



August 24, 1945

9/25

Honorable Robert V. Niedner
Prosecuting Attorney
St. Charles County
St. Charles, Missouri

Dear Sir:

This department is in receipt of your request for an opinion, which reads:

"The County Court of St. Charles County has made an order requesting my office to seek an opinion from you concerning whether women can serve upon either petit or grand juries at the present time, i.e.: before enabling legislation is passed or July 1, 1946, whichever comes first. Would you please give me an opinion for the Court on this question.

"I believe that one of the reasons for the Court's being in doubt about this question is the statement made in paragraph numbered (1) at l.c. 48 in the case of State vs. Cole, 188 S.W. 2d 43, decided by the Supreme Court on June 11, 1945. The County Court wants to know whether in view of the constitutional provision with reference to women jurors, the Schedule of the Constitution, and the above indicated paragraph of State vs. Cole, they should include the names of women among those names taken from the tax books from which jury panels are drawn at the present time."

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Your attention is called to Section 697, R.S. Mo. 1959, which reads as follows:

"Every juror, grand and petit, shall be a male citizen of the state, resident of the county, sober and intelligent of good reputation, over twenty-one years of age and otherwise qualified."

The 1945 Constitution of Missouri, page 17, provides that no person shall be disqualified from jury service because of sex, but the court shall excuse any woman who requests exemption therefrom before being sworn as a juror.

This Constitution further provides, page 63:

" * * * All laws inconsistent with this Constitution, unless sooner repealed or amended to conform with this Constitution, shall remain in full force and effect until July 1, 1946."

Conclusion.

It is the opinion of this department that women are not eligible for jury service until such a time as the Legislature shall pass an enabling Act, or until July 1, 1946.

Respectfully submitted,

W. BRADY DUNGAN
Assistant Attorney General

APPROVED:

WBD:ml