

ELECTIONS:

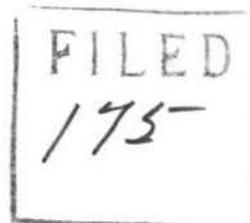
POLITICAL PARTIES:

The American Party is not a "political party" on a statewide basis in Missouri and therefore cannot nominate presidential electors at a convention of such alleged party. It is the further opinion of this office that under Section 120.160, RSMo, a new political party can be formed and presidential electors nominated by filing the required petitions. Such petitions must be filed in the office of the Secretary of State no later than July 31 of even-numbered years.

OPINION NO. 175

June 21, 1972

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



Dear Mr. Kirkpatrick:

This opinion is rendered in response to your request asking whether the American Party is authorized to nominate presidential electors in the state of Missouri at a state convention of such party under the provisions of Section 120.840, RSMo, or whether voters of this state can nominate presidential electors in this state pledged to vote for the presidential and vice presidential candidate of the American Party only by forming a new party and nominating presidential electors of such party by petitions under Section 120.160, RSMo.

Your question is answered by Opinion No. 588, rendered December 18, 1970 to James C. Kirkpatrick, a copy of which we enclose, which held that the American Party is no longer an "established political party" for the purpose of nominating candidates for any statewide office in the state of Missouri because the only statewide candidate of such party in the 1970 general election received less than two percent of the vote cast at such election. This holding was based upon the provisions of Section 120.160(5), quoted in such opinion. Such section provides that after a new political party is established, if in any ensuing election such party fails to have a candidate or fails to receive two percent of the total vote cast at such election in the state, the party shall no longer be an "established party" on a statewide basis. In view of the fact that the American Party received less than two percent of the

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vote for any statewide candidate at the November 1970 election, it is therefore no longer an established political party insofar as statewide elections are concerned.

Section 120.140, RSMo Supp. 1971, provides in part as follows:

"The term 'political party' as used in sections 120.140 to 120.240 shall mean any 'established political party' as hereinafter defined and shall also mean any political group which shall hereafter undertake to form an established political party provided for in sections 120.140 to 120.240; . . ."

While Section 120.140 restricts the definition of a "political party" to its use in Sections 120.140 to 120.240, it is our view that the term "political party" as used in the Election Laws generally in this state refers to an "established political party" as such term is used in Section 120.160, which provides for the establishment of new political parties.

The American Party was originally formed under provisions of Section 120.160, RSMo, by petitions and became an established political party in this state, as provided in such section, when it received more than two percent of the vote in the 1968 general election. It is our view that this is the only method for establishing a new political party in this state and that a new political party is in all respects subject to the provisions of Section 120.160 to determine whether or not it ceases to be a political party on a statewide basis.

Section 120.840, RSMo, provides that the state committee of any "political party" may call a convention of delegates for the purpose of nominating presidential electors. However, it is our view that the term "political party" used in Section 120.840 means an "established political party" as such term is used in Section 120.160, the statute under which a new political party is authorized to be formed and under which the American Party was formed in this state.

It is therefore our view that since the American Party no longer exists on a statewide basis in Missouri there is no authority for such political party to hold a convention at which presidential electors are nominated. However, a new political party may be formed under Section 120.160 and electors nominated by submitting proper petitions. Such petitions must be filed not later than July 31 of even-numbered years.

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CONCLUSION

It is the opinion of this office that the American Party is not a "political party" on a statewide basis in Missouri and therefore cannot nominate presidential electors at a convention of such alleged party. It is the further opinion of this office that under Section 120.160, RSMo, a new political party can be formed and presidential electors nominated by filing the required petitions. Such petitions must be filed in the office of the Secretary of State no later than July 31 of even-numbered years.

Very truly yours,

A handwritten signature in black ink, appearing to read "John C. Danforth". The signature is fluid and cursive, with a large initial "J" and a long, sweeping tail.

JOHN C. DANFORTH
Attorney General

Enclosure: Op. No. 588
12-18-70, Kirkpatrick