

Opinion No. 96

**Nepotism — County Commissioners—
Appointment of County Surveyor.**

HELD: Any member of the board of county commissioners violates Sections 456.2 and 456.3, the Nepotism Act, when he votes to appoint as county surveyor a son of one of the members.

July 12, 1939.

Mr. Phil G. Greenan
County Attorney
Great Falls, Montana

Dear Mr. Greenan:

You have requested my opinion on the question (1) whether the board of county commissioners may legally appoint a son of one of the members of the board to the office of county surveyor in order to fill a vacancy therein; and (2) whether such appointment may be made by the other two members of the board if the member who is the father did not vote.

On these facts both questions must be answered in the negative as they fall squarely within the facts on which the opinion of the Attorney General was based in Volume 15, Opinions of the Attorney General 128, with which we agree. The opinion in Volume 17, Opinions of the Attorney General 33, was correct on the facts there considered, although some of the language there used was not necessary to the conclusion reached.

It is therefore my opinion that Section 456.2, R. C. M., 1935, expressly forbids any member of a board of county commissioners from appointing to a position of trust or emolument any person related to any member of the board within the degree mentioned therein.