

NEPOTISM:

Public officer receiving personal service from daughter does not violate Section 13, Article XIV, where daughter is not appointed to an official position.

September 28, 1936

9-30

Honorable W. R. Tilson
Circuit Clerk
Nodaway County
Maryville, Missouri

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Dear Sir:

I am in receipt of your letter of September 23, 1936, directed to General McKittrick, requesting information on the following matter:

"Am taking the liberty of writing you for some information regarding the Nepotism law?

Can I have my daughter who has been living with us for 3 or 4 years do my work in my office where there is no appointment and no compensation given.

As my office is on a fee basis and am allowed only one deputy, which is paid by the County, and the fees do not warrant me in hiring extra help but there are times that I would like to take a few days vacation which I have not done since this office was put on a fee basis, my daughter would gladly help the Deputy in my work without any compensation whatsoever, but I have been told that she could not even do any work in my office whether there was any appointment or compensation to her, which she would not expect, it would be a great favor to me if I was allowed to let her do my work in routine matters so I could take a few days from the office, but do not want to violate any of the Statutes regarding the law.

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There would be no appointment made as to deputy or any compensation and if the office would permit me to be able to pay for extra help when I wanted a vacation would pay for same.

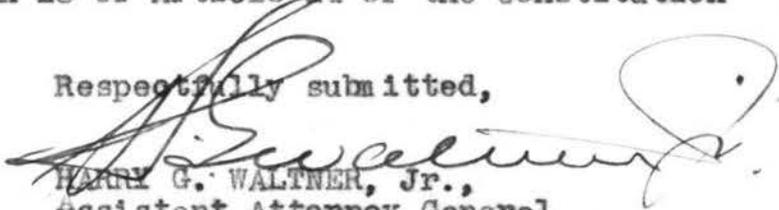
I, would be pleased to hear from you soon as I would like a few days off soon, my daughter is competent for any work in my office and the public would not suffer for the proper work done in my office. I do not want to violate any of the provisions of the law."

Sometime ago we had occasion to pass upon the issue presented by your communication as the same applied to the office of County Collector and on that occasion we issued an opinion, dated October 4, 1935, directed to Mr. Sam M. McKay, Prosecuting Attorney, DeSoto, Missouri, wherein we concluded as follows:

"It is therefore the opinion of this Department that the Collector of your county is not guilty of violating Section 13 of Article XIV by permitting his daughters to render to him personal service where the daughters are not holding an official position and are not, as officials, rendering service to the State."

There are no facts which distinguish your request from the situation presented in the opinion to Mr. McKay. We are therefore forwarding you a copy of Mr. McKay's opinion with the suggestion that the opinion properly describes the law as applied to your case and that under the circumstances outlined you would not be guilty of violating Section 13 of Article 14 of the Constitution of Missouri.

Respectfully submitted,


HARRY G. WALTNER, Jr.,
Assistant Attorney General

APPROVED:

JOHN W. HOFFMAN, Jr.,
(Acting) Attorney General

HGW:MM
Enclosure.