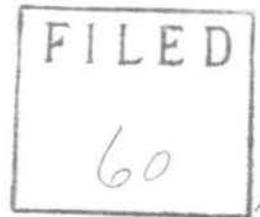


RE: COMMISSIONERS - Right to accept contracts for work performed in their districts.

NEPOTISM - Right of Commissioner to employ relatives.

March 31, 1933.



Hon. J.B. McGuffin,  
Prosecuting Attorney - Lawrence Co.,  
Mt. Vernon, Missouri.

Dear Sir:

Your request for an opinion relative to (1) the power of Commissioners appointed for special road districts in your county to accept contracts for work or labor performed in their districts, and (2) their power to employ relations in these districts, has been referred to me for attention.

In an opinion from this office to the Hon. T.J. Harper, Prosecuting Attorney of Stone County dated February 11, 1933 with reference to the right of Commissioners to employ themselves, this conclusion was reached:

" \*\*\*\* It is the opinion of this department that it would be unlawful as against public policy for the member of your Special Road District Board to be employed by the Board or engage themselves as the employee and draw compensation for working upon the highway of the road district in which he is serving as Commissioner."

The attendant evils to any other conclusion would be such, therefore, as to undermine the very principles of our government and would be in direct conflict with public policy.

In regard to your request anent the Nepotism Law, since you do not give any specific facts, I can only quote to you Section 13 of Article XIV of the Constitution of Missouri:

"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."

(Hon. J.B. McGuffin)

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If your cases come within that section, they are of course forbidden. However, in connection therewith it might be well to note that relationship by affinity does not extend to the relatives of the other spouse by affinity only, the relationship by affinity being confined to the blood relatives of the other spouse.

State ex rel v. Hall and Ellis, 325 Mo. 154  
28 S.W. (2d) 363.

Therefore, it is the opinion of this office that it would be unlawful for Commissioners appointed by special road districts in your county to accept contracts for work or labor performed in their districts.

Yours very truly,

JOHN W. HOFFMAN, Jr.,  
Assistant Attorney General.

APPROVED:

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Attorney General

JWH:AH