

ELECTIONS: The name of Earl White should not appear on
CANDIDATES: the ballot in the forthcoming General Elec-
POLITICAL PARTIES: tion as a candidate for the office of Repre-
sentative to the General Assembly from the
Seventeenth District.

September 7, 1954



Board of Election Commissioners
For the City of St. Louis
208 South Twelfth Boulevard
St. Louis 2, Missouri

Attention: Honorable Daniel J. Nack, Acting Chairman.

Gentlemen:

By letter dated August 25, 1954, you requested an opinion of this office in the following manner:

"This Board has been in communication with a group of individuals who first identified themselves as the 'FEPC Committee of Missouri', and at a later date reidentified themselves as the 'Peoples Peace Party of Missouri.'

"May I respectfully call your attention to Chapter 120, Nomination and Political Committees Revised Statutes of Missouri, 1953-54, and also to Sections 120.190 and 120.160, and any other sections that may apply.

"This group above described has requested, in the first instance, the name of Earl White be placed on the ballot as a candidate for State Representative from the Seventeenth District by the 'FEPC Party of Missouri', and in the second instance they have requested that the name of Earl White be placed on the ballot as a candidate for the Office of State Representative 17th District for the 'Peoples Peace Party of Missouri'.

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"It seems significant from the material submitted to this Board that Mr. Earl White has not complied with the law concerning his candidacy and the necessary procedure relative thereto.

"I am enclosing all the papers and statements that we have received in this matter to date.

"Please advise this Board at your earliest convenience as to our legal position in the matter."

Neither the "FEPC Party of Missouri" nor the "Peoples Peace Party of Missouri" are established political parties within the meaning of Section 120.140, RSMo Cumulative Supplement, 1953. Said section reads:

"1. The term 'political party' as used in sections 120.140 to 120.230 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 120.230; provided, that no political organization or group shall be qualified as a political party, or given a place on a ballot, which organization or group advocates the overthrow by violence of the established constitutional form of government of the United States or the state of Missouri.

"2. An 'established political party' is hereby declared to be a political party which, as to the state, at the last general election for state and county officers, polled for its candidate for governor more than two per cent of the entire vote cast for governor in the state; and, as to any district or political subdivision of the state, a political party which polled more than two per cent of the entire vote cast in such district or political subdivision at such election.

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"3. A political party, which in any congressional district, senatorial district, county, township, school district, municipality or other district or political subdivision of the state, polled more than two per cent of the entire vote cast within such congressional district, senatorial district, county, township, school district, municipality or other district or political subdivision of the state, where such district or political subdivision, as the case may be, has voted as a unit for the election of officers to serve the respective territorial area of such district or political subdivision, is hereby declared to be an 'established political party' within the meaning of sections 120.140 to 120.230 as to such district or political subdivision."

Nor are said groups new political parties within the meaning of Section 120.160, RSMo Cumulative Supplement, 1953, for failure to comply with the provisions of said section, which reads:

"1. Any group of persons hereafter desiring to form a new political party throughout the state, or in any political subdivision greater than a county and less than the state, shall file with the secretary of state a petition, as hereinafter provided, and any group of persons hereafter desiring to form a new political party, in any county shall file such petition with the county clerk; and any group of persons hereafter desiring to form a new political party in any political subdivision less than a county shall file such petition with the clerk or board of election commissioners of such political subdivision, as the case may be. Any such petition for the formation of a new political party throughout the state, or in any district or political subdivision as the case may be, shall declare as concisely as may be the intention of the signers thereof to form a new political party in the state, district or political subdivision; shall state in not more than five words the name of the

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proposed political party; shall contain a complete list of candidates of all offices to be filled in the state or district or political subdivision, as the case may be, at the next ensuing election then to be held; and, if the new political party shall be formed for the entire state, shall be signed by a number of qualified voters in each of the several congressional districts which shall equal one percent of the total number of votes cast in such district for governor at the next preceding gubernatorial election, or by a number of qualified voters in each of one half of the several congressional districts which shall equal two per cent of the total number of votes cast in such district for governor at the next preceding gubernatorial election. If the new political party shall be formed for any district or political subdivision less than the entire state, the petition shall be signed by qualified voters equaling in number not less than two per cent of the number of voters who voted at the next preceding general election in the district or political subdivision in which such district or political subdivision, voted as a unit for the election of officers to serve its respective territorial area.

"2. The filing of such petition shall constitute the political group a new political party, for the purpose only of placing upon the ballot at the next ensuing election the list of party candidates for offices to be voted for throughout the state, or for offices to be voted for in the district or political subdivision less than the state, as the case may be, under the name of, and as candidates of such new political party. If, at the ensuing election, any candidate or candidates of the new political party shall receive more than two per cent of all votes cast at such election in the state, or two per cent of the total vote cast in any district or political subdivision of the state, as the case may be, then such new political party shall become an established political party

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within the state or within the district 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 now, or hereafter may be in force.

"3. Any such petition shall be filed at the same time and shall be subject to the same requirements and provisions that are hereinafter contained in regard to the nomination of any other candidate or candidates by petition."

Since the "FEPC Party of Missouri" and the "Peoples Peace Party of Missouri" have not complied with the above statutory requirements they have no place on the ballot, and no person is entitled to appear on the ballot at the forthcoming General Election as a nominee of such "Parties". Apparently, there has been no attempt by White to file as an independent candidate under the provisions of Sections 120.180 and 120.190, RSMo Cumulative Supplement, 1953. Those sections read:

"Nominations of independent candidates (not candidates of any political party) for any office to be filled by the voters of the state at large may also be made by nomination petitions signed in the aggregate for each candidate by a number of qualified voters in each of the several congressional districts which shall equal one per cent of the total number of votes cast in such district for governor at the next preceding gubernatorial election, or by a number of qualified voters in each of one half of the several congressional districts which shall equal two per cent of the total number of votes cast in such district for governor at the next preceding gubernatorial election. Nominations for independent candidates for public office within any district or political subdivision less than the state, may be made by nomination petitions signed in the aggregate, for each candidate by qualified voters of the district or political subdivision,

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equaling not less than two per cent of the number of persons who voted at the next preceding general election in such district or political subdivision in which the district or political subdivision voted as a unit for the election of officers to serve its respective territorial area. Each voter signing a nominating petition shall add to his signature his place of residence, and each voter may subscribe to one nomination for any office to be filled, and no more."

"1. All petitions for nomination under sections 120,140 to 120,230 for candidate for public office in this state shall, in addition to other requirements provided by law, be as follows: The petition shall consist of sheets of uniform size and each sheet shall contain, above the place for signature, an appropriate heading, giving the information as to the name of the candidate or candidates in whose behalf the petition is signed; the office; the party; place of residence; and the heading of each sheet shall be the same. Such petition shall be signed by the qualified voters in their own proper persons only, and opposite the signature of each signer his residence address shall be written by the voter in person. If the signer is a resident of a city having a population of over ten thousand population by the then last preceding federal census, the street and number of such residence shall also be given. No signature shall be valid or be counted in considering the validity or sufficiency of such petition unless the requirements of this section are complied with. At the bottom of each sheet of the petition shall be added a statement, signed by a qualified voter of the political division for which the candidate or candidates shall be nominated, stating his residence address and certifying that the signatures on that sheet of said petition were signed in his presence and are genuine, and that to the best of his knowledge the persons so signing were at the time of signing the petition qualified voters of the political division for which the candidate or candidates shall be nominated, and that their respective

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residences are correctly stated thereon. Such statement shall be sworn to before some officer of the county in which the person making the statement resides, authorized to administer oaths therein. Such sheets before being presented to the secretary of state or filed with the proper officer of the district or political subdivision, as the case may be, shall be neatly fastened together in book form, by placing the sheets in a pile, fastening them together at one edge in a secure and suitable manner, and the sheets then shall be numbered consecutively. The sheets shall not be fastened together by pasting them together end to end, so as to form a continuous strip or roll. The petition when presented for filing, shall not be withdrawn, altered or added to, and no signature shall be revoked except by revocation in writing presented and filed with the officer or officers with whom the petition is required to be filed before the presentment for filing of the petition. Whoever in making the sworn statement required by this section shall knowingly and willfully swear falsely shall be deemed guilty of perjury, and upon conviction, shall be punished accordingly. Whoever shall forge any name of a signer upon a petition, shall be deemed guilty of forgery in the third degree and upon conviction thereof, be punished accordingly.

"2. The words 'political division for which the candidate is nominated' shall mean the largest political division in which all qualified voters may vote upon a candidate or candidates, as the state in case of state officers; the city in case of city officers, etc."

White attempted, on August 27, 1954, to file as a non-partisan candidate under Sections 120.330 through 120.650, RSMo 1949. The closing date for filing as a non-partisan candidate was April 27, 1954. Therefore, this belated attempt to file is of no effect.

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CONCLUSION

In the premises, therefore, it is the opinion of this office that the name of Earl White should not appear on the ballot in the forthcoming General Election as a candidate for the office of Representative to the General Assembly from the Seventeenth District.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Paul McGhee.

Very truly yours,

JOHN M. DALTON
Attorney General

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