

SCHOOLS: Person elected school director can qualify if taxes have been paid on property in which he had an interest or which could have been assessed to him, even though the taxes be paid by another party.

April 6, 1940

49



Honorable Stephen Cornish
County Superintendent of Schools
Pike County Schools
Bowling Green, Missouri

Dear Sir:

This Department is in receipt of your letter of April 2d, wherein you make the following inquiry:

"I would like to have an interpretation of Section 9287 of the 1938 Missouri School Law, from your office.

"The law states that a director shall have paid a state and county tax within one year next preceding his election or appointment.

"A young man has been elected director at the annual meeting this afternoon, but was not able to produce a tax receipt in his name.

"However, he is a partner in certain personal property with his father. His father has paid taxes on this property within the past twelve months, and he has reimbursed his father for half of the tax.

"Does this qualify him to serve as school director under Section 9287?"

Section 9287, R. S. Mo. 1929, referred to in your letter, is as follows:

"The government and control of the district shall be vested in a board of directors composed of three members, who shall be citizens of the United States, resident taxpayers of the district, and who shall have paid a state and county tax within one year next preceding his, her or their election, and who shall have resided in this state for one year next preceding his, her or their election or appointment, and shall be at least twenty-one years of age. Said directors shall be chosen by the qualified voters of the district at the time and in the manner prescribed in section 9283 of this article, and shall hold their office for the term of three years, and until their successors are elected or appointed and qualified, except those elected at the first annual meeting held in the district under the provisions of this chapter, whose term of office shall be for one, two and three years, respectively. A qualified voter within the meaning of this chapter shall be any person who, under the general laws of this state, would be allowed to vote in the county for state and county officers, and who shall have resided in the district thirty days next preceding the annual or special meeting at which he offers to vote."

We have heretofore under authorities interpreted this section, as it refers to the qualifications of a

director as a taxpayer, as not making it mandatory for the actual payment of taxes on assessed property in his name. You state that the young man who has been elected director has certain interests and is a partner with his father in personal property, and that the father has paid taxes on the partnership property or property in which the young man has an interest.

In the decision of State ex inf. Bellamy v. Menengali, 307 Mo. 447, the issue before the court was whether or not a woman who had been elected school director was qualified on the question of being a taxpayer. We quote a portion of the decision as follows (l. c. 453-454, 455):

"In Webster's New International Dictionary, a taxpayer is defined as: 'One who pays a tax.' In Funk & Wagnall's New Standard Dictionary, a taxpayer is defined as: 'One who pays any tax, or who is liable for the payment of any tax.' The evidence is clear and undisputed, that respondent on June 1, 1920, was the legal owner of the property heretofore described, and that it was not exempt from taxation.

"Section 12756, Revised Statutes 1919, provides that: 'Every person owning or holding property on the first day of June, including all such property purchased on that day, shall be liable for taxes thereon for the ensuing year.'

"The undisputed evidence of both respondent and her husband, shows, that some of her personal property was included in the assessment list for 1920, and that she signed her husband's name thereto.

"Section 12801 provides that: 'No assessment of property or charges for taxes thereon shall be considered illegal on account of any informality in making the assessment, or in the tax lists, or on account of the assessments not being made or completed within the time required by law.'

"It was shown without contradiction and without objection, by respondent's husband, that he paid the taxes on his property and that of his wife, mentioned in the assessment list, on December 22, 1921; and that he paid said taxes for the benefit of himself and wife. It appears from the evidence without question, that the automobile mentioned in the list was assessed at \$250; that respondent was the joint owner with her husband of the undivided one-half of same, and that the taxes were paid on this machine by respondent's husband for the benefit of both.

* * * * *

"We are cited in the respective briefs of counsel to text-books, and decisions outside this State, which throw very little light on the merits of the case. It is clear to us that no citation of authority is needed to sustain the action of the lower court in holding that respondent was qualified to hold the office in question. If any authority were needed, the able and unanswerable opinion of Rombauer, J., in State ex rel. Circuit Attorney v. Macklin, 41 Mo. App. at page 339 and following,

April 6, 1940

settles the question and expresses our views of the subject. It fully sustains the action of the lower court. On page 343, Judge Rombauer concisely states our theory of the law in a case of this character, as follows:

"If a person owns an interest in property and pays a tax thereon, he pays his tax regardless of the fact to whom the property is assessed."

We deem the principles of law as contained in the above decision to be applicable to the facts which you present. We are, therefore, of the opinion that if the young man who has been elected director possesses all the other qualifications that he can qualify on the question of being a taxpayer on the theory that he owns an interest in property and pays a tax regardless of the fact to whom the property is assessed.

Respectfully submitted,

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Assistant Attorney-General

APPROVED:

COVELL R. HEWITT
(Acting) Attorney-General

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