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March 22, 1978

OPINION LETTER NO. 86

Honorable Sam Doutt
State Representative, District 40
Room 235B, State Capitol Building
Jefferson City, Missouri 65101

Dear Representative Doutt:

This letter is in response to your question asking:

"What is the allowable limit a candidate
may spend in the upcoming April 2 election?"

The campaign expenditure provisions of the Missouri Campaign Finance and Disclosure Act, Section 130.010 et seq., RSMo, 1975, were held to be unconstitutional by the Missouri Supreme Court in its decision dated February 1, 1978, in the case of Labor's Educational and Political Club - Independent, et al. v. Danforth, Missouri Elections Commission, et al., No. 59806. As a result of such finding the court held that the remaining portions of this act were not severable and accordingly invalidated the entire law. The invalidated law had repealed, among other sections, Section 129.100, RSMo, which had set limits for expenditures by candidates for public office to be filled by popular election.

Ordinarily, where an act expressly repealing another act and providing a substitute therefor is held to be invalid the repealing clause is also held invalid. State ex rel. Crouse v. Mills, 133 S.W. 22 (Mo. 1911). Thus the rule of law indicates that the provisions of Section 129.100 are in effect.

Honorable Sam Douth

However, although we are of the view that Section 129.100 is still in effect we believe that the holding of the court in Labor's Educational and Political Club - Independent v. Danforth, supra, could arguably apply to Section 129.100. Although we are not prepared to say that Section 129.100 is unconstitutional under such holding, we are of the view that there are a number of arguments which could be made that Section 129.100 suffers from the infirmities found to exist in the Missouri Campaign Finance and Disclosure Act, Section 130.010, et seq., RSMo Supp. 1975, by the courts in Labor's Educational and Political Club - Independent v. Danforth, supra, and Buckley v. Valeo, 424 U.S. 1, 46 L.Ed.2d 659 (1976).

Very truly yours,



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