

NEPOTISM - Right of Collector to employ brother-in-law's wife as a deputy.

Jan. 18, 1933.

Mr. Elbert L. Ford,
Prosecuting Attorney,
Kennett, Missouri.



Dear Mr. Ford:

We acknowledge receipt of your letter dated January 16, 1933 in which you state:

"The newly elected Treasurer and ex-officio Collector (we have township organization) wants to get an opinion from you relative to Article 14, Section 13, Constitution of Missouri, in regards to employment of relatives.

He is desirous of employing his brother-in-law's wife as a deputy in his office as Collector. The salary she receives will be paid by him personally and individually and the State or County does not pay him or allow him any money for help."

We assume from your letter that the person desired to be employed as a deputy in the office of the Collector is the wife of a brother of the Collector's wife.

Section 13 of Article 14 of the Constitution of the State of Missouri provides as follows:

"Nepotism, by any officer or employe, forbidden - forfeits office.

Any public officer or employe of this State or of any political subdivision thereof who shall, by virtue of said office or employment, have the right to name or appoint any person to render service to the State or to any political subdivision thereof, and who shall name or appoint to such service any relative within the fourth degree, either by consanguinity or affinity, shall thereby forfeit his or her office or employment. (Adopted Feb. 26, 1924.)"

(Mr. Elbert L. Ford)

You will note that the prohibition is against the naming or appointing of any relative within the fourth degree, either by affinity or consanguinity, and the matter of who pays the salary or whether any salary is paid, is of no consequence.

Relationship by affinity does not extend to the relatives of the other spouse by affinity only. In other words, relationship by affinity is confined to the blood relatives of the other spouse.

State ex rel v. Hall & Ellis, 325 Mo. 154-162
28 S.W. 2d. 363

Accordingly, the constitutional provision referred to does not prohibit the appointment inquired about in your letter.

Yours very truly,

GILBERT LAMB,
Assistant Attorney General

APPROVED:

Attorney General