

OFFICERS: Need not be a taxpayer to hold the office of alderman in a city of the fourth class.

March 13, 1937.

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Mr. M. J. Dixon,
City Clerk,
Crystal City, Missouri.



Dear Sir:

This department is in receipt of your request for an opinion under date of March 10, 1937, wherein you state as follows:

"The Mayor and Board of Aldermen have requested me to secure your opinion on the following condition:

"We have a Citizen who is circulating a petition for nomination to the office of Alderman of the City. Said aspirant has always stood on his constitutional right of being exempt from Poll Tax Assessment on account of being a member of the National Guard. Having no Personal Property or Real Estate in his own name he is therefore not a Tax paying citizen and has never been on the City Tax Books. Should he be elected to the office he seeks, could he qualify to said office under existing circumstances?"

"I shall greatly appreciate your opinion on the question and it would be of material help to us if we could have your reply in hand on or before March 19th, our closing date for filing petitions."

We assume for the purpose of this opinion that Crystal City, Missouri, is a city of the fourth class.

The following sections of the Revised Statutes of Missouri, 1929, provide the statutory qualifications for the office of alderman:

Section 6964 states in part that:

"No person shall be an alderman unless he be at least twenty-one years of age, a citizen of the United States, and an inhabitant and resident of the city for one year next preceding his election, and a resident of the ward from which he is elected."

Section 6969 states in part that:

"No person shall be elected or appointed to any office who shall at the time be in arrears for any unpaid city taxes, or forfeiture or defalcation in office, or who is not a resident of the city."

We find no provision requiring a person seeking the office of alderman or appointed or elected to the office of alderman in a city of the fourth class to be a taxpayer. The only reference to the payment of taxes, as above indicated, is that if he be chargeable with city taxes, he be not in arrears at the time of his election or appointment.

It might be reasoned that if the statute provides that a person appointed or elected to the office of alderman must not at the time be in arrears for any unpaid city taxes, then it must have been the intention of the Legislature that a person appointed or elected to the office of alderman be a taxpayer, at least of city taxes.

We can not so agree. The intention of the Legislature is expressed in clear and unambiguous language, viz., that the person appointed or elected must not at the time be in arrears for any unpaid city taxes, and we have no right to fritter away these plain terms by refined reasoning.

Thus in the case of *Grier v. Kansas City, C. C. & St. J. Ry. Co.*, 228 S. W. 454, 1. c. 458, 286 Mo. 523, the court said:

"It is elementary that in construing a writing, whether it be a statute or a contract, the clear meaning of unequivocal language cannot be controlled or overthrown by a construction in respect to that which is obscure or incomplete. * * * When the words

admit of but one meaning, a court is not at liberty to speculate on the intention of the Legislature, or to construe an act according to its own notions of what ought to have been enacted.'"

And in the case of Gendron v. Dwight Chapin & Co., 37 S.W. (2d) 486, l. c. 488, 225 Mo. App. 466, the court said:

"In construing the act, we are bound to ascertain and give effect to the intention of the Legislature as expressed in the statute, and, where the meaning of the language used is plain, it must be given effect by the courts (Betz v. Kansas City Sou. Ry. Co., 314 Mo. 390, 284 S.W. 455, 461; Grier v. Ry. Co., 286 Mo. loc. cit. 534, 228 S. W. loc. cit. 457; Sleyster v. E. Donzelot & Son (Mo. App.) 25 S. W. (2d) loc. cit. 148), and this without regard to the results of the construction or the wisdom of the law as thus construed (State ex rel. v. Wilder, 206 Mo. 541, 105 S. W. 272), and we have no right, by construction, to substitute any ideas concerning legislative intent contrary to those unmistakably expressed in the legislative words (Clark v. Railroad Co., 219 Mo. loc. cit. 534, 118 S. W. loc. cit. 44.)"

From the foregoing, we are of the opinion that a person seeking the office of alderman in a city of the fourth class need not be a taxpayer, and the only restriction with reference to taxes is that if he be appointed or elected to the office, he must not at the time be in arrears for any unpaid city taxes.

Respectfully submitted,

WM. ORR SAWYERS,
Assistant Attorney General.

APPROVED:

J. E. TAYLOR,
(Acting) Attorney General.

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