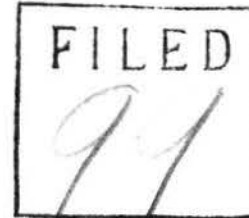


ELECTION -- Inmates of certain homes and shelters in
St. Louis not disqualified to vote; from what
address such persons should be registered.

March 8, 1938 3/10

Board of Election Commissioners
For the city of St. Louis
208 South Twelfth Blvd.
St. Louis, Missouri



Gentlemen:

This will acknowledge your letter of March 1,
1938 requesting an opinion from this department, which
letter reads as follows:

"On September 25, 1937, the Board of
Election Commissioners requested an
opinion from you regarding qualifica-
tions as voters of persons residing
in certain homes and shelters conducted
and maintained, either in whole or in
part, by the City of Saint Louis;
namely, a shelter for white women at
913 Aubert Avenue, a shelter for
colored women at 2728 Pine Street, a
home for men at 2207 Chestnut Street,
and a shelter known as the Ozanam
Shelter for Men, 3225 Montgomery
Street. The first three are homes
maintained by the City and the fourth
is mainly maintained by the Organized
Catholic Charities with the aid of a
contribution from the City. The in-
mates of the first three institu-
tions are furnished lodgings free
by the City and at the expense of
the City, and in the first two, meals
are furnished by the City, at City
expense, and in the third, the in-
mates are furnished with food tickets
by the City, at City expense, when
requested. About one-half of the in-
mates have been asking for and re-
ceiving these food tickets.

"As the matter was urgent at the time the letter above referred to was written, you were requested to render an opinion by telegram, which you were kind enough to do. You stated definitely that these institutions were not poorhouses within the meaning of the Constitution and Laws of Missouri.

"The question arises again under the provisions of the Act of 1937, Laws of 1937, Page 235, and the Board is anxious to obtain a further statement of your opinion in this matter. Is it your opinion that under the new Law the status of these institutions remains unchanged?

"Your telegram states 'Copy of opinion to Mrs. W. H. Henton, Doniphan, Missouri, follows'. This opinion is missing from our files. Could we have another copy?

"A further question arises regarding the proper manner of registering such residents, assuming that they are otherwise qualified. Section 16 (2) provides that the address of each applicant for registration shall be entered, 'including floor or apartment or room number'. Some of the institutions have numbered beds but do not have numbered rooms or apartments, and as the guests are largely transients, they are not assigned to a particular bed or floor for a longer period than two weeks.

"Would the status of these people be similar to that of boarders or roomers in a privately operated home?

"Is it sufficient to list such residents by stating the house number only?"

The persons to vote in this State are enumerated in Article VIII, Section 2, Constitution of Missouri, which reads as follows:

"All citizens of the United States, including occupants of soldiers' and sailors' homes, over the age of twenty-one years who have resided in this state one year, and in the county, city or town sixty days immediately preceding the election at which they offer to vote, and no other person, shall be entitled to vote at all elections by the people; provided, no idiot, no insane person and no person while kept in any poor-house at public expense or while confined in any public prison shall be entitled to vote, and persons convicted of felony, or crime connected with the exercise of the right of suffrage may be excluded by law from the right of voting."

It is apparent from your letter that the persons you inquire about are qualified to vote in all respects unless the fact that they are inmates of the homes and shelters you mention brings them within the constitutional exception of being "kept in a poor-house at public expense." This leads us to a determination of what is a poor-house.

It should be observed that there was no provision in the Constitution of 1865 which disqualified persons kept in poor-houses at public expense from voting. That provision was voted into the Constitution of 1875 by the people, as appears in Article VIII, Section 8. In 1924, the provisions of said Section 8 were incorporated into Article VIII, Section 2 heretofore quoted.

In construing the language of the Constitution, we think that the general and ordinary meaning of words as they are understood by the people voting said Constitution, should be inquired into. Such rule of construction has been stated thus:

"Words must be understood in their general and popular sense, as the people who voted on the Constitution understood them, and we should not go beyond this meaning unless the language is so ambiguous that we need to ascertain the mischief to be remedied. *Busser v. Snyder*, 282 Pa. St. 440, 128 Atl. 80."

"It is a cardinal rule of construction that the language of a State Constitution, more than that of any other of the written laws, is to be taken in its general and ordinary sense. The reason for the rule lies in the fact that its makers are the people who adopt it. Its language is their language, and words employed therein have meaning as the generality of the people understand them. *Bronson v. Syverson*, 88 Wash. 264, 152 Pac. 1039."

It should therefore be helpful to trace the history of registration regarding "the poor" in this State. The care of the poor has been a matter of governmental concern in this State ever since it has been a State. By an act of the General Assembly of the Territory of Missouri, approved January 2, 1815, found at p. 340, Vol. 1, Missouri Territorial Laws, the people of this State defined "poor persons" and provided for their support in the following language:

"Each and every county in this territory shall relieve, support and maintain its own poor, such as the lame, blind, sick and other persons, who from age and infirmity are unable to support himself or herself, and who have no sufficient estate of their own, and who has resided nine months next preceding the time of any order being made respecting such persons, in the county, and who has not moved

from any other county for the purpose of imposing the charge of keeping such poor person in the county where he or she may have last lived for the time aforesaid.

- "2. The courts of common pleas in their respective counties, on the information of any justice of the peace of the county where any poor person may have resided for the space of time in the first section of this act mentioned, or on the knowledge of the judges of said court, or any of them, that such person is lame, blind or sick and thereby unable to support himself or herself, or from age and infirmity unable to support him or herself, and has no sufficient estate for that purpose. -- And on such court being satisfied of the truth of such information, it shall be their duty from time to time, and as often and for as long a time as it may be necessary to provide at the expense of the county, for the support and maintenance of such poor person, and to order from time to time the defraying of such expense by drawing orders on the treasury of such county.
- *** "

The foregoing territorial law was repealed (p. 500, Sec. 13, R. S. Mo. 1825) and in the revision of 1825 a new act was included (p. 618, R. S. Mo. 1825) which used the same language as the territorial act except that it referred to counties of the State instead of the counties of the territory. So far as the definition of "the poor" is concerned, this later act is identical with the territorial act aforesaid. By an act of the General Assembly, approved January 29, 1835, found at p. 448, R. S. Mo. 1835, the same definition of "the poor" is carried forward.

This act of 1835 is identical with the act of 1825 insofar as matters pertinent to our discussion are concerned. In 1845 the General Assembly, by an act found at p. 798, R. S. No. 1845, distinctly defined "the poor" in the following language:

"Sec. 2. Aged, infirm, lame, blind or sick persons, who are unable to support themselves, shall be deemed poor persons."

The act of 1845, supra, also provided that the county court could erect a poor-house, and provided that:

"Sec. 9. Whenever such poor-house is erected, the county court shall have power to appoint a fit and discreet person to superintend the same, and the poor who may be kept thereat, and to allow such superintendent a reasonable compensation for his services. **

"Sec. 11. The county court shall have power to make all necessary and proper orders and rules for the support and government of the poor kept at such poor-house, and for supplying them with the necessary raw materials, to be converted by their labor into articles of use, and for disposing of the products of such labor and applying the proceeds thereof to the support of the institution."

The foregoing definition found in the Laws of 1845 was carried forth in the revision of 1855, and similar provisions as to the poor-house were likewise carried forth (P. 1154, R. S. Mo. 1855). In 1865, by an act found at p. 232, R. S. Mo. 1865, the General Assembly adopted the following definition for "the poor":

"Aged, infirm, lame, blind or sick persons, who are unable to support themselves, and when there are no other persons required by law and able to maintain them, shall be deemed poor persons."

Likewise, the revision of 1865 carried forward the provisions as to the poor-house and the management thereof.

The definition of "poor persons", as found in the revision of 1865, supra, has been carried forward in all revisions of the statutes from that time to the present time, and now appears as Section 12951, R. S. Mo. 1929, and likewise the provisions as to the poor-house have been carried forward in substantially the same form through succeeding revisions, and now appear in R. S. Mo. 1929 as Section 12958, 12960.

It will be seen from the forgoing history of the legislation regarding poor persons, that the people who voted the Constitution of 1875 generally understood the term "poor-house" to mean the place where the aged, infirm, lame, blind or sick persons who were unable to support themselves" were kept at public expense. The "poor-house" had been an established institution for many years before the Constitution of 1875 was voted, and we must assume that when the people voted the provisions into that Constitution, that persons "while kept at any poor-house at public expense" could not vote, they understood "poor-house" to be the well established institution known in each county of the State, or at least a place where "aged, infirm, lame, blind or sick persons who are unable to support themselves" are kept. As the Constitution spoke the language of the people, then the ordinary meaning of the term "poor-house", which had been established and recognized through the years prior to 1875 by all of the Legislatures of the people, must be accepted as the meaning of that term in the Constitution.

March 8, 1938

From the description of the shelters and homes contained in your letter, we do not believe these places are poor-houses in the eyes of the law, and especially as mentioned in Article VIII, Section 2 of the Constitution of Missouri. There is nothing to indicate that the inmates are "aged, infirm, lame, blind or sick persons." We assume that the inmates are people who are out of employment and are without means of support at the present time, but we do not believe that the places where these people are kept qualify as poor-houses, as that term is understood in our law.

In the case of *Hale vs. Stimson*, 198 Mo. 134, Judge Lamm, in passing on whether old soldiers kept in the Soldiers' Home at St. James, Missouri, were being "kept in a poor-house at public expense" said: (l.c. 163)

"The statutes and constitution of such a State must not be construed as ungrateful or unpatriotic, and it would be a pitiable incentive to patriotism to hold up before its decrepit defenders deserted by fortune, the picture of being regarded for their sacrifices and valor, with the brand of a pauper under the roof of a poorhouse, where, in the language of the statutes regulating such institutions (R. S. 1899, sec. 9002) the superintendent thereof 'shall have power to cause persons kept in such poorhouse who are able to do useful labor, to perform the same by reasonable and humane coercion'."

We think the foregoing quotation clearly shows that the Supreme Court understood the term "poor-house" to be the poor-house referred to in Article IV, Chapter 90, R. S. Mo. 1929, which is the outgrowth of the poor-house first established in 1845, as heretofore pointed out.

Your next inquiry is regarding the address from which these persons should be registered. Section 16 (2),

p.247, Laws Mo. 1937, provides that the "address, including floor or apartment or room number;" shall be entered on the application for registration. It seems to us that a substantial compliance with this provision would be a listing of the street address where the party resides, together with the number of the room or floor in the building at such address, if such rooms and floors were numbered, but if the party has no definite room or floor number, then the street address would be sufficient. It would seem to us that the people inquired about would be similar to roomers at privately operated homes, and that registration by house number only would be sufficient.

CONCLUSION

It is, therefore, the opinion of this office that the inmates of the shelter for white women at 913 Aubert Avenue, the shelter for colored women at 2728 Pine Street, the home for men at 2207 Chestnut Street and the shelter known as the Ozanam Shelter for Men, 3225 Montgomery Street, all in the city of St. Louis, are not disqualified from voting by reason of their being kept at these places at public expense, since these places are not poor-houses. It is also our opinion that where such inmates do not have a definite room or floor in such shelters and homes, their registration application should show the address of the home itself, and that the showing of such an address would be a substantial compliance with the registration law governing your city.

Respectfully submitted,

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Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

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