



STATE OF KANSAS

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March 18, 1980

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ATTORNEY GENERAL OPINION NO. 80- 72

The Honorable Jack H. Brier
Secretary of State
Second Floor, State Capitol
Topeka, Kansas 66612

Re: Elections--Political Parties--Effect of
Changing Name

Synopsis: If the name of the American Party of Kansas were changed to the Constitution Party, such change would result in the creation of a new political party. In order for the political party thus formed to nominate candidates for public office, it would necessarily have to comply with the statutory requirements pertaining to the organization of a political party in this state. Statutes cited or construed herein: K.S.A. 25-117, 25-302a and 25-306 and K.S.A. 1979 Supp. 25-301.

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Dear Secretary Brier:

You have requested our review of an opinion issued by Attorney General Miller in 1972 which relates to a political party changing its name. Your request has been prompted by inquiries submitted to your office by a member of the American Party of Kansas.

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In 1972, the Conservative Party of Kansas sought to change its name to the "American Party," and the opinion of Attorney General Miller to which you have referred concludes that, absent "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." The name change was made, and in 1975 the American Party notified the Secretary of State of its intention to withdraw from the national American Party organization and reassume the name "Conservative Party."

Responding to a request of Secretary of State Elwill Shanahan, Attorney General Curt Schneider issued an opinion on June 20, 1975 (No. 75-251, a copy of which is enclosed) which explained that if a name change is, in effect, the creation of a new, separate and independent political party, the requirements of K.S.A. 25-302a must be met before the new party could make nominations by mass convention or caucus. We see no reason to disagree with this conclusion.

You have indicated that the American Party now wants to change its name to the "Constitution Party." It is our understanding that the "American Party" to which you refer is the state party organization of the nationally organized American Party of the United States. That is, the American Party in Kansas is affiliated with and serves as the state organization of the national political party denominated as the "American Party." Further, we presume that your inquiry as to the proposed name change is posed within the context of nominations of candidates who are affiliated with a political party, where such nominations are made either pursuant to primary elections or by mass convention or caucus. Absent any such nominations, a political party, being a voluntary association, is unfettered in its efforts to change its name. However, where a political party desires to nominate candidates for public offices, the permissibility of a change in its name, in light of the prior opinions of this office discussed above, becomes a question of fact, i.e., whether a new political party has been formed thereby.

In our judgment, if the state organization of the American Party changes its name to the "Constitution Party," or to any other name, for that matter, such change results in the formation of a new political party in this state, such that the new party must comply with the requirements of K.S.A. 25-117 and 25-302a in order to make party nominations, as provided in K.S.A. 1979 Supp. 25-301. In our opinion, the change of name from "American Party" to "Constitution Party" would operate to sever the affiliation between the American Party's national organization and the state political party organization in Kansas now known

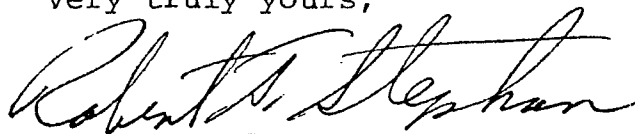
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as the American Party. As noted in Attorney General Opinion No. 75-251, "the severance of affiliation operates in legal effect to sever the legal identification of the erstwhile American Party of Kansas with its national party, and to constitute the state organization a separate, different and independent political party organization."

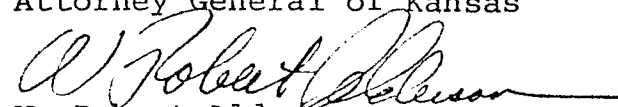
Even though the conclusion reached in that prior opinion was predicated on the fact that the American Party of Kansas had adopted a formal resolution disaffiliating from the American Party of the United States, followed by a resolution changing its name, we do not believe such formal action of disaffiliation is a prerequisite to achieving the same result. In our judgment, the mere change of name in this instance would operate in and of itself to sever the affiliation just as surely as if a formal resolution to that effect were adopted. By changing its name to the Constitution Party, it can no longer be considered the state party organization of the American Party of the United States. There would no longer be an identity between these organizations. Despite the potential for mutual endorsement of the respective candidates, they will no longer bear identical "party labels." The candidates of one could not be the candidates of the other, since K.S.A. 25-306 prohibits a person from accepting more than one nomination for the same office.

The foregoing conclusion obviates the necessity of considering your inquiry within the context of our determination whether the Constitution Party has a national party organization. Such fact has no bearing on the status of the Constitution Party in Kansas as a new political party. The disaffiliation of the American Party of Kansas from the American Party of the United States, through changing the name of the former to the "Constitution Party," will effect a new state political party organization which must comply with the statutory requirements for the formation of a new political party in this state. The status of the national organization of the Constitution Party does not alter the application of these requirements. For regardless whether the Constitution Party is viewed as a "new political party organization in this state" or as a state organization of a "national political party seeking to organize in this state," the requirements of K.S.A. 25-302a apply with equal force.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



W. Robert Alderson
First Deputy Attorney General