

Opinion No. 100**Nepotism—Relationship Required.**

HELP: Employment by road supervisor of person not related to him, although related to county commissioner, where no agreement exists with the county commissioner, is not in violation of the Nepotism Act.

March 6, 1933.

You have submitted the following facts, and request for opinion of this office: Thomas P. McGrath is one of the county commissioners of Deer Lodge County. His son, William McGrath has been an employee of the county off and on for a number of years, and has also worked for the Montana Highway Commission, and is reported to be a very competent highway employee. Charles Ralston, a road supervisor for one of the road districts of Deer Lodge County, wishes to employ William McGrath for road work, driving a Caterpillar tractor. The father has made no agreement whatever with the road supervisor, in fact is inclined to object to the employment rather than consent to it. The question you have asked is whether or not such employment by Charles Ralston would be in violation of the so-called Nepotism Act, Chapter 12, Laws of 1933.

Section 1626 of the Revised Codes of Montana of 1921 provides: "Whenever it becomes necessary for any road supervisor, in the repairing of any public highway in his district, to secure the assistance of other persons, he shall be empowered to employ suitable laborers, teams, and implements * * *."

Section 2 of the Nepotism Act, provides: "It shall further be unlawful for any person or any member of any board, bureau or commission, or employee of any department of this state, or any political subdivision thereof to enter into any agreement or any promise with other persons or any members of any boards, bureaus or commissions, or employees of any department of this state or any of its political subdivisions thereof to appoint to any position

of trust or emolument any person or persons related to them or connected with them by consanguinity within the fourth degree, or by affinity within the second degree."

Inasmuch as there has been no agreement whatever between the county commissioner and the road supervisor and inasmuch as there is no relationship whatever between Charles Ralston, road supervisor, and William McGrath, the employee, it is my opinion that such employment would not in any way be a violation of Chapter 12, supra.