

COMPTROLLER OF THE CITY OF
SAINT LOUIS:

Acts in the capacity of county
court in receiving application to
enter the school as set out in
Section 9697 R.S. Mo. 1929.

March 4, 1938



Mr. Truman L. Ingle,
Superintendent
Missouri School for the Deaf,
Fulton, Missouri.

Dear Sir:

This will acknowledge your request dated March 2, 1938 for an official opinion from this office, which request reads as follows:

"The enclosed letter brings up a question about which I have some doubt.

We have in the past requested a certificate of admission signed by the Circuit Judge or Judge of the Juvenile Court of the City of St. Louis. The fact that the City of St. Louis is not in any county is unique, and I am at a loss as to what I should do after having received the letter from Mr. Cunningham, the Deputy Comptroller.

May I ask that you give me an opinion as to what course I should take in this matter? I received in plenty of time the opinion regarding the payment on bond for our new steward, and have abided by it."

The Section 9697 R.S. Mo. 1929 referred to in the letter of the Deputy Comptroller of the City of St. Louis to you, reads as follows:

"Whenever, upon petition of any person, and satisfactory evidence adduced to the county court of this

state that there is a blind or deaf person residing in any county, and such person is entitled to the advantages of the Missouri school for the blind or the Missouri school for the deaf, and the parents or guardians of such persons are unable to pay the expenses of such person at his proper school, the county court shall order him or her sent to the proper school, at the expense of the county for his clothing and traveling expenses."

In connection with this section, your department must also be governed by Section 9696 R.S. Mo. 1929, which reads as follows:

"All blind and deaf persons under twenty-one (21) years of age, of suitable mental and physical capacity, who are residents of this state, shall be entitled to admission to the school for the blind and the school for the deaf, respectively. All admissions and discharges, and the length of the period of instruction of each pupil, shall be determined by the board of managers."

As you notice in Section 9696, supra, the age is set out as being under twenty-one (21) years of age and in view of that age I am referring you to Section 1, page 454 of the Session Laws of 1937, which is a new penal section requiring the compulsory education of deaf children between the ages of six (6) and seventeen (17) years. In this section it specifically sets out that this section shall not detract from the powers of the board of managers of the Missouri School for the Deaf as outlined in Section 9696 R.S. Mo. 1929.

Under Section 9697 as above set out, any person may make application to the county court of this state before the county court in which the person resides. This section was passed in 1921, and for some unknown reason neglected to name the Comptroller of the City of St. Louis to which application may be made for admission to the Missouri School for the Deaf. In other statutes in relation to the relief of the poor, such as admission to the State Sanatorium at Mount Vernon, the statutes

specifically says application to the county court or to the Comptroller of the City of St. Louis. In construing statutes it has always been the ruling to read other similar statutes and they should be read together.

Under the general law of counties other than the City of St. Louis, the county court is the governing power and has charge of all the financial dealings of the county and handles all of the business of the county. In the Scheme of Separation, page 1418, Section 2 as set out in the Revised Code of St. Louis 1926, is provided:

"The city of St. Louis as described in the preceding section (which is now the City of St. Louis) and the residue of St. Louis county as said county is now constituted by law are hereby declared to be distinct and separate municipalities, and all authority heretofore exercised by the county court of St. Louis county or any officer of said county is hereby forever abrogated and annulled except for the purposes and in cases as hereinafter provided."

In the schedule of the charter of the City of St. Louis, Section 7 provided:

"It shall be the duty of all boards, commissions, and officers whose powers or duties are vested in others by this charter to turn over all books, records, property, and funds to such others, and if any board, commission, or office be abolished without the duties thereof being vested in others the incumbents thereof shall turn over all books, records, property, and funds to the comptroller."

Under this section of the charter of the City of St. Louis which has been adopted, the comptroller assumed the duties of the county court of the former St. Louis county and as such is acting under the charter the same as the county court.

Under the charter of St. Louis, Article XV, Section 2, it provided:

"* * * * The comptroller shall be the head of the department of finance and exercise a general supervision over its divisions, over all the fiscal affairs of the city and over all its property, assets, and claims, and the disposition thereof." * * * * *

Under this section, the comptroller assumed the same position as the governing body as to finances that the county court held with the county and now holds with counties that have not been divided under a charter.

In granting the charter to the City of St. Louis, the city was empowered in the charter by Article I, Section 1, paragraphs 31 and 32 to pass the necessary ordinances to care for the poor. Paragraphs 31 and 32 reads as follows:

"(31) To provide for the support, maintenance, and care of children and sick, aged, or insane poor persons and paupers."

"(32) To provide and maintain charitable, educational, recreative, curative, corrective, detentive, or penal institutions, departments, functions, facilities, instrumentalities, conveniences, and services."

In the case of Jennings v. The City of St. Louis, 58 S.W. (2d) 979, the court, in paragraph 5 of its opinion, said:

"As a municipal purpose, poor relief is recognized by our Legislature in the creation of social welfare boards and in express grants of authority to all of our cities to care for the poor. In paragraphs 31 and 32 of article I, section 1 of its Charter, this power is expressly conferred upon the city of St. Louis. Poor relief being a municipal purpose, under section 11, article 10, of the Constitution of Missouri, the city of St. Louis has the power to levy taxes so that its poor may be fed, clothed, and sheltered."

This case was a case wherein a taxpayer sought to restrain the comptroller and other officers from issuing bonds for relief purposes. The same opinion was rendered by the same court and judge in the case of State ex rel. Gilpin v. Smith, 96 S.W. (2d) 40, paragraph 2.

In the case of State ex rel. Conway v. Nolte, City Comptroller of St. Louis, 218 S.W. 862, a mandamus suit was brought by the plaintiff to compel the city comptroller to investigate and send the plaintiff to the Missouri State Sanatorium at Mount Vernon, Missouri. The court granted the writ and said in its opinion in paragraph 1:

"In support of its first contention, respondent argues that since he, as comptroller, is charged with the responsibility of 'conserving the financial interests of the city, and is especially charged with the duty of preventing the expenditure of any public money except as authorized by law or ordinance,' he 'is entitled to a reasonable opportunity to make an investigation before certifying to a condition which will result in a substantial outlay of public money.' The language of the section is peremptory. It names the comptroller of the city of St. Louis and in terms provides that he 'shall at once certify the said name of said applicant to the superintendent of said sanitarium for admission and treatment of such persons' whenever a proper verified application is made to him. The sufficiency of the application is not questioned. It was the comptroller's duty to certify relator's name 'at once.'" * * * * *

In view of the charter of St. Louis which empowers the comptroller to control all of the financial duties of the city and since under the two decisions set out above, it is an act held constitutional, the comptroller should be the one to approve applications to the school for the deaf and not the juvenile court or circuit court, which has no control over the finances or funds of the City of St. Louis.

Mr. Truman L. Ingle

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In view of these authorities, it is the opinion of this office that the proper course for the Missouri School for the Deaf to take in this matter would be to notify the comptroller of the City of St. Louis that you regard his position as the same as that held by the county court of the county as set out in Section 9697 R.S. Mo. 1929.

It is further the opinion of this office that it would be advisable for you to notify the clerk of the circuit court of the City of St. Louis regarding this opinion furnished by this office.

Respectfully submitted,

W. J. BURKE
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

WJB:DA