

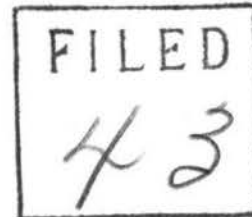
RECORDER OF DEEDS  
AND RECORDS:

Recorded instruments once recorded cannot  
be changed on the same record.

March 29, 1943

Mr. C. B. Hudson  
Recorder of Deeds  
Lawrence County  
Mt. Vernon, Missouri

4-21



Dear Sir:

We are in receipt of your request for an opinion,  
under date of March 26, 1943, which reads as follows:

"I am inclosing a letter from a lady,  
where she asks a minor change be made  
in her marriage license. The letter  
will explain better perhaps than I  
could just what she wants. Am I per-  
mitted to do this at her request? Also,  
there is a woman working in an abstract  
office here, who is quite active in secur-  
ing birth certificates for people. She  
goes to the record book, and if the ages  
are not given, she inserts the age, and  
asks me to make a certified copy from the  
record. Of course, I notice that the ages  
are written in by pen and she admits, and  
says that they have done lots of them that  
way. I suppose she means the Recorder  
ahead of me, and herself. The Prosecuting  
Atty. advised me to get an opinion from you.  
Is this a violation of the law, or is it  
permissible?"

Section 13165 R. S. Missouri, 1939, reads as follows:

"The recorder shall record, without de-  
lay, every deed, mortgage, conveyance,  
deed of trust, bond, commission or other

writing delivered to him for record, with the acknowledgment, proofs and certificates written on or under the same, with the plats, surveys, schedules and other papers therein referred to, and thereto annexed, in the order of time when the same shall have been delivered for record, by writing them word for word, in a fair hand, noting, at the foot of such record, all interlineations and erasures and words visibly written on erasures, and noting, at the foot of the record, the day and time of the day, month and year, when the instrument so recorded was delivered to him, or brought to his office for record; and the same shall be considered as recorded from the time it was so delivered." (Underscoring ours.)

Under the above section the recorder of deeds must record all instruments delivered to him for record, word for word, and the instrument shall be recorded, and considered as recorded, from the time it was delivered to him for record. There is no provision which would allow him to change the original instrument as delivered, or change the reading of the instrument after the writing of the instrument into the record word for word.

Section 13161 R. S. Missouri, 1939, partially reads as follows:

" It shall be the duty of recorders to record: \* \* \* \* third, all marriage contracts and certificates of marriage; \* \* \* \* fifth, all written statements furnished to him for record, showing the sex and date of birth of any child or children, the name, business and residence of the father, and maiden name of the mother of such child or children."

Mr. C. B. Hudson

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The above two clauses in Section 13161, supra, make it mandatory on the recorder of deeds to accept for recording marriage licenses and birth certificates.

Section 3367 Missouri, 1939, partially reads as follows:

" \* \* \* Every officer or person who shall fail to return a license within ninety days after the issuing of the same, or who shall make a false return thereon, or any recorder who shall willfully make a false record of any marriage license or return thereon, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished as provided in the preceding part of this section."

Under the above section a recorder who shall willfully make a false record of any marriage license or return thereon, shall be deemed guilty of a misdemeanor.

Sections 4567 and 4568 R. S. Missouri, 1939, provide a punishment for forgery in the second degree for every person who, with intent to defraud, should falsely alter or falsify any record, conveyance or instrument, which record or copy of the record, by law, could be used as evidence. Of course under these sections the question of attempt to defraud is involved, but, under the facts set out in your request, it is a very close question in the case of the birth certificates as to whether there was an intent to defraud. In your request you state that the age of certain persons have been interlined in records of birth certificates which appear to be recorded at a prior date. The changing of such a record would be forgery, and it was so held in the case of *In Re Warden*, 146 S. W. (2d) 874. In this case a lawyer was charged with placing the names of persons other than those contained in the original recorded marriage license.

Mr. C. B. Hudson

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Under Section 13165, supra, the recorder of deeds, upon recording an instrument that is subject to recording, must make a notation at the foot of such record of all interlineations, erasures and words visibly written on erasures. Under this section if interlinations have been made it should so appear at the foot of the recorded instrument.

Under Section 15077, R. S. Missouri, 1939, whenever a certified copy, or copies of any public record in the State of Missouri is required to perfect the claim of persons in the Armed Forces of the United States, or if any dependent of such person desires a certified copy for the purpose of prosecuting a claim upon the Government of the United States, the recorder of deeds should furnish the certified copy of discharge upon request, without any fee, or compensation, therefor.

#### CONCLUSION

It is, therefore, the opinion of this department, that the recorder of deeds cannot change a marriage license issued to Elsie A. Nelms so that it would read Elsie R. Nelms, and then furnish a certified copy of such marriage license.

It is further the opinion of this department that it is unlawful for any person to change or insert interlineations in recorded birth certificates, after the same has once been recorded and such interlineations should not be permitted.

APPROVED BY:

Respectfully submitted

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ROY McKITTRICK  
Attorney General of Missouri

W. J. BURKE  
Assistant Attorney General

WJB:RW