



STATE OF KANSAS

Office of the Attorney General

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CURT T. SCHNEIDER
Attorney General

June 20, 1975

Opinion No. 75- 251

The Honorable Elwill Shanahan
Secretary of State
2nd Floor - State Capitol Building
Topeka, Kansas 66612

Dear Secretary Shanahan:

In November, 1972, you forwarded to this office a copy of a document entitled "Extract of Minutes," which recited that at its convention held on June 3, 1972, at Topeka, Kansas, members of the Conservative Party there in attendance voted unanimously to change the name of the party to the "American Party," and that such new name be used henceforth in the nomination of candidates and for ballot designation. You inquired whether your office might accept this as authorization to change the name of the party on future ballots. Attorney General Vern Miller found no statutory regulation or prohibition against a change of name by a political party, and stated thus:

"Insofar as regards party affairs to which the Legislature has not chosen to extend its control, each party is free, through its convention as the repository of party power and government, to regulate its own affairs, within constitutional restrictions. The adoption of a party name is such a matter. In our view, in the absence of prohibitory or regulatory legislation, a political party is free, through its duly constituted convention, to adopt a new and different name from that under which it was organized initially. Accordingly, you may accept and file the document, and approve the use of the newly adopted name in lieu of the previous name in all future party nominations and ballot designations.

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No information available to our office at that time suggested that the change of name was other than precisely that. Nothing suggested that the change of name was in any way associated with the organization of a new political party, or other than a redesignation of an existing political organization.

You have now forwarded to us a document styled "Excerpts from Minutes of Special Convention [at] Wamego, Kans., June 14, 1975," which recites that two motions were unanimously adopted by a special convention called by Raymond C. Hall, state chairman of the American Party of Kansas, on May 26, 1975. The first motion provides that

"we, the American Party of Kansas, affiliated with the American Party of the United States, disaffiliate from the American Party of the United States."

This motion was adopted without opposition, and thereupon, the second motion was made and passed, providing that "the name, American Party, shall be changed back to Conservative Party in the same manner that the name was changed previously to American Party."

This latest change of party name appears to be but another step in the intraparty dispute which was before the Shawnee County District Court in *American Party of Kansas v. American Party of Kansas, Inc.*, case no. 125,118, which was dismissed by the court on June 11, 1975. The court concluded that the National American Party Association was the proper arbiter of the dispute, and dismissed the action accordingly. Similarly, this office has no authority to resolve the dispute between any factions of the party. The sole question presented is the legal effect under state law of the purported change of name described above.

This office regarded the 1972 change of name from Conservative Party to American Party as merely a change of name, and no more. As indicated, information available to us at that time did not suggest the change of name to be a step incident to organization of a new or different political party, but merely a redesignation of the name by which an existing party would be known. Clearly, however, the steps taken by the 1974 special convention of the

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American Party of Kansas to reassume the designation of Conservative Party entails more than a formal change of name, for the convention which adopted that designation did so only after severing affiliation with the American Party of the United States. In our view, the severance of affiliation operates in legal effect to sever the legal identification of the erstwhile American Party of Kansas with its national party, and to constitute the state organization a separate, different and independent political party organization. The Conservative Party of Kansas is not merely old wine in a new bottle, so to speak, but new wine as well. Having severed its affiliation with the national organization of the American Party, thereby becoming a separate and independent political party organization, and having changed its name, incident to the termination of affiliation, to that of the Conservative Party, it is now a separate, independent, and hence new political party, subject to K.S.A. 25-302a:

"Any new political party organized in this state and any national political party seeking to organize in this state after the effective date of this act shall be allowed to make party nominations by mass convention or caucus only after filing with the secretary of state at least sixty (60) days before the deadline for filing nomination papers and declarations of candidates petitions signed by qualified electors equal in number to at least three percent (3%) of the total vote cast for all candidates for the office of governor in the last preceding general election. Such petitions shall declare the intention of said electors of organizing a political party, the name of which shall be stated in the declaration, and of participating in the next succeeding election."

You ask concerning your responsibilities, if any, which your office has regarding the proposed change other than filing of record the excerpts of minutes dated June 14, 1975. We suggest only that you file the minute excerpts, and that you accept no nominations from the new party, known as the

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Conservative Party, unless and until it satisfies the requirements of K.S.A. 25-302a.

Yours very truly,



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