

(1)
NOTARIES PUBLIC: One may hold the office of Notary Public and
County Superintendent of Schools.
(2) Notary Public is entitled to charge
statutory fees for services rendered.

8-12
August 6, 1935.

Mr. Raymond H. Patterson
Superintendent of Schools
Stone County
Galena, Missouri



Dear Sir:

This is to acknowledge your letter as follows:

"I would like an opinion from your
department on the following question:
May a county superintendent hold a
commission as a Notary Public and
charge a reasonable fee for the
services?"

I.

MAY A COUNTY SUPERINTENDENT OF SCHOOLS
BE COMMISSIONED AS A NOTARY PUBLIC?

Notaries Public are officers of the state and commis-
sioned by the Governor for a term of four years. See Chapter
80, R. S. Mo. 1929. Section 11738 of said chapter provides
in part as follows:

"The governor shall appoint and commis-
sion in each county and incorporated
city in this state, as occasion may
require, a notary public or notaries
public, who may perform all the duties
of such office in the county for which
such notary is appointed and in adjoining
counties. * * * "

A notary public holds an office of profit. In our opinion dated March 1, 1935, to Mr. Woodson Cockrill, Jefferson City, Missouri, we held, "In view of the above, we are of the opinion that a notary public holds an office of profit under this state."

Article 12, Chapter 57, R. S. Mo. 1929, and amendments, pertain to county superintendents of schools, and Section 9454 of said article and chapter provides in part as follows:

"There is hereby created the office of county superintendent of public schools in each and every county in the state; * * *"

It is thus seen that the county superintendent of schools likewise holds an office of profit. The question arises as to whether or not a person holding an office of profit, such as county superintendent of schools, may also hold an office of profit, that of notary public.

Nowhere in the statutes do we find that a county superintendent of schools may not also be commissioned as a notary public and hold both offices. Absent constitutional or statutory provision as to determining the question as to the holding of two offices, recourse must be had to the functions and duties of said offices to ascertain if such be inconsistent, incompatible or in conflict with each other. As to the inconsistency, incompatibility, or conflict, see our opinion to Honorable John B. Owen, Prosecuting Attorney of Henry County. We are of the opinion that the offices of county superintendent of schools and notary public are not inconsistent, incompatible or in conflict with each other, and as authority for said conclusion rely upon our opinion of November 3, 1933, to Honorable John B. Owen, supra.

The Constitution of Missouri contains several provisions as to one holding two offices and while such are not decisive of the question involved, yet show the intent of the framers of our Constitution on the proposition of one holding an office and also being appointed notary public. We invite your attention to Article IX, Section 18, of the

Constitution of Missouri, which provides as follows:

"In cities or counties having more than two hundred thousand inhabitants, no person shall, at the same time, be a state officer and an officer of any county, city or other municipality; and no person shall, at the same time, fill two municipal offices, either in the same or different municipalities; but this section shall not apply to notaries public, justices of the peace or officers of the militia."

Article IV, Section 12, of the Constitution of Missouri, also provides as follows:

"No Senator or Representative shall, during the term for which he shall have been elected, be appointed to any office under this State, or any municipality thereof; and no member of Congress or person holding any lucrative office under the United States, or this State, or any municipality thereof (militia officers, justices of the peace and notaries public excepted), shall be eligible to either house of the General Assembly, or remain a member thereof, after having accepted any such office or seat in either house of Congress."

It is thus seen that the framers of the Constitution excepted notaries public as an office when it placed a bar against certain persons from holding two offices.

Conclusion.

From the foregoing it is our opinion that the fact that one holds the office of county superintendent of schools does not disqualify or bar said person from being commissioned notary public.

II.

COMPENSATION OF NOTARY PUBLIC.

In answer to your question as to whether or not a notary public can charge a fee for services rendered, we invite your attention to the fact that the office of notary public is a statutory one and for performing certain duties entitled to compensation therefor. Section 11801, R. S. No. 1929, enumerates the fees that notaries may charge.

Conclusion.

It is our opinion that a commissioned notary public may charge the fees allowed by Section 11801, supra, for services rendered as notary public.

Yours very truly,

James L. HornBostel
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General

JLH:EG