

October 15, 1962



Honorable John F. Hayner
State Representative
11th District, Jackson County
203 North Main Street
Independence, Missouri

Dear Mr. Hayner:

This refers to your letter of October 1, 1962, requesting opinions concerning three matters.

As we understand the situation, your first inquiry, concerning the present status of political party city committees in Independence, and your second inquiry, concerning the nomination of candidates for school director in the Independence school district, both result from the false premise that the nomination of candidates for director in the Independence school district is governed by Section 165.315, RSMo 1959, which reads in part as follows:

"1. In any school district in a third class city now or hereafter having more than thirty-five thousand inhabitants, candidates for school directors may be nominated by a majority of the members-elect residing in the school district of each political party committee of the city in which the school district is located."

Section 165.315 was originally enacted in 1955 for the specific purpose of regulating elections in the Independence school district. However, in an opinion furnished to John W. Mitchell on August 25, 1960, a copy of which is enclosed, this office expressed the view that that section was not applicable to the Independence district under the then existing facts because the district was not wholly within the city. As matters now stand, Section 165.315 is not applicable to the Independence district for another reason, namely, because Independence, by adopting a city

charter, ceased to be a third class city and became a constitutional charter city.

Since Section 165.315 is no longer applicable, the situation with respect to the election of directors in the Independence district is the same as it was prior to the enactment of that section in 1955; and, as stated in the above-mentioned opinion furnished to Mr. Mitchell, such elections are governed by Section 165.330, RSMo 1959. As you will note from reading Section 165.330, that section does not provide for the nomination of candidates for director, and we do not know of any other statutory provision applicable to the Independence district which does so. Enclosed herewith are copies of opinions furnished to Michael J. Doherty on November 10, 1954, and to N. A. King on March 18, 1938, relating to candidates for school director in comparable circumstances.

We believe that your third inquiry, concerning the applicability of Section 120.220, RSMo 1959, to Independence, will be answered by calling attention to Section 82.180, RSMo 1959, which reads as follows:

"All cities which have heretofore adopted charters pursuant to section 16, article IX, of the Constitution of Missouri of 1875, or may hereafter adopt charters pursuant to section 19, article VI of the Constitution of Missouri of 1945 shall have power by charter enactment to prescribe the manner in which nominations shall be made for municipal offices in such cities and the form of ballot to be used at elections for municipal offices in such cities."

With further reference to your first inquiry, we perhaps should note that, in view of your statements concerning the manner of election of city officials under the Independence city charter and the fact that Section 165.315, RSMo 1959, is not applicable to the Independence school district, it is not apparent to us that there are any

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governmental functions to be performed by a political party city committee in Independence.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

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3 enclosures