



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

January 16, 1939

Honorable P. G. Stanford
County Attorney
Plains, Texas

Reinstated by 0-7424
(Overruled by 0-2225)
Opinion No. 119
Re: Nepotism Law

Dear Mr. Stanford:

This Office is in receipt of your request for an opinion in response to the following questions:

1. Is the employment of the brother of a county commissioner's wife prohibited?
2. Is the employment of the husband of a sister of a county commissioner's wife prohibited?

You do not specifically say that under the employment contemplated the employees would be paid out of county funds, but we think that fact may be assumed from your letter.

Article 432 of the Penal Code provides:

"No officer of this State or any officer of any county, city, precinct etc. shall appoint etc. any person related within the second degree by affinity or within the third degree by consanguinity to the person so appointing etc."

The brother of the commissioner's wife would be related to the commissioner by affinity in the first degree. T. T. R.R. Co. v. Overton, 1 App. C. C. Para. 533, Baker v. McRimmon (Civ. App.) 48 S. W. 742; Ex parte West, 60 Cr. R. 485, 132 S. W. 339; 2 C. J. 379.

Relating to the second question, two men who are not otherwise kin to each other do not become related by affinity merely by marrying sisters. 2 C. J. 379 and cases therein cited.

Hon. P. G. Stanford, January 16, 1939, F

It follows that your first question is answered in the affirmative, and the second question in the negative.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

/s/ Glenn R. Lewis
Assistant

GRL:N

APPROVED

Gerald C. Mann
Attorney General of Texas