



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable B. F. White
County Judge
Martin County
Stanton, Texas

Dear Sir:

Opinion No. 0-7011

Re: May a county-district clerk operate in his county office an abstract firm and use county help, equipment and utilities in the operation of said firm?

Your letter of recent date requesting an opinion from this department on the above subject matter is as follows:

"You probably recall our conversation on December 16, about the problem that our Commissioners Court is facing in regards to the county and District Clerk operating an abstract office in the County Clerk's office. Since we do not have an Attorney in the county and you stated that you would give an opinion on this matter, I am requesting that you give me an opinion on this at the earliest date possible.

"John F. Epley was Clerk here for twenty years or more preceding his death five years ago. He operated this abstract firm in the Clerk's office and at the time of his death, his wife, Mrs. Lenora B. Epley, was appointed to take his place and she has continued to operate this firm in this office. She is

using the County equipment, utilities, and hired help that is being paid with the fee from the office to do this abstract work. Please give us an opinion as to the legality of her operating this firm in connection with her County and District Clerk's office; and also, give us an opinion on the legality of the Commissioners' Court allowing this office to operate in the courthouse and paying help and furnishing office equipment and supplies for the same."

In our Opinion No. O-921 we held:

"The making of abstracts of title is outside of the scope of the official duties of the county clerk. The preparing and copying of field notes may or may not be services within the scope of the duties of the office of the county clerk; the facts in each case will determine this question.

"The county clerk has no authority to use county employees paid by the county to perform services outside of the scope of the duties of the office of county clerk. Labor paid for by the county should not be used by the clerk in the performance of activities outside of the scope of the duties of his office."

It was held in the opinion of Honorable B. F. Looney to Honorable J. J. Strickland, dated April 12, 1915:

"It is a matter of common knowledge that a courthouse is designed for public use and no one should be allowed, or permitted, to occupy it except the public officials named in the statute."

Following the reasoning in the foregoing opinion by Honorable B. F. Looney and the case of *Dodson v. Marshall*, 118 S. W. (2d) 621, writ dismissed, we held in Opinion No. O-178 that the Commissioners' Court was without authority to rent or lease offices in the courthouse.

In view of the foregoing it is our opinion that the county-district clerk cannot legally operate the abstract plant in her office or at any other place in the courthouse.

We know of no authority for the Commissioners' Court to expend county funds for office equipment and supplies to be

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used for purposes other than "county purposes". Moreover, we know of no authority for a county officer to use fees of office to pay help used by said officer for a purpose other than that of carrying out the duties and functions of the office. Your questions are therefore answered in the negative.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By *J. C. Davis, Jr.*
J. C. Davis, Jr.
Assistant

By *John Reeves*
John Reeves

JR:LJ

APPROVED JAN 25 1946
Carlos Ashley
FIRST ASSISTANT
ATTORNEY GENERAL

OPINION
COMMITTEE
BY *BWB*
CHAIRMAN