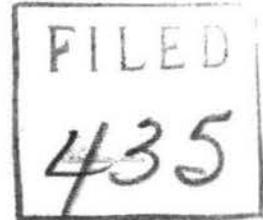


November 1, 1963



Honorable Charles P. Moll
Prosecuting Attorney
Franklin County
Union, Missouri

Dear Mr. Moll:

We have your letter which reads as follows.

"Our present Sheriff is now serving his third term of office. In 1961, through proper statutory proceedings, a certain woman was appointed as a Deputy Sheriff of this County. At that time there was no relationship between the Sheriff and this woman. Approximately three months ago, our Sheriff and this woman entered into a marriage contract. Since that time, the Sheriff's wife is still serving as a Deputy Sheriff but on a gratuitous basis. I am interested in having your opinion as to whether or not this situation is in violation of Article 7 Section 6 of the Constitution (Nepotism). I am of the personal opinion that since such a relationship did not exist at the time of the appointment, that this woman should be allowed to continue serving until the termination of the present term of office of our Sheriff, and be paid for her services.

"Your office has, most graciously, supplied me with a copy of an opinion rendered December 3, 1940. However, our Circuit Judge and other officials are interested in this situation and would like an opinion squarely and in point."

The December 3, 1940 opinion to Elmer A. Strom which we forwarded to you ruled that when a school teacher who was validly appointed later married a relative within the fourth degree of a school director who had voted for the employment of such teacher that such event did not constitute a violation of what is now Art VII, Sec. 6 of the Missouri Constitution insofar as it related to the term for which the teacher was appointed.

Honorable Charles P. Moll - 2.

November 1, 1963

The appointment of a deputy sheriff of a third class county is valid for the term of the Sheriff subject to the deputy's being discharged at the discretion of the Sheriff. See Sec. 57.250, RSMo 1959.

Based on the reasoning of the previously referred to 1940 opinion we concur in your opinion that since such a relationship did not exist at the time of the appointment, that this woman should be allowed to continue serving until the termination of the present term of office of our Sheriff, and be paid for her services."

Yours very truly,

THOMAS F. EAGLETON
Attorney General