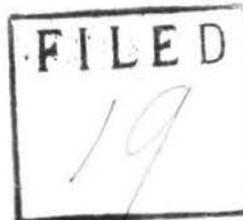


Wife of County Recorder helping husband with routine work is violation of Sec. 13, Art. 14 Missouri Constitution even though such relative is not paid.

6-9
June 3, 1933.



Hon. Joseph C. Crain,
Prosecuting Attorney,
Christian County,
Ozark, Missouri.

Dear Sir:

On April 14, 1933 you requested an opinion from this department, which is as follows:

"I would like your opinion as to the effect of Article 14, Section 13, Constitution of Missouri, upon members of school boards who appoint their relatives as teachers in the school. Does this apply to members of the school board and, if so, does the member forfeit his office and also the employee?"

The wife of our County Recorder works in his office. As I understand the facts, the recorder has not appointed his wife as deputy nor does she sign any of the papers as his deputy, or receive any compensation for her work. Fees paid to his office go to the County officer personally, but she helps him with the routine work.

What is your opinion as to the effect, if any of the above named section of the Constitution on his office?"

On April 24, 1933 an opinion from this office as to the above questions was prepared by one of the Assistant Attorneys General. This opinion was held up due to the fact that another Assistant writing an opinion pertaining to the question of whether or not Sec. 13 of Art. XIV of the Missouri State Constitution applied to school boards was contrary to the opinion held by the Assistant answering your letter. Since then the problem has been presented to practically all the assistants in the office and several other lawyers, and we cannot as yet give an official opinion on that question.

Relative to the second question in the above letter, it is the opinion of this department that if the wife of the Recorder

referred to in your letter performs regular routine work which some one would have to perform in the Recorder's office, then the Recorder is violating the constitutional provision mentioned above by permitting his wife to do such work. There can be no doubt in view of State ex inf. Norman v. Ellis, 235 Mo. 154 that a Recorder of Deeds falls within the constitutional inhibition mentioned above.

We find no provision in said section of the Constitution providing that before same becomes effective the person rendering the service there referred to, appointed as therein provided, must be paid. In other words, the fact that such person rendering such service is or is not paid is immaterial under that constitutional provision.

Yours very truly,

POWELL B. McHANEY,
Assistant Attorney General

APPROVED:

ROY McKITTRICK,
Attorney General

PBM:AH