

OCTOBER 30, 1958

JOHN B. KEENAN, *Commissioner of
Registration and Superintendent
of Elections*
Hall of Records
Newark 2, New Jersey

MEMORANDUM OPINION—P-30

DEAR MR. KEENAN:

You have requested an opinion as to whether a motor vehicle agent who was convicted of the crime of embezzlement is disenfranchised pursuant to the terms of R.S. 19:4-1, as amended. We have been advised that the agent in question pleaded non vult to an indictment charging him with embezzlement under N.J.S. 2A:102-5, embezzlement by employees, agents, consignees, factors, bailees, lodgers or tenants.

R.S. 19:4-1, as amended, deprives certain persons of the right to vote for specific reasons and reads in pertinent part as follows:

“No person shall have the right of suffrage— . . .

“(2) Who was convicted, prior to October 6, 1948, of any of the following designated crimes, that is to say—blasphemy, treason, murder, piracy, arson, rape, sodomy, or the infamous crime against nature, committed with mankind or with beast, polygamy, robbery, conspiracy, forgery, larceny of above the value of \$6.00, perjury or subornation of perjury, unless pardoned or restored by law to the right of suffrage; or

“(3) Who was convicted after October 5, 1948 or shall be convicted, of any of said crimes, except polygamy or larceny above the value of \$6.00, or of bigamy or larceny of above the value of \$20.00, or who shall be convicted of the crime of burglary or of any offense described in chapter 94 of Title 2A, or section 2A:102-1 or section 2A:102-4, of the New Jersey Statutes or described in sections 24:18-4 and 24:18-47 of the Revised Statutes, unless pardoned or restored by law to the right of suffrage. . . .”

As can be seen from the above quoted sections, in order for an individual to be disenfranchised he must have been convicted of one of the crimes or offenses listed in R.S. 19:4-1, as amended. Embezzlement by an agent, pursuant to N.J.S. 2A:102-5, is not such a designated offense. The former motor vehicle agent, to whom you refer, is not within the class of persons who are denied the right of suffrage by R.S. 19:4-1; his conviction was for a violation of N.J.S. 2A:102-5, not N.J.S. 2A:102-1 or 4.

The Legislature is empowered by Article 2, Sec. 7, par. 7 of the New Jersey Constitution to deprive persons of their right of suffrage upon conviction of such crimes as the Legislature shall designate. This right of suffrage has been described by Justice Heher in *Gangemi v. Berry*, 25 N.J. 1 (1957) on page 5 of his opinion as a

“. . . basic right . . . , a civil and political franchise—of the very essence of our democratic process—that is to be liberally and not strictly construed to promote and not to defeat or impede the essential design of the organic law . . .”

Consequently, since R.S. 19:4-1, as amended, deprives certain individuals of this basic right, it is necessary to strictly construe said statute so that only those persons convicted of crimes actually designated in R.S. 19:4-1, as amended, will be disenfranchised. You are, therefore, advised that the motor vehicle agent in question is not deprived of his right to vote as a result of his conviction for a violation of N.J.S. 2A:102-5.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: FRANK A. VERGA
Deputy Attorney General

OCTOBER 30, 1958

HONORABLE CHARLES R. HOWELL, *Commissioner*
Department of Banking and Insurance
State House Annex
Trenton, New Jersey

MEMORANDUM OPINION—P-31

DEAR COMMISSIONER HOWELL:

You have requested our opinion as to whether the Commissioner of Banking and Insurance may grant a certificate of authority to a partnership to act as an agent for the sale of life, accident and health insurance pursuant to N.J.S.A. 17:22-6.24.

N.J.S.A. 17:22-6.24 presently provides, *inter alia*:

*"No agent of any insurance company authorized to transact in this State the business of life insurance, or life, accident and health insurance shall make or procure to be made, or act or aid in any manner in the negotiation of any such insurance for such a company in this State until he procures from the commissioner a certificate of authority so to do, which shall state in substance that the company is authorized to do business under the laws of this State, and that the person named therein is the constituted agent of the company for the transaction of the business. * * *"* (Emphasis added)

You inform us that the established practice of the Department since 1944 has been to license individuals only and not corporations or partnerships under this section of the law. This practice was based upon the following informal advice of the office of the Attorney General which stated in part that:

" * * You are advised that Section 24 is clear that licenses to agents of life, accident and health insurance may be issued only to individuals. The central scheme of Chapter 175, Laws of 1944, is to issue licenses only to individuals who are required to possess certain qualifications. There is as I have heretofore advised one exception to that scheme and which may be found in Section 14 of the act. By the provisions of Section 24 of the applicable statute, licenses to agents negotiating life, accident and health insurance may be issued only to individuals."*