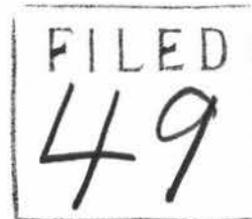


ELECTIONS: Clay County Court has no jurisdiction over that part of Clay County annexed to Kansas City January 1, 1950, insofar as special referendum election, April 4, 1950, is concerned.

February 24, 1950

FILED NO. 49



Honorable Robert G. Kirkland
Prosecuting Attorney
Clay County
Liberty, Missouri

Dear Sir:

This is in answer to your letter of recent date requesting an official opinion of this department reading as follows:

"Does the Clay County Court have the right to select and set up polling places, select judges and clerks for the same, and in general conduct the election for the April road referendum election in that portion of Clay County allegedly annexed to the city of Kansas City as of January 1, 1950?"

On February 23, 1950, the Supreme Court handed down its decision in the case of State ex inf. Taylor v. City of North Kansas City. Such opinion was written by Conklin, J. and concurred in by the other six judges, Leedy, J. concurring in a separate opinion.

The court in its opinion said in part:

"Therefore, we further hold that relator (Kansas City, Missouri) by its said effective amendment of its city charter to so extend its city limits northward into Clay County, Missouri, thereby acquired, effective as of January 1, 1950, and it now has exclusive municipal jurisdiction in and over all of that portion of Clay County, Missouri, set out and

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particularly described by metes and bounds in its said charter amendment as being the area in Clay County relator proposed to be annexed to its city limits, all as the same appears and is now described in Ordinance No. 10,349, passed by the City Council of Kansas City, Missouri, and approved by its Mayor, September 3, 1946."

* * * * *

"The writ of ouster as prayed by relator against respondent, in the information filed herein, is ordered issued and made permanent."

While it is true that under Rule No. 1.19 of the Supreme Court of Missouri, a motion for a rehearing may be filed within fifteen days after the date of the filing of the opinion in this case, and while it is true that this case may be carried to the Supreme Court of the United States, until such time as the opinion in this case is withdrawn, modified or reversed by the Supreme Court of Missouri or the Supreme Court of the United States, laws relating to Kansas City do relate to that part of Kansas City annexed January 1, 1950.

Section 12096, Revised Statutes of Missouri, 1939, provides as follows:

"In all cities of this state now having, or which hereafter may have three hundred thousand inhabitants and not over seven hundred thousand inhabitants, there shall be a registration of all qualified voters, and the registration of voters and the conduct of elections held in such cities shall be governed by the provisions of this article and be subject to the general election laws of this state, so far as the same are not inconsistent or in conflict herewith."

Under the provisions of this section the complete control of elections held in Kansas City is governed by the provisions of Article 23, Chapter 76, Revised Statutes Annotated. Since this is true the election will be conducted

Honorable Robert G. Kirkland

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by the Board of Election Commissioners of Kansas City, Missouri, and the Clay County Court will have no right to set up polling places, select judges and clerks or do any other acts necessary for the conduct of such election.

CONCLUSION

It is the opinion of this department that the Clay County Court does not have the right to set up polling places, select judges and clerks for the same or in any way conduct the special referendum election to be held April 4, 1950, in that part of Clay County annexed to Kansas City, January 1, 1950.

Respectfully submitted,

C. B. BURNS, JR.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General