



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

August 7, 1995

The Honorable James E. Bryan, Jr.  
Senator, District No. 9  
Post Office Box 756  
Laurens, South Carolina 29360

RE: Informal Opinion

Dear Senator Bryan:

By your letter of June 28, 1995, you have sought an opinion on the following subject. You have advised that the Clinton City Democratic Club formerly ran the city democratic primaries, but since the primaries are now state-run, there is no longer a need for the Club. The Club currently has a small amount of money left in its account and would like to know if it can donate these funds to the Laurens County Democratic Party.

At the outset, it is assumed that the Clinton City Democratic Club was formed pursuant to S.C. Code Ann. §7-9-30 (1976 & 1994 Cum. Supp.). It is further assumed that the funds referred to were derived from filing fees assessed of candidates pursuant to §7-11-410. Finally, only statutes and judicial decisions were taken into account in preparing a response to your inquiry; no bylaws or rules of the City Club or the county or state Democratic party organizations have been examined.

It is observed that state law does not provide an answer to your inquiry. A decision of the South Carolina Supreme Court, is most instructive, however. In Drummond v. Townes, 169 S.C. 396, 169 S.E. 81 (1933), a county Democratic Executive Committee contributed the sum of \$1,000.00 to the National Democratic party. The plaintiffs who sought to enjoin the payment of the check were candidates for elective office who had paid filing fees to the county party for the primary election; they tried to argue that the fees paid by them as candidates were trust funds, that the county Executive Committee members (defendants) were trustees, and that the funds could be expended

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only for campaign purposes only in that county. The lower court held that the county executive committee had ample authority to make the contribution to the National Committee, as such would be a party purpose. The Supreme Court concurred in the lower court's findings and conclusions and stated further as to the argument that the funds were a trust fund and that the defendants were trustees:

Let us, for the sake only of the argument, accept this postulate; where do the appellants stand in relation to it? Clearly they are not beneficiaries of the trust. They paid their money into the committee under the rule of the Democratic party, for the privilege of becoming candidates for office in the primary election of that party. They need not have done so; they could have stayed out of the primary and become candidates in the general election. But they elected to be candidates in the Democratic primary, and the party required them to pay, as a condition of their entry, the several sums fixed. When they did this, the money became the property of the party to be expended by its executive committee for party purposes, including the expenses of conducting the primary election, and, we venture to assert, for any purposes which furthered and advanced the legitimate aims and objects of the Democratic party. It is not a sound proposition that the funds in the hands of this committee can only be expended for the benefit of the party in Greenville County. The Democratic party in Greenville County is an integral part of the Democratic party in the State of South Carolina, which is a component part of the National Democratic party. ...

Id., 169 S.C. at 398-399.

Applying the principles of this decision to your question, I am of the opinion that the Clinton City Democratic Club would be an integral part of the larger Democratic party organization in the State of South Carolina. Once the filing fees or assessments were paid into the party as a condition of becoming a candidate for elective office in the party primaries, the fees or assessments became property of the party to be expended for party purposes. According to Drummond v. Townes, supra, it would appear to be appropriate to expend such funds for any purpose which would further and advance the legitimate aims and objects of the Democratic party.

Assuming that there is no rule or bylaw of the Clinton City Democratic Club or the State Democratic Party to the contrary, I am of the opinion that the City Democratic Club, through its members or appropriate committee, could make a determination that such a contribution of its funds to the Laurens County Democratic Party would further and

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advance the legitimate aims and objects of the County Democratic Party; in such a case, I am of the opinion that the contribution would therefore be permissible.

This letter is an informal opinion only. It has been written by a designated Senior Assistant Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion. I trust that it satisfactorily responds to your inquiry and that you will advise if clarification or additional assistance should be needed.

With kindest regards, I am

Sincerely,

*Patricia D. Petway*

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Senior Assistant Attorney General