

NEPOTISM

Section 13, of Article XIV, of the Constitution of Missouri, does not prohibit the appointing by a public officer of a husband of a wife whose great grandfather was the brother of the grandfather of the office holder.

July 3, 1941

Hon. Stanley Wallach
Prosecuting Attorney
St. Louis County
Clayton, Missouri



Dear Sir:

We are in receipt of your request for an opinion under date of June 30, 1941, which reads as follows:

"I am writing to request an opinion from your office as to whether or not the following appointment, if made, would be a violation of Section 13, Article 14, of the Constitution of Missouri.

"An office holder, duly elected in our County, is desirous of appointing as one of his deputies a married man. The great grandfather of the wife of this particular prospective appointee, according to closest calculation that can be made, was the brother of the grandfather of the duly elected office holder who desires to make the appointment.

"The appointment is in no way connected with this remote relationship and as a matter of fact the relationship to the prospective appointee's wife was not even known until after the election.

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"Although it seems that the possibility of any violation of the nepotism statute is very remote, before making the appointment, however, the office holder wants to be sure that such an appointment will not be a violation of the law by being within the 4th degree of consanguinity."

In reply, we wish to state that our office, on October 17, 1933, rendered an opinion to Mr. J. B. McGuffin, Prosecuting Attorney, at Mt. Vernon, Missouri, which we are enclosing herewith. This opinion rules that the calculation of kinship, either by affinity or consanguinity, is determined in Missouri through the civil rule method. This method is explained in the opinion.

Therefore, in applying the civil rule method it is our opinion that the appointee is more than four times removed from the office holder, and his appointment would not violate Section 13, Article XIV of the Constitution of Missouri.

In this connection we call attention to the case of State ex inf. Norman, Prosecuting Attorney v. Ellis, Circuit Court Clerk, 28 S. W. (2d)363. This case seems to be authority that a relationship by affinity does not extend to the relatives of the other spouse by affinity only. In other words, relationship by affinity is confined to the blood relatives of the other spouse.

CONCLUSION.

In conclusion we are of the opinion that Section 13, of Article XIV of the Constitution of Missouri, does not prohibit the appointing by a public officer of a husband of a wife whose great grandfather was the brother of the

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grandfather of the office holder.

Respectfully submitted,

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APPROVED:

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BRC:RW