



OFFICE OF THE SECRETARY OF STATE

DAVID A. DEAN
SECRETARY OF STATE

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

May 19, 1982

The Honorable Patsy Ramzy
County Clerk
Jack County Courthouse
Jacksboro, Texas 76056

Election Law Opinion DAD-26
Re: Vacancy appointment and
legality of a declared
write-in candidacy, for
the office of constable
(unexpired term).

Dear Ms. Ramzy:

Reference is made to your inquiry of April 22, 1982.

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).

You ask how a vacant constable's office may be filled, and whether a qualified individual may legally run as a declared write-in candidate, for the office of constable (unexpired term), even though this office is not printed on the November 1982 general election ballot.

The Texas Constitution requires that "In each...precinct there shall be elected one Justice of the Peace and one Constable, each of whom shall hold his office for four years and until his successor shall be elected and qualified...." Tex. Const. art. V, § 18.

A vacancy in the office of constable may be filled by a majority vote of the members of the Commissioners Court, "and the person chosen shall hold office until the next general election." Tex. Rev. Civ. Stat. Ann. art. 2355 (Vernon 1971).

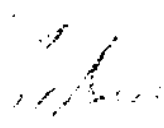
When a vacancy occurs before the 45th day prior to the general election, the title of the office must be printed on the general election ballot, regardless of whether any

nominations for the unexpired term have been made. Tex. Elec. Code. art. 13.12a(b)(3)&(f) (Vernon Supp. 1982). Additionally, each voter may write in the candidate's name of his choice. Id. Thus, you are advised that the commissioners court is authorized to fill the vacant constable's office until the next general election, should it choose to do so. Furthermore, a qualified individual may legally run as a declared write-in candidate for the office of constable (unexpired term) in the November 1982 general election.

SUMMARY

Article 2355, Texas Civil Statutes, authorizes the commissioners court, in its discretion, to fill a vacant constable's office. Article 13.12a, Texas Election Code, outlines the procedure for filling an unexpired term and permits a qualified individual to legally run as a declared write-in candidate, for a constable's office (unexpired term) in the November 1982 general election.

Sincerely,


David A. Dean
Secretary of State

Willis Whatley
Counsel to the Secretary of State

Charles C. Bailey
Special Assistant for Elections

APPROVED:
OPINION COMMITTEE

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