



FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 26, 1976

AO 1976-58

Mr. Jeff Peterson
Peterson for Congress
Post Office Box 5142
Westport, Connecticut 06880

Dear Mr. Peterson:

This letter is in response to yours of July 15, 1976, requesting an opinion from the Commission as to the number of elections, under the Federal Election Campaign Act of 1971, as amended ("the Act"), in which the Jeff Peterson for Congress Committee is involved. Mr. Peterson is a candidate in the State of Connecticut.

You stated each Congressional district holds a party nominating convention, and if a candidate receives 20 percent of the convention delegate vote but another candidate receives the nomination, the unsuccessful candidate may by petition file for a primary election. Then, after the primary election between the party-endorsed candidate and the petitioning candidate, the general election between the respective nominees of the parties is held.

Under the 1974 Amendments to the Act, "election" was defined in 2 U.S.C. §431(a)(2) to include "a convention . . . of a political party held to nominate a candidate." Therefore, any party convention not held for the purpose of nominating a candidate was considered to be merely part of the primary election process, and not a separate "election" under §431(a). However, the 1976 Amendments to the Act (effective May 11, 1976) modified the above definition, so that §431(a)(2) now includes as a separate election "a convention . . . of a political party which has authority to nominate a candidate." (Emphasis added.)

Section 9-382 of the Connecticut General Statutes states that "[t]he . . . district convention . . . shall . . . choose a candidate for nomination to each of the district offices (which includes under §9.372 the office of representative in Congress) . . . Candidates so chosen shall run in the primary of such party as party-endorsed candidates, except as provided in section 9-416." The cited section 9-416 states:

If at a . . . district convention no person other than a party-endorsed candidate has received at least twenty per cent of the votes of the delegates present . . . on the endorsement . . . of a candidate for a . . . district office, or if . . . no candidacy for nomination by a political party . . . to such office has been filed by or on behalf of a person other than a party-endorsed candidate . . . , no primary shall be held by such party for such office and the party-endorsed candidate for such office shall be deemed to have been lawfully chosen as the nominee of such party for such office.
(Emphasis added.)

It is thus possible under Connecticut law for the convention's "party-endorsed candidate" to be "deemed . . . chosen as the nominee" if no other candidate receives 20% of the convention delegate votes, or files a "candidacy" for nomination. In such a case the convention endorsement is tantamount to a nomination of the candidate, and would fall within the amended §431(a)(2) definition of "election," as a convention with "authority to nominate" a candidate. The fact that the party endorsement might result in a tentative nomination subject to challenge would not change this. If there is no challenge and thus no primary election, there would be two "elections": the convention and the general election. If a candidate winning 20% of the convention delegate votes petitioned for a primary election there would be three "elections": the convention, primary and general election.

Therefore, if a primary election occurs, the Jeff Peterson for Congress Committee would be involved in three elections (assuming Mr. Peterson won the primary and therefore ran in the general election), and would file reports with respect to each under 2 U.S.C. §434(a)(1)(A), and could receive contributions with respect to each election under §441a(a).

This response constitutes an advisory opinion concerning the application of a general rule of law stated in the Act to the specific factual situation set forth in your request. See 2 U.S.C. §437f.

Sincerely yours,

(signed)
Vernon W. Thomson
Chairman for the
Federal Election Commission