



FEDERAL ELECTION COMMISSION
WASHINGTON D C 20461

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Statement of Vice Chairman Scott E. Thomas
re Advisory Opinion Request 1992-39

I agree with the analysis set forth by the Office of General Counsel. The runoff in Georgia does not qualify as a "general election" under the plain language of our regulations at 11 C.F.R. § 100.2(b). Therefore, an additional coordinated expenditure allowance under 2 U.S.C. § 441a(d) is not warranted. Under the precedent of Advisory Opinion 1983-16, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5717, however, the runoff may be considered a continuation of the general election for purposes of § 441a(d). The legal conclusion seems cut and dried.

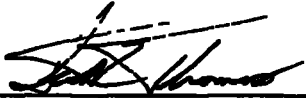
Some might question the rationale for not giving the parties an additional § 441a(d) allowance for the runoff. It may not be unwise, though, to limit party committees to 'only' \$535,606 (the combined state and national allowance) in coordinated expenditures in connection with the Senate election in Georgia. The proposition that party committees are purifying filters not capable of conveying the appearance of quid pro quo arrangements is 'softly' being eroded. On the question of letting monies unexpended in the general election be spent in the runoff, there is some merit in letting the parties read the election code, evaluate the risk of a runoff, and spend the allotted \$535,606 as they see fit.

The state and local party committees in Georgia will be able to engage without limit in activities exempt from the definition of "contribution" or "expenditure," such as the distribution through volunteers of campaign brochures, newsletters, posters, or yard signs supporting the party nominee in question. 2 U.S.C. § 431(8)(B)(x), (9)(B)(viii). The parties also have some flexibility to solicit, collect, and forward earmarked contributions from the formidable party contributor base without having to attribute the contributions to the parties' own limit on giving to the candidate in question. FEC v. National Republican Senatorial Committee, 2 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 9316 (D.C. Cir. 1992). The parties will have their day on November 24th.

Like Commissioner Potter, I would be willing to reexamine the regulations to determine if a wiser rule can be written. The Commission might at the same time wish to revisit the ruling that

allows persons who have won election outright at the open primary stage in Louisiana to nonetheless have an additional general election contribution allowance. Advisory Opinion 1984-54, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5794. Perhaps there should be limits on limits in that situation, as well.

19 November 1992
Date



Scott E. Thomas
Vice Chairman