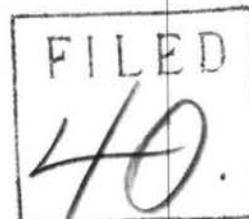


SCHOOLS: Member of the Board of Education convicted in Federal Court is not disqualified from remaining in office.

January 30, 1940

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Mr. E. W. Hickson, President
Milan School District
Milan, Missouri

Dear Sir:

We are in receipt of your request for an opinion under date of January 26, 1940, which reads as follows:

"I am writing you as President of the Milan School District. We have a member of the School Board who plead guilty in the Western District of Missouri to violating the Federal Narcotic Law and was sentenced to two years in a penitentiary to be designated by the Attorney General of the United States. However, he was placed under probation for three years. A number of important things are coming before the School Board and I would greatly appreciate knowing whether or not this man is a member of the School Board now and if he is whether or not he is subject to ouster proceedings. This man will probably be

a candidate for re-election as his term expires this year and it is a matter of importance to us to know whether or not he is eligible for re-election and whether or not he is a qualified voter."

Section 9328 R. S. Missouri, 1929, reads as follows:

"The qualified voters of the district shall, annually, on the first Tuesday of April, elect two directors, who are citizens of the United States resident taxpayers of the district, and who shall have paid a state and county tax within one year next preceding their election or appointment, and who shall have resided in this state for one year next preceding their election or appointment, and shall be at least thirty years of age, who shall hold their office for three years and until their successors are duly elected and qualified; and all vacancies in the board shall be filled for the unexpired term."

It will be noticed under the above section that the only qualifications of the member of the school board is that he should be a citizen of the United States a resident taxpayer of the district, and shall have paid state and county tax within one year next preceding his election. It further pro-

Mr. E. W. Hickson

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vides that he should be at least thirty years of age.

This office has held that when a person is convicted in the Federal Court he is still a citizen and not disqualified to vote in the State of Missouri. We are enclosing an opinion rendered by this office on October 3rd, 1938, to J. E. Woodmansee, Chairman, Board of Election Commissioners, Kansas City, Missouri, in which we held that persons convicted in the Federal Court or in courts of other states are not disqualified to vote in Missouri.

CONCLUSION

In view of the above statute, and enclosed opinion, it is the opinion of this department that the member of the school board of the Milan School District who has plead guilty in the Western District of Missouri to violating the Federal Narcotic Law, and was sentenced to two years in the penitentiary, has not lost his citizenship and can remain a member of the school board and is not subject to any ouster proceedings.

Respectfully submitted,

W. J. BURKE
Assistant Attorney General

APPROVED:

TYRE W. BURTON
(Acting) Attorney General

WJB:RW