

NEPOTISM: Wives of school directors who are first cousins to teacher's husband are not related by affinity within the terms of the Nepotism Act.

September 8, 1939

Honorable Bryan A. Williams
Prosecuting Attorney
Bollinger County
Marble Hill, Missouri



Dear Sir:

This Department is in receipt of your letter of August 28th, wherein you make the following inquiry:

"Mayfield School Dist. No. 22
Bollinger County, Missouri."

"I would appreciate an interpretation under Art. XIV, Sec. 13, Nepotism, by any officer or employe, forbidden-Forfeits Office, in the following set of facts:

"The wives of two of the directors in the above school district are first cousins by blood to the teacher's husband.

"Would the contract made with the teacher be void under the law, and would the relationship as stated above be within the degree of 'first cousin' as defined under the law."

As you appear to be familiar with the terms of Article XIV, Section 13, Constitution of Missouri, commonly called the "Nepotism Act," we are omitting it from this opinion.

The courts of our State have never given us a rule to determine or compute the relationship under Section 13,

supra. There are two methods in computing the degrees of consanguinity, one by the canon law and the other by the civil law. Our Department has adopted the civil rule and has heretofore held that any degree of relationship as close as first cousins (and the same applies as to affinity) comes within the prohibition of the constitutional section.

The parties mentioned in your letter are "the wives of two of the directors in the above school district are first cousins by blood to the teacher's husband." This relationship, if there were no question concerning affinity, would bring the parties within the prohibited degree. The main question to be decided, as the relationship mentioned in your letter is purely by affinity, is the degree of affinity.

"Affinity" is defined in 2 C. J., 378, as follows:

"The connection formed by marriage, which places the husband in the same degree of nominal propinquity to the relations of the wife as that in which she herself stands towards them, and gives to the wife the same reciprocal connection with the relations of the husband."

We shall omit any definition of "consanguinity" as it is not involved in the question.

Bearing in mind that the wives of the two directors are first cousins to the teacher's husband, what is the relationship by affinity to the teacher?

2 C. J., 378, makes the following statement:

"Blood relations of the husband and blood relations of the wife are not related to each other by affinity. Nor does the term 'affinity' ordinarily include a person related to the spouse simply by affinity."

11th Ed., Vol. 1, page 301, of the Encyclopaedia Britanica also makes the following statement:

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"The marriage having made them one person, the blood relations of each are held as related by affinity in the same degree to the one spouse as by consanguinity to the other. But the relation is only with the married parties themselves and does not bring those in affinity with them in affinity with each other; so, a wife's sister has no affinity to her husband's brother."

Adopting the two principles herein quoted, we are of the opinion that the two directors in question bear no such relationship to the teacher that constitutes any violation of the Nepotism Act.

Yours very truly

OLLIVER W. NOLEN
Assistant Attorney-General

APPROVED:

(Acting) J. E. TAYLOR
Attorney-General

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