tions and read into the act in question the office of circuit court judge when the language of the act itself is "state board or commission, or to the head of any state office or department or institution." Generally speaking, a judge of the circuit court is not a state officer.

It has been held by the Supreme Court of Indiana that "the judges and prosecuting attorneys are not state, county, or township officers; they are constitutional officers." State, ex rel. Gibson v. Friedley (1893), 135 Ind. 119; State, ex rel. Pitman v. Tucker (1874), 46 Ind. 355, 359.

The case of State, ex rel. Gibson v. Friedley, supra, was approved without comment in the case of Spencer v. Criminal Court of Marion County (1938), 214 Ind. 551, 557.

In the light of the cases above cited and the language of Section 48-302, Burns' 1933 R. S., I am of the opinion that the Judge of the Marion Circuit Court would not be prohibited by law from appointing his son to the position of secretary to the Jury Commissioners.

Further, my examination of the cases reveals that there is no common law prohibition of such an appointment. Apparently it has always been considered that if appointment of relatives is against public policy, that policy must be enunciated by specific language of the Legislature.

OFFICIAL OPINION NO. 2

January 6, 1948.

Mr. Kenneth A. Weddle,
Indiana Securities Commissioner,
State House,
Indianapolis, Indiana.

Dear Mr. Weddle:

I have your letter requesting an opinion in reference to The Indiana Securities Act in which you state your question as follows:

"Is registration as a Securities Dealer with the Indiana Securities Commission necessary to engage in the transactions specified in subsections a, b, c, e, f, g, h, i, j and k of Section 5 of the Indiana Securities
Act, now in full force and effect, for convenience herein referred to and cited as Section 25-833 of Burns' Indiana Statutes Annotated 1933?"

More specifically, your letter had reference to Section 5 (f) of the Securities Act upon the stated facts that certain out of State dealers proposed to offer securities which you describe as an exempted class under Section 4 (b) (Section 25-832, Burns' 1933) of the Securities Act, to banks, savings institutions, trust companies, insurance companies or to corporations or to underwriters or registered dealers within the State of Indiana.

You state in your letter that it is obvious that out of State dealers having no place of business in this State do not need to be registered with the Commission as long as they confine their sales to registered Indiana dealers, but proposed the question as to whether or not it is necessary for them to register if they extend their sales to include the class of transaction in Section 5 (f) of the Securities Act.

In examining “The Indiana Securities Law” Chapter 120 of the Acts of 1937 as amended (Burns' 1933, 1945 Supp. Sections 25-829 et seq.), I find that “a dealer” is defined under Section 25-831 (d) as follows:

“(d) The term ‘dealer’ shall mean any person other than an agent as defined in this act who in this state engages either for all or part of his time, directly or indirectly, as principal or agent, in the business of offering, buying, selling, or otherwise dealing or trading in securities. An issuer of securities selling such securities in this state shall be deemed to be a dealer: Provided, That the term ‘dealer’ shall not include a person having no place of business in this state who sells or offers to sell securities exclusively to dealers actually engaged in buying and selling securities as a business.”

I also find that Section 25-839 sets forth the requirements for the registration of dealers and the procedure to be followed in making application. So much of this section that deals with the requirements of registration is as follows:
“No dealer or agent shall engage in business in this state as such dealer or agent or sell any securities including securities exempted in sec. 4 (§ 25-832), unless such dealer or agent has been registered in the office of the commission pursuant to the provisions of this section: * * *.”

I now call your attention to Section 25-832 which sets forth "the exempt classes of securities" and to Section 25-833 which sets forth the "exempt transactions." The first sentence of Section 25-832 is as follows:

"Except as hereinafter otherwise expressly provided, the provisions of this act shall not apply to any of the following classes of securities: * * *.”

That part of Section 25-833 that relates to your question is as follows:

"Except as hereinafter expressly provided, the provisions of this act shall not apply to the sale of any security in any of the following transactions:

"* * *

"(f) Sales, transfers or deliveries to banks, savings institutions, trust companies, insurance companies or to corporations or to underwriters or registered dealers.”

Thus, it is obvious that the situations specifically outlined in these two sections are to be beyond the pale of the Indiana Securities law unless there is a specific provision elsewhere in the act that definitely applies to those things.

Again referring to that part of Section 25-839 (supra, Dealers Registration) I call attention to the fact that a specific provision was made for dealers registration even though the dealers were handling "exempt securities." However, there is no express mention of "exempt transactions under the acts” in this registration section and, therefore, the exclusions from the provisions of this act in Section 25-833, supra, are not overcome as to the necessity for the registration of dealers. Therefore, in my opinion, by the express wording of the statute the dealers mentioned in your letter could not
be required to register with the Commission so long as they
confine their activities to the sales enumerated in Section
25-833 subsection f.

OFFICIAL OPINION NO. 3

January 7, 1948.

Hon. L. E. Burney, M. D.,
State Health Commissioner,
Indiana State Board of Health,
Indianapolis, Indiana.

Dear Sir:

I have your letter of January 6th asking for an interpreta-
tion of that part of Chapter 217, Acts of 1935, relating to
the appointment of city boards of health and their authority
over the selection of the secretary of said boards. Your
questions involve the power of appointment to such boards
and the right of removal of members of the board.

Section 2 of the Act in question (Burns' 35-119, 1945 Supp.)
applies to cities of the second class and is as follows:

"It shall be the duty of the mayor of each city of
the second class to appoint a city board of health,
consisting of four (4) members, not more than two
(2) of whom shall be adherents of the same political
party, and not less than three (3) of whom shall be
regularly licensed physicians, well informed in hygiene
and sanitary science. The members of the present
city boards of health, unless sooner removed, shall
serve until the first day of January, 1939, at which
time, unless a city board of health be sooner appointed,
as herein provided, four (4) members of the city board
of health shall be chosen, one (1) for a term ending
December 31, 1940; one (1) for a term ending Decem-
ber 31, 1941; one (1) for a term ending December 31,
1942; and one (1) for a term ending December 31,
1943. At the expiration of the respective terms,
appointment shall be made to fill the vacancy for the
following four (4) years. The salary of the members
of the city board of health shall be determined and