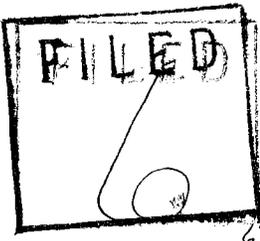


**NEPOTISM:**-Grain Sealer, whose duties are defined in House Bill No. 79, is subject in his appointment to the provisions of Section 13 of Article XIV of the Constitution of Missouri.

1-15

January 9, 1934.



Mr. D. F. Bennett,  
Prosecuting Attorney,  
Plattsburg, Missouri.

Dear Sir:

We are acknowledging receipt of your letter in which you inquire as follows:

"Our County Clerk has ask that I write you, and secure your opinion relative to Nepotism applying to the appointment of a Grain Sealer under the law just passed by the present Legislature.

I have advised him that Nepotism would in my opinion apply, and if I am right I would like your confirmation, and if wrong your opinion so I may file the same with the Clerk."

Section 13 of Article XIV 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."

Section 3 of House Bill No. 79, passed by the 57th General Assembly in Extra Session, provides as follows:

"Local supervision of this act shall be vested in the County Court of the County wherein a license has been issued; under the direction of the Commissioner of Agriculture, as provided in Section 2. Whenever a license has been issued by the County Clerk, as herein provided, the County Court shall submit to the Commissioner of Agriculture of the Missouri State Department of Agriculture, the name of some person or

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persons who shall, subject to the approval of the Commissioner of Agriculture, act as local Sealer, and every such Sealer shall have the same authority, with respect to the provisions of this act and the rules and regulations thereunder, and the enforcement thereof, as an officer of the peace."

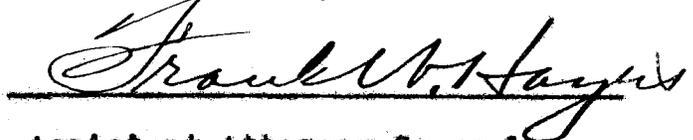
Section 4 of House Bill No. 79, passed by the 57th General Assembly in Extra Session, provides as follows:

"The Sealer shall be a resident of the county and shall furnish bond for the faithful performance of his duties, in such an amount as shall be determined by the Commissioner of Agriculture. Such bonds and the sureties thereon shall, in every case, be subject to the Commissioner's approval and be deposited with him. He shall also qualify by taking an oath similar to that required by public officers."

Then follows a number of sections defining the duties of the Grain Sealer and how he shall perform them.

In view of the foregoing constitutional provision we are of the opinion that no person can be appointed Grain Sealer who is related within the fourth degree, either by consanguinity or affinity, to the appointing power. Under Section 3 above, the County Court shall submit to the Commissioner of Agriculture the name of some person to act as local Sealer. The County Court being the appointive power, subject to the approval of the Commissioner of Agriculture, is certainly a public officer of a political subdivision of the State. The Grain Sealer renders service under the terms of this statute to a political subdivision of the State and we, therefore conclude that a Grain Sealer, under Section 3 of House Bill No. 79, comes under the prohibition of Section 13 of Article XIV of the Constitution, and that the appointment of any Grain Sealer who is related within the fourth degree to the members of the County Court, or any member so exercising his right to name him, would be in violation of the above constitutional provision.

Very truly yours,



Assistant Attorney General.

APPROVED:

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Attorney General.