

OPINION REQUEST NO. 267 answered by letter  
(Kingsland)

July 6, 1962



Honorable George H. Morgan,  
Representative  
8th District Jackson County,  
7546 Troost,  
Kansas City 31, Missouri

Dear Mr. Morgan:

This is in answer to your letter dated June 29, 1962 requesting our opinion as to whether a man who pleaded guilty in Circuit Court of Jackson County in 1945 to the charge of leaving the scene of an accident, and pursuant to this conviction was fined \$100, can now hold a county office.

For the purpose of this opinion we shall assume that the offense to which the person pleaded guilty was a felony. We shall further assume that the county office aspired to is an office of honor, profit and trust.

Initially, it is to be noted there are no general disenfranchisement statutes for felony convictions. That is to say, a felony conviction does not automatically forfeit the right of the person so convicted to hold office. It is only for specified convictions that Missouri statutes forfeit this privilege. Sections 557.490, 558.130, 559.470, 560.610, 561.340 and 564.710, RSMo 1959.

The conviction in question occurred in 1945. At that time the felony "Leaving the Scene of an Accident" appeared in Chapter 45, RSMo 1939, entitled "Motor Vehicles". This chapter contained no disenfranchisement statute for any convictions for felonies under the chapter. Therefore, at the time this plea of guilty was entered in 1945 there was no forfeiture of the right to hold office connected with it. However, the subsequent legislative history of this felony shows that in the statutory revision of 1949 this section was repealed and reenacted as part of Chapter 564, RSMo 1949,

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entitled "Offenses against Public Health and Safety." This revision statute was effected by House Bill 2154. The wording of the statute was not changed. Chapter 564, RSMo 1959, contains a general disenfranchisement section which reads as follows (Section 564.710):

"Every person who shall be convicted of any felony punishable under any of the provisions of this chapter, shall be thereby disqualified from holding any office of honor, profit or trust, or voting at any election within this state."

This disenfranchisement statute was enacted in 1879 and has remained unchanged through the various revisions to date. In the 1949 revision, when the felony of "Leaving the Scene of an Accident" was incorporated in Chapter 564, the Legislature evidenced no intent, generally or specifically, that the disabling section (564.710, *supra*) was to apply retrospectively to this newly included felony.

Section 1.120, RSMo 1949, provided:

"The provisions of any law or statute which is reenacted, amended or revised, so far as they are the same as those of prior laws, shall be construed as a continuation of such laws and not as new enactments."

In the interpretation of this section Missouri courts have consistently held that absent specific legislative intent evidenced in the reenactment, the statute is continued with the same force and meaning as originally enacted. In the case of *Kern vs. Supreme Council American Legion of Honor*, 67 SW 253, l. c. 255, the Court stated:

"In other words all laws must be prescribed by law making power and it is not within the power of a later assembly to declare that a prior assembly meant something it did not say in the laws enacted by it. \* \* \*"

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See also the recent case of *Kansas City vs. Travelers Insurance Company*, 284 SW 2d 874, 878[4] where the Kansas City Court of Appeals stated:

"Furthermore, a section or an Act should not be construed or considered as a new section or a new Act by reason of it being inserted in the Revised Statutes. It is simply continued with the same force and meaning as originally enacted. (Citing cases)."

In the case of *Hatcher vs. Hall*, 292 SW 2d 619, 623, the Springfield Court of Appeals noted:

"Recognizing the well-established principle that inclusion of an existing law in a statutory revision operates only as a continuance of its existence and not as a new enactment and that such law must be construed with reference to other statutes as of the date of its original enactment, \* \* \*."

Certainly when this conviction was effected in 1945 there was no disability against holding public office enacted with it. It can be readily seen that "force and meaning of the statute" would be enlarged if it were to be construed that the subsequent insertion of a statute in a chapter containing a general disenfranchisement section brought it into the purview of the latter disabling section. It would also violate the principle of law noted above, that the statute is to be construed with reference to other statutes as of the date of its original enactment. There is no language in Section 564.710 giving any indication that the Legislature intended this section to operate retrospectively to include the felony "Leaving the Scene of an Accident."

It is, therefore, the opinion of this office that a person convicted in 1945 of the felony of "Leaving the Scene of an Accident" can qualify for and hold a county office.

Yours very truly,

THOMAS F. EAGLETON  
Attorney General

RDK:MW