

RESTORATION OF RIGHTS  
OF CITIZENSHIP BY  
DISCHARGE FROM PAROLE:

Person paroled by a circuit court when found guilty of penitentiary offense and thereafter discharged from parole, is restored thereby to rights of citizenship including the rights of suffrage.

October 13, 1950



Mr. Homer F. Williams  
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Marble Hill, Missouri

Dear Sir:

We have your recent letter in which you request an opinion of this department. Your letter is as follows:

"Some ten years ago, a party was convicted of felonious assault before the Judge of the Circuit court and upon a plea of guilty to assault with intent to kill, was sentenced to 5 years in the Missouri state Penitentiary, but being of good character, the court paroled him, and he made his reports until he was finally discharged by the court, some 4 years ago.

"Some question his right to vote since his parole was terminated, but it would seem that under the Provisions of Sec. 4210, that when he is finally discharged under the parole provisions that automatically he would be restored to all the rights and privileges of citizenship, without any restoration by the Governor of such rights, and his right to vote is in question.

"Does he have the legal right to vote under the above circumstances?"

In considering the question as to whether or not the man mentioned in your opinion request is entitled to vote under the circumstances recited in said letter, we have considered the sections of the Missouri statutes which relate to the loss of citizenship and the rights incident thereto as a result of a

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sentence of imprisonment in the penitentiary.

Section 9225, R.S.A. Mo. 1939, is as follows:

"A sentence of imprisonment in the penitentiary for a term less than life suspends all civil rights of the persons so sentenced during the term thereof, and forfeits all public offices and trust, authority and power; and the person sentenced to such imprisonment for life shall thereafter be deemed civilly dead."

We also quote Section 9227, R.S.A. Mo 1939, as follows:

"When any person shall be sentenced upon a conviction for any offense, and is thereby according to the provisions of this article, disqualified to be sworn as a witness or juror in any cause, or to vote at any election, or to hold any office of honor, profit or trust within this state, such disabilities may be removed by a pardon by the governor, and not otherwise, except in the case in the next section mentioned."

Section 4199, provides for the parole by the circuit and criminal courts and the respective boards of parole serving such courts of persons convicted of a violation of the criminal laws of this state, in the following language:

"The circuit and criminal courts of this state, the court of criminal correction of the city of St. Louis and boards of parole created to serve any such court or courts shall have power, as hereinafter provided, to parole persons convicted of a violation of the criminal laws of this state."

The sections which follow the last above quoted section up to and including Section 4211, R.S.A. Mo. 1939, contain the provisions by which such courts and their respective parole boards are to be regulated or governed in granting and terminating paroles or discharging persons therefrom.

Section 4210, R.S.A. Mo. 1939, the section mentioned in your opinion request is as follows:

"Any person who shall receive his final discharge under the provisions of sections

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4199 to 4211 inclusive, shall be restored to all the rights and privileges of citizenship."

We now advert to Section 9227, R.S.A. 1939, supra, for the purpose of discussing the question as to whether it conflicts with Section 4210, R.S.A. Mo. 1939, supra. The aforesaid section 9227 insofar as pertinent provides as follows:

"When any person shall be sentenced upon a conviction for any offense, and is thereby according to the provisions of this article, disqualified to be sworn as a witness or juror in any cause, or to vote at any election \* \* \* such disabilities may be removed by a pardon by the governor, and not otherwise, \* \* \*"

We now point out that the only provisions of the article mentioned in the last above quoted section which provide for the disabilities mentioned in said section including the loss of the right to vote are contained in Section 9225, R.S.A. Mo. 1939, supra, which provides in substance that a sentence of imprisonment in the penitentiary for a term less than life suspends all civil rights of the person so sentenced during the term thereof.

While there is a seeming conflict between the provision that such disability can be removed only by pardon and the provision in Section 4201 R.S.A. Mo. 1939, to the effect that: "any person who shall receive his final discharge under the provisions of Sections 4199 to 4211, inclusive, shall be restored to all of the rights and privileges of citizenship" we are, nevertheless, of the opinion that there is no actual conflict for the reason that the Supreme Court of Missouri in the case of Ward v. Morton, 294 Mo. 418, in construing the section now numbered 9225 has strongly indicated that the expression "sentence of imprisonment" mentioned in Section 2291, R.S. Mo. 1919, now 9225, R.S.A. Mo. 1939, supra, has reference only to cases where the person convicted has been actually imprisoned. The following is a quotation from the opinion of the Court, l.c. 419:

"\* \* \*It would accordingly seem to follow that the sentence of imprisonment mentioned in Section 2291 has reference only to cases where the person convicted has been actually imprisoned and not to a case where he is at liberty under an unterminated parole."

The case in which the opinion above quoted from was rendered was a case involving the alleged disability of the person convicted to execute a valid deed and the court held that since the convicted

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person had not been actually imprisoned he had not lost the right to execute a deed by reason of Section 2291 R.S.Mo. 1919, now Section 9225, R.S.A. Mo. 1939. While the court did not go so far as to specifically hold that the fact that the convicted person had never been imprisoned kept each and every disability mentioned by the statute from applying to him, we are of the opinion that if the right of the convicted person to vote had been in issue instead of his right to make a deed the court, in applying the logic of the above quoted opinion, would have held that the convicted person had not lost the right of suffrage under the section mentioned. We are accordingly of the opinion that there is no conflict between the provisions of Sections 9225 and 9227 R.S.A. Mo. 1939, on the one hand and Section 4210, R.S.A. Mo. 1939, on the other. However, we are of the further opinion that even if there is such a conflict, Section 4210 R.S.A. Mo. having been enacted later than Sections 9225 and 9227, supra, had the effect of repealing the two sections last mentioned to the extent of the conflict. For support of our view in this regard we quote as follows from the opinion of the Supreme Court of Missouri in the case of State ex rel. v. Clayton, 226 Mo. 292:

"Where two general statutes are in irreconcilable conflict, the one of later date must prevail, but if the two are susceptible of a construction that will give force to both, they must be so construed. And where the validity of a statute is assailed we must uphold it if it is susceptible of a construction that will render it valid."

We are of the opinion that there is nothing in any of the sections hereinabove quoted other than Section 4210, which limits the effectiveness of the very definite provisions of said section 4210, supra, in the matter of the restoration of all of the rights of citizenship including the right to vote in cases in which the provisions of Sections 4199 to 4211, inclusive, have been fully complied with in the granting of paroles and in the discharge from paroles.

#### CONCLUSION

We are therefore of the opinion that the man mentioned in your opinion request as having been paroled and finally discharged four years ago is now entitled to vote since under the provisions of Section 4210, R.S.A. Mo. 1939, all of the rights and privileges of citizenship have been restored to him.

APPROVED:

Respectfully submitted,

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