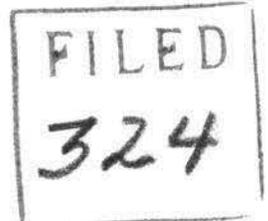


ELECTIONS:
VOTING:
OLD AGE ASSISTANCE:
WELFARE:
COUNTY INFIRMARY:
COUNTY POORHOUSE:

Persons who are receiving old age assistance or welfare or general relief payments from the state or county are entitled to vote unless they are actually residing in the county infirmary.

OPINION NO. 324

October 2, 1964



Honorable Francis Toohey, Jr.
Prosecuting Attorney
Perry County
Perryville, Missouri 63775

Dear Mr. Toohey:

In your letter of September 17, 1964, you request an opinion on the following questions:

"1. Are people entitled to vote who are otherwise qualified, who are receiving:

"A. General relief;

"B. Old Age Assistance;

"C. Old Age Assistance and Welfare payments from the County (in this instance the County Welfare payment supplements the Old Age Assistance); and,

"D. Welfare payments from the County."

Article VIII, Section 2, Constitution of Missouri, 1945, defines the qualifications and disqualifications of voters. The only portion of the article pertinent to the question at hand is the following:

"* * * No idiot, no person who has a guardian of his or her estate or person

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and no person while kept in any poorhouse at public expense or while confined in any public prison shall be entitled to vote, * * *"

Section 111.060, RSMo 1959, on the qualifications of voters contains the identical provisions:

"Qualifications of voters. -- All citizens of the United States, including residents of soldiers' and sailors' homes, over the age of twenty-one years who have resided in this state one year, and the county, city or town sixty days immediately preceding the election at which they offer to vote, and no other person shall be entitled to vote at all elections by the people. Each voter shall vote only in the township in which he resides, or if in a town or city, then in the election district therein in which he resides. No idiot, no insane person and no person while kept in any poorhouse at public expense or while confined in any public prison shall be entitled to vote at any election under the laws of this state; nor shall any person convicted of a felony, or of a misdemeanor connected with the exercise of the right of suffrage, be permitted to vote at any election unless he shall have been granted a full pardon; and after a second conviction of felony or of a misdemeanor connected with the exercise of the right of suffrage, he shall be forever excluded from voting."

It will be noted that the prohibition against an indigent voting is confined to those persons "in a poorhouse at public expense".

Section 205.590 defines poor person as follows:

"Who deemed poor. -- Aged, infirm, lame, blind or sick persons, who are unable to support themselves, and when there

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are no other persons required by law and able to maintain them, shall be deemed poor persons."

Section 205.660 provides for the maintenance of the poor in a poorhouse. The disqualification plainly states that inmates of a poorhouse at public expense are not qualified. Hence, those persons who are not inmates of a poorhouse but who receive public assistance through Old Age Assistance, welfare payments or other forms of public assistance or charity are not disqualified from voting.

This office has made similar holdings in an opinion to Mrs. W. H. Henton dated July 12, 1934, and an opinion to Owen G. Jackson dated October 20, 1936. A recent holding of the Supreme Court substantiates the position we have taken.

In *New v. Corrough*, 370 S.W. 2d 323, the court said, l.c. 327:

"Art. VIII, § 2, of the Constitution, V.A.M.S. provides that 'no person while kept in any poor house at public expense * * * shall be entitled to vote'. The attack upon the validity of the absentee ballots cast by the four inmates of the Nodaway Home would require a finding that the home was a county poor house and that the payment of \$5 a month toward their upkeep from the welfare funds of the County would amount to their being kept at public expense. This privately-operated nursing home cannot be classed as a county poor house in these circumstances. The County had no priority in the admission of patients and it made similar payments from its welfare funds to other privately-operated nursing homes. Furthermore, a person who is 'an inmate of a public institution' is not eligible for Old Age Assistance under § 208.010, subd. 2 (5), RSMo 1959, V.A.M.S. The trial court did not err in approving the right of these four patients to vote in the election."

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Persons maintained in a "poorhouse" at public expense are disqualified from voting. But, those persons receiving aid or public assistance from whatever source who are not inmates of a "poorhouse" are not disqualified, if they are otherwise eligible to vote.

CONCLUSION

It is the opinion of this office that pursuant to the provisions of Article VIII, Section 2 of the Constitution, and Section 111.060, RSMo 1959, inmates of poorhouses who are supported by the public are prohibited from voting, but those persons receiving public aid or assistance of any nature and who are not inmates of a poorhouse are not disfranchised.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, O. Hampton Stevens.

Yours very truly,

Thomas F. Eagleton

THOMAS F. EAGLETON
Attorney General