

Opinion No. 37-1572

March 29, 1937

BY: FRANK H. PATTON, Attorney General

TO: Honorable James B. McGhee District Judge Roswell, New Mexico

{*67} I have your letter of March 25 enclosing copy of the letter which you have written to Dr. Earp in connection with the duties imposed upon the district judge by virtue of Section 11 of Senate Bill No. 70 which is now Chapter 39 of the Session Laws of 1937.

Said Section 11 provides for the appointment of sub-registrars by the district health officer with the approval of the State Board. It is provided in the section that no sub-registrar shall receive a birth certificate more than one calendar year from the date of the birth recorded thereon. The section then provides that certification of births occurring one year or more before the date of filing shall be made by a district judge upon a form prescribed by regulation of the State Board, and after submission of evidence conclusive to the court that the birth took place as stated on the certificate, the judge shall affix his seal and signature to such certificate and order that it be filed with the district health officer of the health district in which the birth took place.

I suppose the seal to which reference is made means the seal of the district court which is in the custody of the clerk of the court.

I agree with you that it is not a good policy to impose duties of this type upon our district courts and I do not believe our district courts should be burdened by any duties which are not judicial in their nature.

As to whether or not the legislature had the power to impose such a duty upon the district court, I am not prepared to say. At this time I can only cite you the law as it is written.

With the kindest of personal regards, I am