

OFFICERS: TRUSTEES -- In towns and villages are qualified to hold office as follows:

5-3
May 3, 1934.



Mr. F. H. Schubert
Village of Affton
St. Louis County
Missouri.

Dear Sir:

Your letter requesting an opinion is as follows:

"On the first Tuesday of this month we conducted our Village election in accordance with the statutes of Missouri, to elect five new Trustees.

"It now develops that three of the five men elected have not paid taxes, either personal or real estate, for several years. A number of our citizens are questioning the eligibility of these men and also the advisability of putting them into office. Today the attached clipping was placed on my desk together with information that another village in Missouri is contesting an election for similar reasons.

"Will you be so kind as to give us an opinion in the matter. If the contested men are not eligible, we will proceed to name three other men, properly qualified and acceptable."

The last national census shows the Village of Affton with a population of 650 and to be ~~(incorporated)~~ (unincorporated).

Your letter does not state whether you operate as a village under a special charter or under the general

provisions of law. We are assuming that you are not a village under a special charter but operate as a city under the general law.

Section 7093, R. S. Mo. 1929, provides for the qualification of trustees for villages, the size of Affton, and states:

"No person shall be a trustee who shall not have attained the age of twenty-one years; who shall not be a male citizen of the United States; who shall not be an inhabitant of the town at the time of his election, and reside therein for one whole year next preceding; who shall not be a householder within the limits of such town; and every trustee shall hold his office for the term of one year, and until a successor is elected and qualified."

Section 7096, R. S. Mo. 1929, provides as follows:

"The board of trustees shall judge of the qualifications, elections and returns of their own members, and determine contested elections; they may determine rules of their own proceedings, punish any member or other person for disorderly behavior in their presence, and, with the concurrence of four of the trustees, expel any member, but not a second time for the same cause; they shall keep a journal of their proceedings, and, at the desire of any member, shall cause the yeas and nays to be taken and entered on the journal, on any question, resolution or ordinance; and their proceedings shall be public."

Section 5, Article XIV, of the Missouri Constitution provides as follows:

"In the absence of any contrary provision, all officers now or hereafter elected or appointed, subject to the right of resignation, shall hold office during their official terms, and until their successors shall be duly elected

or appointed and qualified."

Section 11202, R. S. No. 1929, provides:

"Any person elected or appointed to any county, city, town or township office in this state, except such officers as may be subject to removal by impeachment, who shall fail personally to devote his time to the performance of the duties of such office, or who shall be guilty of any willful or fraudulent violation or neglect of any official duty, or who shall knowingly or willfully fail or refuse to do or perform any official act or duty which by law it is his duty to do or perform with respect to the execution or enforcement of the criminal laws of the state, shall thereby forfeit his office, and may be removed therefrom in the manner hereinafter provided."

CONCLUSION.

The law applicable to cities of the fourth class referred to in your request does not apply in villages and your problem must be decided in laws of Missouri relating to villages, above set out.

It is the opinion of this office that there is no qualification, either to election or holding office, placed on trustees of villages, that would disqualify those who were elected at a village election at the same time being in arrears in their village taxes.

Respectfully submitted,

APPROVED:

ROY McKITTRICK
Attorney-General.

WM. ORR SAWYERS
Assistant Attorney-General.

WOS/afj