



THE ATTORNEY GENERAL
OF TEXAS

AUSTIN 11, TEXAS

GROVER SELLERS
~~XXXXXXXXXXXXXXXXXXXX~~
ATTORNEY GENERAL

Honorable Homer D. Eck
County Auditor
Fayette County
La Grange, Texas

Dear Sir:

Opinion No. 0-6337

Re: Whether a county commissioner may employ, in his precinct, a person who is married to a first cousin of another county commissioner.

Your request for an opinion from this department upon the above stated question has been received.

We quote from your letter as follows:

"I should appreciate your opinion whether a County Commissioner may employ, in his precinct, a person who married a first cousin of another County Commissioner."

Article 432 of the Penal Code provides that:

"No officer of this State or any officer of any district, county, city precinct, school district, or other municipal subdivision 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 appointment to any office, position, clerkship, employment or duty, of any person related within the second degree of affinity or within the third degree by consanguinity to the person so appointing or so voting, or to any other member of any such board, the Legislature, 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."

First cousins are related within the second degree, either by consanguinity or affinity. Therefore, the person who married the commissioners' first cousin is related to the commissioner "within the second degree of affinity."

The act of a county commissioner in employing a person to be paid out of or from public funds is the act of the commissioners' court, so a county commissioner is prohibited from employing a person related within the prohibited degree to any member of the commissioners' court.

It is the opinion of this department that a county commissioner cannot employ a person who is related to a county commissioner of the same county, by reason of having married a first cousin of such commissioner.

Very truly yours,

ATTORNEY GENERAL OF TEXAS

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

FCC:db:wc

APPROVED FEB 8, 1945
s/Grover Sellers
ATTORNEY GENERAL OF TEXAS

Approved Opinion Committee By s/BWB Chairman