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NEPOTISM:

Treasurer of school district comes within the prohibition of Section 13, Article 14 of the Constitution of Missouri.

September 30, 1933.

FILED

10-4
Mr. T. J. Harper,
Prosecuting Attorney,
Galena, Missouri.

Dear Sir:

We are acknowledging receipt of a letter from Mr. J. T. Sisk in which he directs the answer to his inquiry to be addressed to you. He inquires as follows:

"In regard to the Nepotism law, would it not apply to the district treasurer who was hired and has been acting in that capacity since July 1st?"

I have written to T. J. Harper, our old democratic friend, Galena, Missouri, in regard to this matter, and would like for you to make your reply to him."

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

"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."

The officers of school districts are public officers and fully fit the definition announced in State v. Hackmann, 254 S. W. 53, 55 where it is said as follows:

"Stated more definitely, a 'public office' is a charge or trust conferred by public authority for a public purpose; the duties of which involve in their performance, the exercise of some portion of sovereign power, whether great or small. A public officer is an individual who has been elected or appointed in the manner prescribed by law, who has a designation or title given to him by law, and who exercises the functions concerning the office

Mr. T. J. Harper,

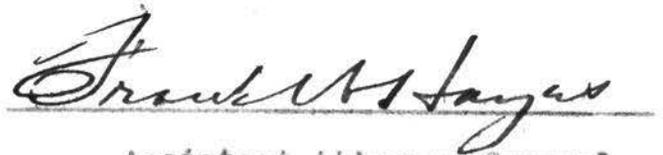
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assigned to him by law."

A school district is a political subdivision of the State. The treasurer of the district is a public officer of a political subdivision. Such being true, the district treasurer would come within the prohibition contained in Section 13, Article 14 of the Constitution.

Very truly yours,

A handwritten signature in cursive script, reading "Frank W. Hayes", is written over a horizontal line.

Assistant Attorney General.

APPROVED:

Attorney General.

FWE:S