



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

CONCURRING OPINION IN ADVISORY OPINION 1986-36

of

COMMISSIONER THOMAS J. JOSEFIAK

The Commission concludes in Advisory Opinion 1986-36 that "nothing in the Act or Commission regulations would prohibit the proposed contributions of your excess campaign funds by the Committee to other Congressional candidates." I concur with that general result, but I disagree with the narrow implication of that statement and with the emphasis in the legal argument supporting it. Consistent with my dissenting opinion in Advisory Opinion 1986-8 and my concurring opinion in Advisory Opinion 1986-12, I oppose relying primarily upon 2 U.S.C. 439a, which applies to the use of "excess campaign funds," to approve of activity otherwise permitted by other provisions of the Act and regulations that speak more directly to the activity in question without reference to whether campaign funds are "excess." Although the requestor in this matter certainly noted that his campaign's funds "will not be needed in any great extent this year," a principal campaign committee, like any other "person," is entitled under 441a(a)(1)(A) to contribute up to \$1,000 to the campaign committee of a Federal candidate, 1/ regardless of whether the contributions come from funds characterized as "excess campaign funds." The Commission would presumably not question a contribution of \$1,000 or less by Congressman Bennett's campaign to another federal candidate even if the Congressman's campaign was carrying a debt.

1/ Also see 2 U.S.C. 432(e)(3)(B)