

ELECTIONS: Declaration of candidates of "Christian
POLITICAL PARTY: Nationalist" Party insufficient because no
evidence that such a party exists.

April 27, 1950



Honorable Walter H. Toberman
Secretary of State
Jefferson City, Missouri

Dear Sir:

This is in answer to your letter of recent date requesting an official opinion of this department and reading as follows:

"Herein enclosed you will find sworn statement and declarations which were presented yesterday, April 20, 1950, to this Department by a group of persons representing themselves to be a committee of an organization to which they referred as the Christian Nationalist Party. This group wishes recognition as a political party under the name "Christian Nationalist" and we would appreciate your furnishing this Department with an official opinion as to the sufficiency of these qualifying papers to justify this Department placing this name on the ballot and accepting the declarations of the candidates for the coming Primary Election."

With your letter you enclosed the regular declaration of candidacy for nomination to public office prescribed by Section 11550, Laws of Missouri 1944 Extra Session, page 24, and receipts for filing fee purportedly signed by Opal Tanner as treasurer of the State Central Committee of the Christian Nationalist Party.

In the case of State ex rel. v. Kortjohn, 246 Mo. 34, the Supreme Court said with regard to the establishment of a new political party the following, l.c. 42:

"There is nothing to be found in the statute laws of Missouri preventing the organization of a new political party at any time the electors of the State

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see fit to so organize and declare principles. It may be true that we have made no express provision for an emergency of this kind, but it is equally true that from a legislative standpoint we have not placed a ban upon the organization of a new party, and personally I do not think we could place such a ban without treading dangerously near the constitutional inhibitions. We may regulate political parties after their organization in the exercise of the police power of the State, but that and no other power can suppress the alignment of our citizens with either old or new parties.

"For such new organization there must be a starting point, and because the law makes no express provision for the starting point, it does not follow that the citizens believing in given principles cannot meet and organize in the old and accustomed ways, but when organized they must follow the regulations as prescribed by law."

In the case of State ex rel. v. Seibel, 295 Mo. 606, the Supreme Court had before it the question of whether or not nominations certified by what purported to be the "Clean Elections" Party were valid. The Supreme Court said, l.c. 626:

"Under the terms of the statute referred to, after the filing of objections in conformity with the statute, the certificate did not import a presumption of verity and was not prima-facie evidence of the truth of its recitals. The burden was on the relators to prove that the Clean Elections Party was a political party; that the committee was duly constituted and that it made the nominations, and other facts set forth in the certificate. This was not done.

"It appears from the briefs of counsel and the oral arguments at the hearing of

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this cause that the candidates named by the committee were selected, in part at least, from the nominees of the two dominant political parties nominated at the August primary election in St. Louis County. There is no suggestion that the Clean Elections Party had adopted a platform of principles or proclaimed a creed in opposition to the tenets of any of the recognized political parties that had nominated their respective candidates." (Emphasis ours)

* * * * *

"Note 90 in 15 Cyc. 326, reads: 'A political party authorized to certify nominations is a body of electors having distinctive aims and purposes, and united in opposition to other bodies of electors in the community within which it exists. (In re McKinley Citizens Party, 6 Pa. Dist. 109.) An organization may have polled the prescribed number of votes cast at a preceding election to constitute the aggregation of voters a political party, but if it has adopted no platform and proclaimed no political creed in opposition to the well defined principles of any established political party, inviting the support of the community at large, and not a mere section or fragment of it, it cannot be deemed a political party, authorized to nominate candidates in the usual way, within the legislative intent. (In re Jefferies, 9 Pa. Dist. 663, 24 Pa. Co. Ct. 529.)'

"Note 92, page 327, reads: 'The nomination of a county ticket and presidential electors by a so-called citizens' silver party convention is a nullity, where the contention was participated in by twenty-one electors of the county, who appeared in response to a personal invitation and after acting as a county convention then proceeded to hold a state convention, it appearing that no call for a state convention was ever given, or dele-

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gates elected to either convention, or notice published throughout the state or county of the gathering of the new party. (State v. Johnson, 18 Mont. 548, 46 Pac. 533, 34 R.L.A. 313, approving State v. Rotwitt, 18 Mont. 502, 46 Pac. 370.)"

* * * * *

"It is obvious that the Clean Elections Party is not a political party as averred in the petition and the nominations under consideration were independent and non-political."

It appears, therefore, that before a political party can exist that a declaration of principles must be made so that such party will be in recognized opposition to other political parties.

Enclosed with your letter is the following communication:

"CHRISTIAN NATIONALIST PARTY
OF MISSOURI

April 19, 1950

"Secretary of State
Jefferson City, Missouri

Sir:

At the Missouri State Convention of the Christian Nationalist Party of Missouri, held April 19, 1950, in St. Louis, Missouri, the following persons were elected to serve as the State Committee of the Christian Nationalist Party until such time as a state committee is elected under the provision of the election laws of the state.

Attached hereto are Declarations of nominations for a portion of the candidates approved by the Convention.

Our Convention was composed of 100 dele-

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gates representing all sections of the State of Missouri.

State Committee: Chairman - Don Lohbeck, St. Louis; Vice-Chairman - John Hamilton, St. Louis; Secretary-Treasurer - Opal Tanner, St. Louis; William Wolfe, Mineral Point; Otto Ankersheil, Marston; Edward Abshier, St. Louis; Joel Sugg, St. Louis; George Marquardt, Ferguson; Charles Hasty, California; Jesse Cruse, Schell City; Al Hoorman, Florissant; Dewey Taft, Jefferson City.

We respectfully petition that we be granted recognition as a bona fide political party and granted a place on the ballot in the August, 1950, Primary Election, to be held in the State of Missouri.

s/ Don Lohbeck

s/ Albert Hoorman

s/ Joel Danis Sugg

s/ John W. Hamilton

s/ D. M. Taft

Subscribed and sworn to before me this 19th day of April, 1950.

s/ Virginia Morris
Notary Public.

My commission expires April 7, 1954."

It is to be noted that the persons signing this communication do not state anything further than that a Missouri State Convention of the Christian Nationalist Party of Missouri was held in St. Louis, composed of one hundred delegates representing all sections of the State of Missouri, and that certain persons were elected to serve as the State Committee of such party.

Such communication offers no proof that a political party known as the Christian Nationalist Party actually exists, holding certain definite principles or a creed in opposition to the principles or creed of other political parties. Until evidence is furnished you that there actually has been organized in this state a political party known as the "Christian Nationalist" Party, no effect should be given to the filing

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of these declarations in your office, since Section 11550, Laws of Missouri 1944 Extra Session, page 24, provides for the filing of the declaration as a candidate only as a candidate of some political party or as a candidate on an independent or nonpartisan ticket, and these declarations purport to be as candidates of a political party.

CONCLUSION

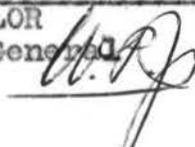
It is the opinion of this department that no action should be taken by you with regard to certifying to the county clerks and election boards the names of those persons filing declarations of candidacy in your office as candidates on the Christian Nationalist ticket, unless proof is given to you that there is in Missouri a political party known as the "Christian Nationalist" Party, which has principles or a creed in opposition to the principles or creed of other political parties.

Respectfully submitted,

C. B. BURNS, JR.
Assistant Attorney General

Approved:

J. E. TAYLOR
Attorney General



CBB:lrt