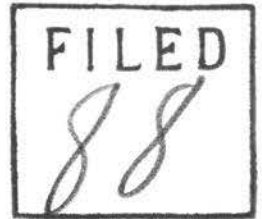


COUNTY CLERK : May not establish branch offices unless
RECORDER OF DEEDS : authorized by statute.

June 17, 1943



Hon. H. Tiffin Teters
Prosecuting Attorney
Jasper County
Carthage, Missouri

Dear Mr. Teters:

Under date of June 9, 1943, you wrote this office requesting an opinion as follows:

"The county recorder and the county clerk both maintain a branch office and conduct the regular business in the city of Joplin in Jasper County in the Court House building leased there and in view of the recent controversy regarding the establishment of a branch collector's office in Joplin, the Chamber of Commerce of Carthage and their attorney, the county clerk, the county recorder and the county court have requested that I obtain from your office an opinion as to whether or not it is legal for the two county offices to maintain branch offices in the city of Joplin, Jasper County, Missouri, located seventeen miles from the county seat of Carthage, the same being a city of over 40,000.

"Section 13148 R. S, Missouri, 1939, provides for the maintenance of a recorder's office at the seat of justice.

"At the present time the recorder and county clerk both appointed the same woman as a deputy. The branch office in Joplin is maintained in the leased court house building

there and the deputy is paid a salary for being deputy county recorder and deputy county clerk. Marriage licenses are issued by the deputy, chattel mortgages are filed in this branch office on the odd minutes in order not to conflict with chattel mortgages filed in Carthage on the even minutes and are brought back to Carthage each day and posted in the books in the main office. Real Estate mortgages are accepted there with the understanding that they will be filed for record at the main office at Carthage prior to the opening of business on the following day. All the books and practically all the work is done in the office in Carthage with the exception of the deputy in Joplin receiving the chattel and real estate mortgage and issuing marriage licenses.

"The county clerk has charge of the registration books for the city of Joplin and it is necessary that he maintain some type of office in Joplin for the registration of voters in the city of Joplin and the same woman who is deputy recorder is also deputy county clerk and takes care of the registration books for the city of Joplin. This is all the deputy county clerk in Joplin does, taking care of and looking after registration books for the city of Joplin.

"The county court appointed the same woman to fill both offices as an economy measure and this woman could easily take care of all work in that office.

"Will you please advise if under the above statement of facts, whether the recorder of deeds of Jasper County, Missouri and the county clerk of Jasper County, Missouri have a right to maintain a branch office in the city of Joplin, Jasper County, Missouri."

In your letter you mentioned Section 13148 R. S. Missouri 1939, which directs where the Recorder of Deeds in each county shall keep his office. This section is as follows:

"The recorder shall keep his office at the seat of justice, and the county court shall provide the same with suitable books, in which the recorder shall record all instruments of writing authorized and required to be recorded. If there is not courthouse or other suitable county building at the seat of justice, the county court shall provide an office for the recorder at any other place in the county where there is a courthouse and courts of record are held."

Also Section 13703, Article 4, Chapter 100, relating to county seats provides as follows:

"As soon as the court house and jail shall be erected and the circumstances of the county will permit, the county court may erect all necessary fireproof buildings for the preservation of the records of the county, at or near the court house, and may provide the means therefor by an increase of taxation as provided by section 11 of article X of the Constitution, when authorized so to do by vote of two-thirds of the qualified voters of the county voting at an election held to determine the question, which election shall be under the same conditions and regulated by the provisions of the present statutes relating to the erection of court houses and jails."

These sections of the statutes definitely fix that the Recorder of Deeds shall keep his office at the seat of government

of the county unless there is no suitable building at the county seat. The section is general in its application and unless there is some special legislation that would authorize the establishment of a branch office in some place other than the county seat, the Recorder of Deeds has no authority for having a branch office or transacting the business of the office at any other place.

The General Assembly in a few instances has authorized the maintaining of a branch office of the Recorder of Deeds at some place other than the county seat. For example, Section 15662 authorizes the Recorder of Deeds of Jackson County to maintain an office in Kansas City, Missouri.

A careful search has been made of the statutes and no law has been found authorizing the Recorder of Deeds of Jasper County to maintain an office in Joplin.

In regard to the County Clerk maintaining an office in Joplin, your attention is directed to Section 13711 which requires courts to be held at the county seat and reads as follows:

"As soon as convenient buildings for the holding of courts can be had at such new seat of justice, the county court shall notify the judges of the several courts holden in the county, and all such courts shall thereafter be held at the place so selected."

Section 13293, Article 1, Chapter 92, R. S. Missouri, 1939, provides as follows:

"Each clerk shall keep his office at such places as the court shall direct, not to be more than two hundred yards from the courthouse or permanent place of holding the court of which he is clerk, and shall there keep the records, papers, seal and property belonging to his office and transact his official business."

The County Court is required to meet in the county seat and the Clerk is required to maintain his office not more than two hundred yards from the place of holding court. From this it is apparent the Clerk has no authority under these general statutes for maintaining an office at any other place than the county seat, unless some special legislation, applying only to counties the size of Jasper County, exists. Authority is given to the county

courts, in certain counties, to establish a branch office of the County Clerk in places other than the county seat by Section 2486, which is as follows:

"In all counties in this state now containing or that may hereafter contain seventy-five thousand inhabitants or more, and where county courts are now or may hereafter be held at more places than one, and at places other than the county seat, said courts shall establish a branch county clerk's office at such place, where all the records and proceedings at such place shall be safely kept and preserved, and all acts done and performed at such place shall have the same force and effect as if done at the county seat."

This section was enacted in 1887, Laws of 1887 page 157, and prior to that time legislation had been enacted which authorized the holding of county court, in counties of the size mentioned in such section, at places other than the county seat. This section seems to have been intended to apply in Jackson County where authority for holding county court at Kansas City had previously been given.

No law has been found which authorizes the county court of Jasper County to meet at Joplin and your letter of June 14, 1943, conveys the information that the county court of Jasper County does not meet at Joplin.

The county court not being authorized to meet at Joplin and the County Clerk being required to maintain his office where the county court holds its sessions, no authority exists for the maintaining of a branch office in Joplin by the County Clerk.

In your request you state that it is necessary that the County Clerk maintain an office in Joplin because of his duties in connection with the registration of voters. Unquestionably, it is a matter of great convenience to the inhabitants of the City of Joplin to have a branch office of the County Clerk located in that city. Section 11969, Article 20, Chapter 76, deals with the duties of County Clerks in connection with the registration of voters in cities of 30,000 to 80,000 inhabitants and is as follows:

"The clerk of the county court of counties wherein a city or cities of 30,000 to 80,000 inhabitants are located shall have custody of

and keep in his office all registration books and affidavits. The county clerk, upon execution of an affidavit in the form provided by him by any person who appears at his office showing him to be a qualified voter of the city shall register such person's name in the registration books of the proper voting precinct or on execution of affidavit provided by him showing that a voter has moved from one voting precinct to another, shall transfer the name of any voter who appears at his office from the registration book to the registration book of the proper voting precinct: Provided, where a county clerk maintains more than one office, which office is located in a city within said county not the county seat of said county said registration may be made by affidavit in form and manner provided by said clerk. The name of any qualified voter may be so registered or transferred by the county clerk on any day of the year except Sundays and holidays: Provided, however, registrations and transfers must be made prior to the 25th day before an election. The county clerk shall act as clerk of the board of election commissioners and shall send out such notices and do such other acts in conformity with this article as he may be instructed to do by said board. The county clerk shall report to the board of election commissioners the names of all persons who have died in the city reported to him by registrar of vital statistics and the names of all persons reported to him by the circuit clerk of persons residing in the city who have become disqualified as voters by reason of conviction of crime and the board of election commissioners shall strike such names from the registration books. The county clerk shall keep the reports of the registrar of vital statistics and of the circuit clerk on file as public records." (Under scoring ours)

The underscored portion seems to have been enacted for the benefit of counties where the same situation exists as in Jasper County, but nothing in this section makes it necessary for the Clerk to maintain an office in the city where registration of voters is required, nor does it furnish authority to the County Clerk for

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establishing such a branch office.

In your letter of June 14, 1943, you mention that the Circuit Court meets at Joplin. This is by reason of Sections 2165 and 2190 R. S. Missouri, 1939, but no mention is made of the county court.

CONCLUSION

The Recorder of Deeds and the County Clerk of Jasper County do not have authority to establish and maintain branch offices in the City of Joplin in Jasper County, unless such authority is given by statute and no statutory authority has been found authorizing the maintaining of such branch offices.

Respectfully submitted,

W. O. JACKSON
Assistant Attorney General

APPROVED:

ROY McKITTRICK
Attorney General

WOJ/mh