

Opinion No. 270**Nepotism Act, Construction of—
Occasional Work.**

HELD: The Nepotism Act does not provide for any exemptions for occasional work and therefore the appointment by an officer of a relative to do occasional mimeograph work is prohibited by the Act.

July 11, 1933.

You have submitted the question whether or not the appointment and employment by an officer of a relative to do occasional mimeograph work, is a violation of the Nepotism Act (Chapter 12, Laws of 1933). You state that the appointment is made on the basis of merit and that no other person in Virginia City is competent to do this work.

In opinions No. 117 and 179 (this vol.) we advised that we were unable to advise that an officer who appoints a relative on the basis of merit rather than relationship would not be violating the law.

Section 2 of the Act makes it unlawful to appoint "to any position of trust or emolument," and Section 3 prescribes the penalty for a public officer who has the "right to make or appoint any person to render services to this state or any subdivision thereof, and who shall make or appoint to such services * * *." In view of the wording of the act, we are unable to find any valid reason for making any distinction between part time and full time work or between occasional piece work or regular work. While the employment of a relative to do occasional mimeograph work amounting to a very small sum per month seems relatively harmless yet the legislature did not see fit to make any distinctions or to provide for any exemptions in such cases. Moreover, should we attempt to prescribe exemptions, which we have no authority to do, it would be most difficult to find a stopping place.

We are therefore unable to advise

that the appointment or employment of a relative to do occasional mimeograph work is not covered by the law.