



FEDERAL ELECTION COMMISSION
Washington, DC 20463

October 20, 1978

AO 1978-79

Senator J. Bennett Johnston
421 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Johnston:

This responds to your letter of September 20, 1978, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to determine whether or not the general election in Louisiana constitutes a separate election for the purposes of applying fundraising limits for a Federal candidate who is unopposed in the general election.

Your letter states that the State of Louisiana election code provides that "in elections for the United States Senate, there would be a so-called open primary election in which candidates from both the Democratic and Republican parties would run. If a candidate in the open primary election received a majority of votes cast in that election, that candidate would be the winner of the election." You further state that the winning candidate's name would not appear on the November general election ballot, though the certificate of election for the winning candidate would not be granted by the Secretary of State until after the general election.

In the Louisiana open primary election held on September 16, 1978, you received a majority of the votes cast. Therefore, according to State election laws, your name will not appear on the November election ballot. However, you will not receive a certificate of election until after the November election. You ask us if, under these circumstances, you are entitled to a second fundraising period with regard to the Louisiana election on November 7.

Section 110.1(j)(1) of the Commission's regulations states that: "The limitations on contributions . . . shall apply separately with respect to each election . . ." Section 110.1(j)(2) considers "an election in which a candidate is unopposed" a separate election for purposes of contribution limits. Therefore, as you argue, the lack of opposition in the general election does not preclude the raising of additional contributions by your campaign committee in anticipation of the November 7 general election. These contributions made after the primary on September 16, 1978, but not later than November 7, 1978, would be considered as "made with respect to"

the 1978 general election and thus chargeable to those limits rather than the limits of an election in 1984.

Your committee is required to file a 10 day pre- and a 30 day-post general election report under 2 U.S.C. 434. See Advisory Opinion 1978-65, copy enclosed.

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

Sincerely yours,

(signed)

Joan D. Aikens
Chairman for the
Federal Election Commission

Enclosure