

OPINION LETTER NO. 216
Answered by Klaffenbach

August 4, 1969



OPINION LETTER NO. 216

Honorable A.J. Seier
Prosecuting Attorney
Cape Girardeau County Courthouse
Cape Girardeau, Missouri 63701

Dear Mr. Seier:

This acknowledges receipt of your recent letter requesting an opinion from this office as to whether or not there would be a violation of Article VII, Section 6, of the Missouri Constitution for a coordinator of a local organization for disaster planning for Civil Defense, appointed under Section 44.080, RSMo Supp. 1967, to appoint for service with and for the local civil defense unit, either his wife as a paid secretary or his son to a paid janitorial position.

Section 44.080 provides inter alia for the appointment of a coordinator for the local organization. His duties are therein set out in general terms. The constitutional provision applicable is Section 6 of Article VII, which provides:

"Any public officer or employee in this state who by virtue of his office or employment names or appoints to public office or employment any relative within the fourth degree, by consanguinity or affinity, shall thereby forfeit his office or employment.

Both the wife and the son of the coordinator come within the fourth degree of relationship. State v. Ellis, 325 Mo. 154; 28 S.W.2d 363.

This leaves for determination only the question of whether or not the coordinator comes within the meaning of the constitutional nepotism provision quoted above. By its terms, the constitutional provision applies to any public officer or employee, who

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makes an appointment by virtue of his office or employment, and this includes the coordinator.

In our view therefore, the employment of such persons under these circumstances would constitute a violation of the nepotism prohibition of the Constitution.

Yours very truly,

JOHN C. DANFORTH
Attorney General