



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

GERALD C. MANN

ATTORNEY GENERAL

April 6, 1939

Mr. Allen C. Wilson
County Attorney
Kendall County
Boerne, Texas

Dear Sir:

Opinion No. O-556

Re: Commissioner of one precinct
appointment as overseer nephew
of a commissioner of another
precinct.

Your request for an opinion on the following questions:

"May a commissioner of one precinct appoint as overseer
the nephew of a commissioner of another precinct?"

"May a commissioner employ a relative of another commis-
sioner within the prohibition of law to repair machinery?"

has been received by this office.

Article 432 of Vernon's Penal Code of the State of Texas reads as
follows:

"No officer of this State or any officer of any district,
county, city, precinct, school district or other municipal sub-
division of this state, or any officer or member of any state,
district, county, city, school district or other municipal
board, or judge of any court, created by or under authority of
any general or special law of this State, or any member of the
Legislature, shall appoint, or vote for, or confirm the appoint-
ment of any office, position, clerkship, employment or duty, of
any person related within the second degree by affinity or with-
in the third degree by consanguinity to the person so appointing
or so voting, or to any other member of any such board, the Leg-
islature, or court of which such person so appointing or voting
may be a member, when the salary, fees, or compensation of such
appointee is to be paid for, directly or indirectly, out of or
from public funds or fees of office of any kind or character
whatsoever."

A nephew is related within the prohibited degree; therefore, a com-
missioner to employ his nephew to work for the county would be acting in vio-
lation of the above statute, and it would also be a violation of this statute

Mr. Allen C. Wilson, April 6, 1939, Page 2 (0-556)

for a commissioner to employ anyone related within the prohibited degree to another member of the Commissioners' Court, to perform any labor, work or service, for the court. Likewise, it is a violation of the statute for a commissioner to employ a relative, within the prohibited degree, of another commissioner of the same Commissioners' Court, to repair machinery for the county, when said labor is to be paid for out of the appropriation made by the Commissioners' Court.

We trust that the foregoing answers your inquiry, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

By /s/ Fred C. Chandler
Fred C. Chandler
Assistant

FCC:AW:IM

APPROVED:

/s/ Gerald C. Mann

ATTORNEY GENERAL OF TEXAS