

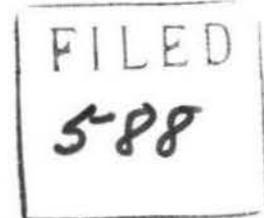
SECRETARY OF STATE:
ELECTIONS:
POLITICAL PARTIES:
CANDIDATES:

The American Party is no longer an established political party for the purpose of nominating candidates for Governor or other statewide offices in the State of Missouri because the only candidate for state office received less than two percent of the vote at the 1970 General Election. Since the American Party is not now an established party for the entire state the Secretary of State should not accept declarations of candidacy for Governor or other statewide offices for such non existent party.

OPINION NO. 588

December 18, 1970

Honorable James C. Kirkpatrick
Secretary of State
State of Missouri
Capitol Building
Jefferson City, Missouri 65101



Dear Mr. Kirkpatrick:

This is in reply to your request for an official opinion from this office as follows:

"In your opinion No. 153, dated April 1, 1970, addressed to Honorable G. William Weier, you ruled that the American Party was an established political party in the State of Missouri and all political subdivisions of the State for the purpose of nominating candidates at the August, 1970 primary.

"This office has just completed the official canvass of the 1970 General Election pursuant to Section 111.681, RSMo, wherein it has been determined that of the 1,283,312 votes cast for United States Senator, Gene Chapman, the only American Party candidate for statewide office, received a total of 10,065 votes.

Honorable James C. Kirkpatrick

"We have reason to believe a declaration of candidacy for the office of governor on the American Party ticket will be presented for filing in this office on December 18, 1970.

"We would appreciate an opinion from you at your earliest convenience as to whether such declaration may be accepted for filing under Section 120.340."

Section 120.340, RSMo 1969, provides as follows:

"No candidate's name shall be printed upon any official ballot at any primary election unless the candidate has on or before five p.m. prevailing local time on the last Tuesday of April preceding the primary filed a written declaration of candidacy, as provided in sections 120.300 to 120.650, stating his full name, residence, office for which he proposes as a candidate, the party upon whose ticket he is to be a candidate, and that if nominated and elected to the office he will qualify. . . ."

In Attorney General's Opinion No. 153 issued April 1, 1970, we held that since the American Party received more than two percent of the vote cast in the November 5, 1968, General Election for its statewide candidate, it became an established political party within the state as defined by Section 120.160, RSMo 1969.

Section 120.160(5), RSMo 1969, states in part as follows:

". . . If, at the election immediately following the election at which the names of the candidates of the party first appear on the ballot, any candidate or candidates of the new political party shall receive more than two percent of all votes cast at such election in the state, or two percent of the total vote cast in any district or political subdivision of the state, as the case may be, then the new political party shall become an established political party within the state or within the dis-

Honorable James C. Kirkpatrick

trict or political subdivision, as the case may be, under the provisions of the laws regulating the nominations of established political parties at state primary elections as provided by law, except that if in any ensuing election the party fails to have a candidate or fails to receive two percent of the total votes cast at such election in the state, district or political subdivision, as the case may be, the party shall no longer be deemed an established party."

Since the American Party candidate for statewide office failed to receive "two percent of the total votes cast at such election in the state," the American Party is no longer an established party within the entire state and no declaration of candidacy for Governor or other statewide office for such non existent party should be accepted by the Secretary of State.

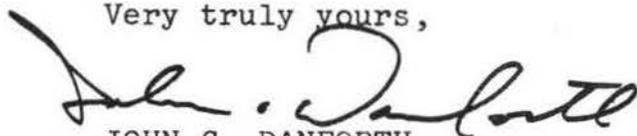
CONCLUSION

It is therefore the opinion of this office that the American Party is no longer an established political party for the purpose of nominating candidates for Governor or other statewide offices in the State of Missouri because the only candidate for state office received less than two percent of the vote at the 1970 General Election.

Since the American Party is not now an established party for the entire state the Secretary of State should not accept declarations of candidacy for Governor or other statewide offices for such non existent party.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Harvey M. Tettlebaum.

Very truly yours,



JOHN C. DANFORTH
Attorney General