident. Any such person shall register for the purpose of the first general registration herein referred to under the supervision of the county clerk of the county in which any such city may be located. The county clerk of such county shall be in charge of such general registration and all other registrations provided for by this chapter. (The said county clerk and his deputies shall have the power to administer oaths and perform all other duties necessary to carry out the provisions of this chapter. The county clerk may appoint not more than two additional deputies who shall be in addition to those regularly employed in his office, to perform such necessary duties and other duties as may be assigned to them by the county clerk, and whose salaries shall be fixed by the county court. Before they shall enter upon their duties, the county clerk shall submit the names of the one or more deputies to the judges of the circuit court sitting in any such county, who shall approve the appointment of any such deputies before they shall enter upon the performance of their duties. During the first general registration referred to, and during any rush periods which may occur, the county clerk of any such county shall be empowered to employ any such extra deputies as may be necessary, and their compensation shall be fixed by the county court. The county clerk's office shall be open

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for permanent registration at all times that such office is open for other business, Sundays and holidays excepted. No person shall be entitled to register within a period of twenty-eight days prior to any election in which the registration records provided for in this chapter are to be used. The county clerk shall not cancel or reinstate any registration within five days prior to any such election, except at the direction or order of the circuit court. If on election day it shall come to the attention of the county clerk that through an inadvertance, a registration card has been placed in the wrong precinct binder, the county clerk shall correct such error on the blue registration record and shall send such record to the proper voting precinct."

From the above it will be noted that the entire responsibility for the original and for all subsequent registrations in such cities as are here under consideration is placed upon the county clerk. No where in Chapter 116, or elsewhere, is there any indication that such responsibility is divided. In this regard we note particularly the statement in the above section that "The county clerk of such county shall be in charge of such general registration and all other registrations provided for by this chapter." (Emphasis supplied.) This section, and subsequent sections in this chapter, proceed to make provisions for subsequent registrations following the general registration.

The chapter contemplates that this work will place an extra burden upon the county clerk, and makes provision for it by giving the county clerk authority to appoint not more than two additional deputies, in addition to those regularly employed in his office, to assist in handling this additional work, "whose salaries shall be fixed by the county court."

The section also provides that during the first general registration, and during any "rush periods" which may occur subsequently, the county clerk may employ "such extra deputies as may be necessary, and their compensation shall be fixed by the county court."

These extra deputies would all be county employees, and, of course, as such would be paid by the county and not by the city. As we stated above, it seems clear that the entire responsibility for such registration is laid upon the county and that the county is to take care of all of the work which is entailed and to pay for such work out of county funds. This is our answer to what you term your second question.

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In your opinion request you state that "in either manner of handling this matter there will be costs not budgeted." You have since writing the above asked us not to consider this phase of the matter, and we shall, accordingly, not consider it.

CONCLUSION

It is the opinion of this department that in a situation where there is a re-establishment of voting wards in the city of Carthage that the necessary adjustment as to the ward and precinct location of registered voters should be made by a transfer of registration by the county clerk of Jasper County.

It is the further opinion of this department that the cost of such transfer should properly be borne by Jasper County.

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

Yours very truly,

JOHN M. DALTON
Attorney General

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