

COUNTY COURTS : County Court should not pay for
REGISTRARS : supplies for the Registrar of
: Vital Statistics.
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January 19, 1944

Honorable Leo J. Harned
Prosecuting Attorney, Pettis County
Sedalia, Missouri



Dear Sir:

We have your opinion request of January 17,
1944, which reads as follows:

"Will you please inform me whether or not
the County Court of Pettis County should
furnish supplies, particularly stamps
and stationery, to the Registrar of Vital
Statistics of Pettis County?"

The statute providing for fees for local
registrars is section 9780, R. S. Missouri, 1939.
It is in part as follows:

"Each local registrar shall be entitled
to be paid the sum of twenty-five cents
for each birth and death certificate
properly and completely made out and
registered with him, and correctly cop-
ied and duly returned by him to the
state registrar, as required by this
article, and in case no births or deaths
were registered during any month, the
local registrar shall be entitled to be
paid the sum of twenty-five cents for
each report made to that effect, promptly
made in accordance with this article.
The amounts of money due and payable to the
registrars under the provisions of this
section shall be certified to the county
courts, which courts shall pay the same
by warrant drawn upon the county treasurer
and payable out of the contingent fund
of the county.* * *"

The statute providing for the office is

section 9763, R. S. Mo. 1939, which in part reads as follows:

"Within ninety days after the taking effect of this article, or as soon thereafter as possible, the state board of health shall appoint a local registrar of vital statistics for each registration district in the state. The term of office of local registrars, appointed by said board, shall be for four years, beginning with the first day of January of the year in which this article shall take effect, and their successors shall be appointed at least ten days before the expiration of their terms of office; * * *"

Provided, that all sub-registrars shall be subject to the supervision and control of the state registrar, and may be by him removed for neglect or failure to perform their duties in accordance with the provisions of this article or the rules and regulations of the state registrar, and they shall be liable to the same penalties for neglect of duties as the local registrar; * * *" (Underscoring ours.)

A registrar was especially held to be a state officer in the case of State ex inf. McKittrick v. Langston, 84 S. W. (2d) 131, l.c. 132, in the following words:

"There is no showing that John W. Williams has ever qualified as local registrar of vital statistics for the registration district above mentioned. Under the provisions of Article 2 of chapter 52 of the Revised Statutes of Missouri, 1929, (section 9040 et seq. (Mo. St. Ann. Sec. 9040 et seq. p. 4186 et seq.)), which provide for the appointment of local registrars of vital statistics, it is clear that such officials are appointive state officers. State ex rel. V. Bus, 135 Mo. 325, loc. Cit. 333, 36 S. W. 636, 33 L. R. A. 616; State ex inf. v. Fasse, 189

Mo. 532, 88 S. W. 1; State ex rel. v. Caldwell, 310 Mo. 397, 276 S. W. 631; State ex inf. V. Allen, 316 Mo. 754, 755, 291 S. W. 454. As John W. Williams was appointed to an office 'under the authority of this state,' it became constitutional prerequisite to his entering upon the duties of his office that he comply with the requirements of section 6 of article 14 of the Constitution of Missouri which ordains that ' all officers, both civil and military, under the authority of this state, shall, before entering on the duties of their respective offices, take and subscribe an oath, or affirmation, to support the Constitution of the United States and of this state, and to demean themselves faithfully in office.' * * *" (Underscoring ours.)

Section 9760, R. S. Mo., 1939, sets out the duties of the state board of health relative to vital statistics and provides as follows:

"It shall be the duty of the state board of health to have charge of the state system of registration of births and deaths; to prepare the necessary methods, forms and blanks for obtaining and preserving such records, and to insure the faithful registration of the same in the registration district and in the central bureau of vital statistics at the capital of the state. The said board shall be charged with the uniform and thorough enforcement of the law throughout the state, and shall from time to time promulgate any additional forms and amendments that may be necessary for this purpose."

In the case of Smith v. Pettis County, 345 Mo., 839 l. c. 844, wherein the question of the right of a public official to compensation was discussed, the court said:

"The rule is established that the right of a public official to compensation must be founded on a statute. It is equally established that such a statute is strictly construed against

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the officer. (Nodaway County v. Kidder, 344 Mo. 795, 129 S. W. (2d) 857; Ward v. Christian County, 341 Mo. 1115, 111 S. W. (2d) 182.) * * *

CONCLUSION.

In view of the Court's decision in the case of Smith v. Pettis County, supra. it is the opinion of this office that the County Court of Pettis County should only be charged with the fee provided for in section 9780, R. S. Mo. 1939, and that as to the furnishing of supplies, stationery, postage andc., the State Board of Health is specifically charged with that duty under section 9760; R. S. Missouri, 1939.

Respectfully submitted

GAYLORD WILKINS
Assistant Attorney General

APPROVED:

ROY MCKITTRICK
Attorney General

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