

1976 WL 30662 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 11, 1976

*1 The Honorable R. Roosevelt Woods
Member
House of Representatives
Charleston County
Box 2115A
Charleston, South Carolina 29403

Dear Mr. Woods:

You have requested my opinion as to the eligibility of a Mr. Herbert U. Fielding to hold office under the laws of this State.

Mr. Fielding was charged in the Federal District Court of South Carolina, Columbia Division, in an Information alleging a violation of [26 U.S.C. § 7203](#). Three counts of the said Information set forth for the various years involved that Mr. Fielding failed to make an income tax return of his gross income. The Constitution of this State was amended in 1971 to provide in Article II, Section 7

‘The General Assembly shall establish disqualifications for voting by reason of—conviction of serious crime—.’

The General Assembly has not specifically acted to implement the provisions of the above constitutional provision unless the act adopted in 1974 (74 Acts 2188) be considered as such implementation. That act amended the previously existing section of the voting law in only one minor particular, but is the last expression by the General Assembly of the disqualifying crimes under the election laws. These disqualifying crimes are the same as those which existed under prior provisions of the 1895 Constitution and, in my opinion, constitute the only effective identification of disqualifying crimes. Unless they are so considered, there is no compilation of crimes which disqualify one from voting in this State.

The list of crimes set forth does not, in my opinion, include the offense to which Mr. Fielding heretofore entered a plea of nolo contendere which, in my opinion, is equivalent to conviction thereof.

I therefore advise that, in my opinion, Mr. Fielding is not disqualified from registering to vote and therefore obtaining the status of a qualified elector, which is an essential ingredient of the right to hold office in this State. He is, in my view, a qualified elector and therefore eligible to hold office from that standpoint.

Very truly yours,

Daniel R. McLeod
Attorney General

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