

STATE OF TENNESSEE

OFFICE OF THE
ATTORNEY GENERAL
425 FIFTH AVENUE NORTH
NASHVILLE, TENNESSEE 37243

October 19, 2000

Opinion No. 00-164

Applicability of the Little Hatch Act to the use of public parking facilities for a political event

QUESTION

Was the Little Hatch Act violated when the organizer of a political event requested and was given parking spaces in a no-fee public parking lot at Paris Landing State Park, which were used by (1) a semi-truck and trailer apparently called the “Democratic Express,” and (2) the private vehicles of guests attending a political event at a private home across Kentucky Lake from the park, and where no campaign literature was distributed or was available in the parking lot area?

OPINION

No.

ANALYSIS

The materials provided to this Office with the Opinion request described an “incident” that occurred in a public parking lot at Paris Landing State Park, as follows. A political event was organized called “Rolling on the River,” which included a function at a private home across the Kentucky Lake from the park. The event included the use of a semi-truck and trailer apparently called the “Democratic Express.” This Opinion assumes that the words “Democratic Express” or other political statements were attached to the vehicle. The organizer of the event requested and was given access to parking spaces for the Democratic Express and for the private vehicles of participants in the event in the park’s public parking lot. After parking their vehicles, the guests got into private boats and traveled across Kentucky Lake to the private home. The materials state that the guests used none of the park’s facilities, except the parking lot and the marina walkways, and that the park does not customarily require an entrance fee or charge for the use of the parking lot and marina walkways. The materials also state that at no time were there any campaign or political materials distributed or posted on park property.

The Little Hatch Act¹ (the “Act”) applies to “Offenses by Public Officers and Employees.”² Thus, the analysis will focus on the legal effect of the actions of the public employees of the park who granted permission to use the parking lot to the Democratic Express and the event’s guests. The applicable section of the Act states:

(a) It is unlawful for any elected or appointed official of the state, or any employee of the state or any department, division or agency thereof, to display campaign literature, banners, placards, streamers, stickers, signs or other items of campaign or political advertising on behalf of any party, committee or agency or candidate for political office, on the premises of any building owned by the state, or to use any of the facilities of the state, including equipment and vehicles, for such purposes.

(b) It is unlawful to use public buildings or facilities for meetings or preparation of campaign activity in support of any particular candidate, party or measure unless reasonably equal opportunity is provided for presentation of all sides or views, or reasonably equal access to the buildings or facilities is provided all sides.³

The public employees of the park did not violate subsection (a) because the only actions they took were to grant the Democratic Express and the event’s guests access to a public parking lot on equal terms with all other members of the public. The public employees also did not violate subsection (b) because they were not participants in the political event and did not themselves use the park facilities in the proscribed manner. Further, those participants in the event who were public officers or employees did not violate the Act because all political viewpoints or sides to any political issue would have had an equal opportunity to use the public parking lot at the park on a no fee basis.

Therefore, it is the opinion of this Office that the Little Hatch Act was not violated by the incident described in the opinion request.

PAUL G. SUMMERS
Attorney General and Reporter

¹Tenn. Code Ann. §§ 2-19-201 to 2-19-208.

² See title caption to Part 2 of Title 2, Ch. 19, Tenn. Code Annot.

³Tenn. Code Ann. § 2-19-206.

MICHAEL E. MOORE
Solicitor General

BERNARD W. GREENE
Senior Counsel

Requested by:

Honorable L. Don Ridgeway
State Representative
22 Legislative Plaza
Nashville, TN 37243-0175