



OFFICE OF THE SECRETARY OF STATE

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SECRETARY OF STATE

STATE CAPITOL
P.O. Box 12697
AUSTIN, TEXAS 78711

March 29, 1982

Mr. Steve Marshall
Chairperson
Socialist Workers Party
337 West Josephine Street
San Antonio, Texas 78212

Election Law Opinion
No. DAD-15
Re: Information that may be
placed on petition forms
for independent
candidates

Dear Mr. Marshall:

Reference is made to your letter to my office of March 15, wherein you pose two questions concerning petition forms for independent candidates.

This official election law opinion is rendered by me as chief election officer of the state in accordance with Tex. Elec. Code Ann. art. 1.03, subd. 1 (Vernon Supp. 1982).

Your first question asks if the petition otherwise meets the requirements of Tex. Elec. Code Ann. art. 13.50 (Vernon Supp. 1982) may it also include on its face the following:

- a. Put the working class on the Texas ballot.
- b. No U.S. intervention in El Salvador.
- c. Repeal the "right-to-work" laws.
- d. Support the farmworkers.
- e. Money for jobs, not for war.
- f. Stop the deportations.
- g. Stop Reagan's budget cuts.
- h. For a labor party.

The information that must be supplied on a petition for an independent candidate is set forth at Tex. Elec. Code Ann. art. 13.50, subd. 5 & art. 13.51 (Vernon Supp. 1982). The only additional information that may appear on an independent candidate's petition is that deemed necessary by the Secretary of State acting in his capacity as the state's

Mr. Steve Marshall

Page 2

chief election officer pursuant to Tex. Elec. Code Ann. art. 1.03, subd. 1 (Vernon Supp. 1982).

No provision is made in the foregoing portions of the Election Code for placing party platform slogans, such as you mentioned in your letter, on a petition.

We are of the opinion that the doctrine of statutory construction known as expressio unius est exclusio alterius is particularly apposite to your query. That doctrine is basically explained thusly: "As the maxim is applied to statutory interpretation, where a form of conduct, the manner of its performance and operation, and the persons and things to which it refers are designated, there is an inference that all omissions should be understood as exclusions." 2A C. Sands, Statutes and Statutory Construction § 47.23, at 123 (4th ed. 1973).

While your party is certainly free to place party platform slogans in advertisements, campaign literature, and elsewhere, such material is not authorized to appear on the petition of an independent candidate. Accordingly, your first question is answered in the negative.

Your second question asks if the petition of an independent candidate may be headed with the words "Socialist Workers Party." An independent candidate is, by rational implication, not a candidate of a political party. When the Election Code is viewed as a whole, the terms "independent candidate" and "political party candidate" are mutually exclusive. Indeed, the very caption of Article 13.50, supra, reads "Nonpartisan or independent candidate." (Emphasis added.) See also Tex. Elec. Code Ann. arts. 6.05, subd. 3 (independents appear after party columns on ballot); 6.05b (independents again appear after party columns on ballot); 13.45, subd. 2(b) (minor party candidate petition headed "I know the contents of this petition, requesting that the names of the nominees of the _____ Party be printed on the ballot. . . ."); 13.50, subd. 2(a) (declaration of independent candidacy must be filed at same time as deadline for primary filing by party candidates); and 13.51 (heading on independent candidate's petition leaves a blank only for individual candidate, not for political party) (Vernon Supp. 1982).

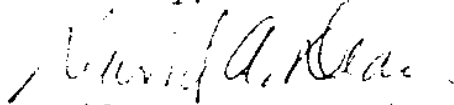
For the reasons given in our answer to your first question, and also for the manifest instances of legislative intent set forth in the preceding paragraph that an independent candidate may not simultaneously be the nominee of a political party, you are advised that your second question is also answered in the negative.

Mr. Steve Marshall
Page 3

SUMMARY

Pursuant to Article 13.50, Texas Election Code, neither party slogan platforms nor the name of a political party may appear on the face of a petition to place an independent candidate's name on the ballot.

Sincerely,



David A. Dean
Secretary of State

Willis Whatley
Counsel to the Secretary of State

Prepared by Austin C. Bray, Jr.
Senior Staff Attorney

APPROVED:
OPINION COMMITTEE

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