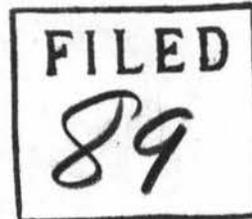


CRIMINAL LAW: Provisions of R.S.No. 1879, requiring justices of the peace to certify criminal cases occurring in Galena and Joplin townships, Jasper County, Missouri, be certified to the Joplin division of the Circuit Court, repealed.

February 10, 1951

2-19-51

Honorable Dale Tourtelot  
Prosecuting Attorney  
Jasper County  
Joplin, Missouri



Dear Sir:

This is in answer to your request of recent date which reads as follows:

"I am writing you at this time for your opinion in regard to the following:

"The Session Acts of the 29th General Assembly in 1877, Page 210, Section 46, beginning at the 9th Line from the bottom of the Page, states as follows:

"And it shall be the duty of Justices of Peace and to the Committing Magistrates in the Townships of Galena and Joplin in said County, when committing any person charged with a criminal offence, or taking a recognizance to certify the proceedings in such cases to the First Term next ensuing of the Circuit Court to be held in the City of Joplin."

"Section 3893 of the Revised Statutes of 1939 is to the effect that the cases shall go to the next regular Term of Circuit Court.

"As you know, we hold Circuit Court in two towns in Jasper County, viz.: at Carthage, and at Joplin.

"I would like to have your opinion in regard to a criminal case that happens in Galena or Joplin Township, where the next regular term is at Carthage, as to whether that case should be certified to Carthage as per Section 3893; or, as to whether it should be certified to Joplin as per the Session Laws of 1877, which Law was included in the Statutes of 1879.

Honorable Dale Tourtelot

"This Section was dropped from the Statutes of 1889, and has not appeared in the Statutes since 1879.

"The question is, does this Special Law passed in 1877 govern as to where the proceedings are certified?"

Section 1159, R. S. Mo. 1879, in connection with the Townships of Galena and Joplin, states in part as follows:

" \* \* \* And it shall be the duty of justices of the peace, and other committing magistrates in the townships of Joplin and Galena, in said county, when committing any person charged with a criminal offense, or taking a recognizance, to certify the proceedings in such cases to the first term, next ensuing, of the circuit court, to be held at the city of Joplin, as aforesaid: \* \* \* "

This section has been revised by every session of the Legislature since that time up to and including the Session of 1921, and each session probably attempted to repeal, at least by implication, the law passed by the former session. However, Section 1159, R. S. Mo. 1879, had never been specifically repealed until the Session Acts, 1921, page 248.

We have traced the course of Section 1159, R. S. Mo. 1879, and find that it was carried forward and that in the Revised Statutes of Missouri, 1919, that section was numbered 2524. We further find that in the Laws of 1921, page 248, Section 2524, R. S. Mo. 1919, was specifically repealed, and reads in part as follows:

"Be it enacted by the General Assembly of the State of Missouri, as follows:

"Section 1. Repealing 39 sections, 2499 to 2537, both inclusive, of article 3, chapter 21, and enacting 36 new sections in lieu thereof.--That sections \* \* \* \* 2524, \* \* \* \* of article 3 of chapter 21 of the Revised Statutes of Missouri, 1919, relating to circuit courts and the time of holding regular terms thereof, be and the same are hereby repealed, and 36 new sections enacted in lieu thereof."

Honorable Dale Tourtelot

As you stated in your letter, Section 3893, R. S. Mo. 1939, is to the effect that the cases shall go to the next regular term of the Circuit Court. That section now is numbered 544.250 in the Revised Statutes of Missouri, 1949.

CONCLUSION

It is, therefore, the opinion of this department that criminal cases happening in Galena or Joplin Townships would be certified to the Circuit Court the same as any other township in the County of Jasper under Section 544.250, R.S.Mo. 1949.

Respectfully submitted,

W. BRADY DUNCAN  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
Attorney General

WBD:VLM