Morton Blackwell FEC

TESTIMONY

OF

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WASHINGTON LEGAL FOUNDATION*

before the

COMMITTEE ON

RULES AND ADMINISTRATION

UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

FIRST SESSION

on

THE FEDERAL ELECTION CAMPAIGN ACT OF 1971, As Amended,

and

THE FEDERAL ELECTION COMMISSION

WASHINGTON, D.C.

NOVEMBER 20, 1981

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TAKE THE FEC QUIZ!

QUESTION: The Kennedy for President Committee filed a complaint with the Federal Election Commission against Phillips Publishing, Inc., claiming among other things that the publisher and one of its newsletters, The Pink Sheet on the Left, should be registered with and report to the FEC as a political committee because two or three sentences in a six-page promotional package for the newsletter contains derogatory comments about Senator Kennedy.

THE FEC SHOULD TAKE WHICH OF THE FOLLOWING ACTIONS (check one):

- ☐ A. Dismiss the complaint (obviously filed as a desperate attempt by the failing Kennedy campaign) as frivolous, or otherwise not warranting the utilization of the scarce investigative resources of the FEC;
- ☐ B. Dismiss the complaint because the activity in question is legitimate expression within the ambit of the First Amendment, as well as being statutorily exempt under 2 U.S.C. § 431(9)(B)(i)(the press exemption);
- ☐ C. Launch a full-scale government investigation demanding through subpoenas and federal court litigation the names and addresses of the editorial staff of the publisher, all the bank account numbers of the publishing company, and much more, all at the expense of the taxpayers in the thousands of dollars;
- ☐ D. None of the above.

ANSWERS: If you answered "C", you are qualified to be an FEC Commissioner;

If you answered "B", you are qualified to be the federal judge who ultimately ruled against the FEC for this outrageous enforcement action; */

If you answered "A" or "B", you are qualified to be a reasonable member of the public;

If you answered "D", you are qualified to join a growing number of conservatives, liberals, Democrats, Republicans, independents, and other concerned citizens who believe that the FEC should do nothing, i.e., that the law should be changed, the FEC should be abolished, or at least its enforcement powers transferred back to the Department of Justice.

*/ FEC v. Phillips Publishing Inc. (D.C.D.C. No. 81-0079, July 16, 1981). See also Reader's Digest Association v. FEC, 509 F. Supp. 1210 (S.D.N.Y. 1981). The absurdity of this enforcement action is further highlighted by the other charges levied against Phillips. For example, one of the five charges brought by the FEC against Phillips was that it violated 2 U.S.C. § 435(b) (a provision of the law that was repealed by Congress before the Kennedy complaint was even filed). That provision required those political committees soliciting contributions to put the following notice on their literature: "A copy of our report is filed with the FEC and is available for purchase from the FEC, Washington, D.C." The FEC maintained that Phillips violated this repealed provision because he did not have that notice on his promotional material. But of course he did not have that notice on his material. . . . . Phillips had no report whatsoever on file with the FEC. In other words, the FEC was faulting Phillips for not stating a lie!

The foregoing illustration of an actual FEC enforcement proceeding was not designed to make light of the serious nature of these proceedings; in fact, the opposite is intended. That illustration is, unfortunately, all too typical of the kind of cases the FEC decides to prosecute. Invariably, FEC enforcement actions either seriously infringe on first amendment rights of speech or association, or concern themselves with trivial, nitpicking-type matters, leaving that agency open to the charge that it is insensitive to first amendment values and is more of a public nuisance than a public servant.

Minor tinkering or fine-tuning of the law by the Congress will not solve the problems. My experience as an attorney involved in FEC matters for the last 6 years has led me to conclude that fundamental changes would be in the public interest. I was formerly an attorney at the FEC from 1975-76. Since then, I have specialized in this area of the law and have litigated over a dozen cases against the FEC, more than any other attorney in the country. As Director of Litigation for the Washington Legal Foundation, we have litigated several cases against the FEC, including a coalition suit brought by Stewart Mott and National Conservative Political Action Committee (NCPAC) as co-plaintiffs challenging the contribution limits to groups that make independent expenditures. I have testified before committees of the Congress several times on the FEC over the years, addressed conferences and seminars on the FEC, and served as an advisor to President Reagan's Transition Team on the FEC. My testimony will focus on both FEC enforcement matters as well as comment on changes in the substantive provisions of the law.

FEC ENFORCEMENT

Congress has given the FEC exceedingly broad powers to investigate and prosecute violations of the Federal Election Campaign Act of 1971, as amended ("FECA" or "the Act"). Presumably, the election law reform in the early 1970's was intended to restore confidence in the integrity of the electoral process, but has it?

Oversight hearings on the FEC have been long overdue, and one wonders whether even this hearing today can serve as an adequate forum to consider fully all the ramifications of the Act. At this time I would like to submit for the record the attached article that appeared in the Summer 1980 issue of World Research Ink entitled "Federal Regulation of Politics Is Good for the Political Process: Pro by Fred Wertheimer of Common Cause, and Con by Paul D. Kamenar."

Should the FEC be allowed to continue to enforce the Act? Let us briefly look at their track record:

FEC v. John Adams

This case is one of the original FEC classics in which the FEC filed suit against old man John Adams, who ran for Congress from New Hampshire and lost, having spent less than a pittance on his campaign. He failed to show up for his court hearing because he reportedly was at an Old Soldiers and Sailors Home. This case is comparable to IRS agents swooping down on guitar players in Lafayette Park for failure to report earned income.

FEC v. Eugene McCarthy

In 1976, Eugene McCarthy ran for President as an independent. His campaign committee booked many of his public appearances on college campuses for which the campaign received honoraria in the $500-$1,000 range. Having been a lead plaintiff with then Senator James Buckley in the landmark case of Buckley v. Valeo, 424 U.S. 1 (1976), Eugene McCarthy was (and is) an outspoken and eloquent critic of the FEC. Nevertheless, he dutifully filed his FEC reports listing in complete detail the dates he spoke before college audiences, the amounts received, to the penny, including any travel reimbursements, and the address and zip codes of the colleges. Good enough? No!

The FEC charged the McCarthy campaign with reporting violations. The FEC alleged that the detailed disclosure of the source of McCarthy's campaign funds was not meaningful enough. The FEC took the unbelievable position that instead of all the detailed listings on some 30 pages of FEC reports of where he spoke and how much money was received, McCarthy should instead have only one line entry, namely, some $30,000 (which represented the aggregate of the honoraria) from McCarthy to himself!

Needless to say, the federal district judge granted summary judgement to McCarthy's campaign and chastised the FEC in open court for bringing this action in the first place.

FEC v. Reagan '76 Committee

The FEC initiated an enforcement action against Ronald Reagan's 1976 campaign committee and eventually filed suit in federal court. The crime? The committee's disclosure reports did not list some of the occupations of the donors, even though the committee had tried in vain to obtain the missing information. By the FEC's own account the percentage of the missing occupations was comparable to the percentage of other Presidential campaigns, including Jimmy Carter, Gerald Ford, and Jerry Brown.

The federal judge had no trouble ruling against the FEC, dismissing the case in open court. It was unnecessary for him to take the case under advisement -- the FEC's position was so clearly wrong.

FEC v. CLITRIM

The FEC spotted an outbreak of free speech in New Jersey and New York where tax reform citizens' groups had spent the enormous sum of $135.00 for handbills describing the voting records of incumbents on spending and tax measures.

The FEC spent over $50,000 prosecuting this group, claiming that they come under FEC jurisdiction and must report to the FEC. (That amount does not include the cost to the taxpayers of the thousands of dollars of court time and judicial resources devoted to the case, nor does it include the cost to the defending party.)

The result? The entire panel of the U.S. Court of Appeals for the Second Circuit ruled against the FEC for trying to regulate this traditional exercise of free speech. The Chief Judge of the Second Circuit had some particularly choice words describing the FEC action:

> "[T]he insensitivity to First Amendment values displayed by the Federal Election Commission (FEC) in proceeding against these defendants compels me to add a few words about what I perceive to be the disturbing legacy of the Federal Election Campaign Act (FECA), 2 U.S.C. §§431, et seq.
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> * * * *
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> I find this episode somewhat perverse. It is disturbing because citizens of this nation should not be required to account to this court for engaging in debate of political issues.
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> * * * *
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> Our decision today should stand as an admonition to the Commission that, at least in this case, it has failed abysmally to meet this awesome responsibility."

Quoted excerpts from Concurring Opinion of Chief Judge Kaufman of the United States Court of Appeals, Second Circuit, in Federal Election Commission v. Central Long Island Tax Reform Immediately Committee, 616 F.2d 45, 53 (en banc decision, 2d Cir. 1980) (emphasis added).

The above quoted excerpts from Chief Judge Kaufman's concurring opinion, joined in by Circuit Judge Oakes, presents a strong indictment against the Federal Election Commission's mission and performance. The remaining eight Circuit Judges were not as critical as Chief Judge Kaufman -- in dismissing the FEC case, they referred to the FEC's position as "totally meritless." Id. at 53.

FEC v. National Right To Work Committee

This massive case brought by the FEC 5 years ago against the National Right to Work Committee (NRWC) is another classic example of the FEC's insensitivity to first amendment values as well as bureaucratic unfairness. The U.S. Court of Appeals for the D.C. Circuit unanimously ruled this summer against the FEC, but not until NRWC had to spend approximately $400,000 in attorneys fees defending itself. The cost to the taxpayers for the FEC lawyers and court time is also well into the six figures.

All the aspects of this suit cannot be properly recounted in a short space, but the following highlights should be noted:

In January, 1976, NRWC requested an advisory opinion from the FEC seeking advice on the permissible scope of soliciting NRWC members and supporters to NRWC's newly created political action committee. Although the law requires the FEC to issue opinions expeditiously, it took the FEC over two years to issue one. Initially a draft opinion prepared by the staff in September 1976 appeared favorable to NRWC. However, the day the opinion was scheduled for Commission consideration at an open meeting, it mysteriously disappeared from the meeting's agenda. According to sworn testimony in the court case by the FEC's own lawyer Commissioner Harris (former AFL-CIO chief lawyer) met privately with the Assistant General Counsel to block this favorable opinion.

A few weeks after this opinion was withdrawn, the National Committee for an Effective Congress filed a complaint with the FEC against NRWC charging that NRWC was illegally soliciting NRWC's own members. With unprecedented speed the FEC staff drafted by the next day a lengthy report recommending prosecution of NRWC. The FEC then refused to issue any Advisory Opinion. The FEC had no definition of the term "members," refused to give any guidance to the NRWC on the subject, and yet pursued a costly compliance action against NRWC for soliciting persons the FEC claimed were non-members of NRWC.

Even though the NRWC believed it violated no law, it was willing to sign a reasonable consent agreement rather than be hamstrung by the FEC. The FEC, however, demanded the NRWC: (1) pay a huge fine, (2) admit guilt, and (3) take all steps necessary to become a membership organization. The Catch-22 was that the FEC refused to tell the NRWC <u>what</u> steps it must take to become a membership organization! Faced with this administrative recalcitrance, NRWC filed a legal action against the FEC. Two months later, the FEC filed a lawsuit against NRWC and sought to compel the NRWC to turn over the names of its 1.25 million members.

After 4 years of costly litigation and thousands of pages of legal pleadings, the U.S. Court of Appeals needed only to issue a short opinion ruling that the FEC was wrong for reading too narrowly the definition of "members." For five years, that included two Presidential election cycles, NRWC and its members were unable to exercise fully their first amendment rights.

Archie Brown v. FEC

Archie Brown filed a complaint in 1977 with the FEC alleging that a local Teamsters union in Dallas, Texas denied him membership because he refused to contribute to the union's political action committee. Brown was taken by the President of the local into the office of the Vice-President of the local and was given a "shakedown."

The FEC "investigated" the case in a manner that raises serious doubts about whether the FEC was interested in stopping union abuse. The FEC took the deposition of one Garland Moore, a union official who witnessed the events, but the FEC attorneys did not ask him a single question about the Brown incident! The FEC also issued a subpoena to take the deposition of the Vice-President of the union, but for some unknown reason, he was never deposed!

After this crack investigation, the General Counsel issued a report finding no violations by the union, either against Archie Brown, or of any widespread violation by union as a whole coercing contributions from the entire membership. The General Counsel report concluded thusly:

> "With respect to economic coercion or threat thereof, although by the union officials own admission there has been an almost 100% success rate of DRIVE commitments from those applying for membership at the union hall, it can be argued that the business agents were merely very persuasive, in the absence of any evidence to establish the economic leverage the union might have over an applicant for membership."

(GC Report at 9) (Emphasis added).

The naivete of the author of the above statement is simply incredible.

The Washington Legal Foundation is representing Mr. Brown in court trying to overturn the FEC dismissal of this case. As a further example of the questionable manner in which this case was "investigated," the FEC now informs us that the working file in this case, which WLF tried to obtain under the Freedom of Information Act, is lost!

There are many more cases similar to those cited (including The Pink Sheet case and Reader's Digest cited on pages 1 and 2 of this testimony) which compel one to conclude that the FEC has consistently violated first amendment rights with no prospect that it will get any better -- it has only gotten worse.

The enforcement actions that never reach the courtroom are just as egregious as those here. Approximately 90 percent of those cases never reach a court, but nevertheless, the FEC's subpoena power has caused untold damage to the rights of those forced to sign a confession of guilt and to pay a fine.

The FEC constantly complains that if its budget is reduced, then they will have to reduce enforcement. One might conclude that reduced enforcement by the FEC would be in the public interest considering their track record.

Briefly, I would like to turn now to some of the substantive provisions of the law.

CONTRIBUTION LIMITS

In examining the wisdom or necessity of contribution limits, it is imperative to analyze those limits in the various categories in which they have been imposed.

Limits to Candidates

Currently, individuals may give only $1,000 to a candidate per election; PAC's can give $5,000. As long as there is disclosure, why do we need any contribution limit at all? If the press and the voters know who are the contributors to a campaign and the amounts given, they are in a position to determine for themselves whether the candidate will be beholden to certain interests if he is elected to office. They should decide whether, for example, a $50,000 contribution given by the candidate's spouse or mother is going to influence how the candidate-turned-office-holder will vote on, say, banking legislation.

Limits to Non-candidate Committees

There is absolutely no compelling governmental interest in limiting contributions to non-candidate committees. These committees do not run for nor are elected to office. Especially if the amount of contributions they give to candidates is limited, there is no purpose to limit the amount those committees receive.

How is the electoral process corrupted if a donor gave a large amount of money to, say, NCPAC or NCEC? If they are limited in the amounts they can give to candidates, these extra limits are unnecessary and infringe on first amendment principles without any overriding justification.

Annual Limits

Individuals are currently limited annually to giving $25,000 to all condidates and non-candidate committees. Yet PAC's have no annual limit. Shouldn't individuals (who are the voters) have more rights than non-voting PAC's?

There is no compelling governmental interest in limiting annual contributions.

If there is no corrupting influence now by a donor giving $1,000 to candidate No. 1, how is there any corruption by giving $1,000 to candidate No. 26? Again, tinkering with this provision by raising the limit from $25,000 to $50,000 is meaningless. The annual limit serves no purpose other than to give the FEC another regulatory weapon in their enforcement arsenal.

Limits on Corporate and Union Contributions

Currently, the limits set for corporate and union contributions is $0. Common Cause had decried the proliferation of corporate PAC's, which were permitted because they could not contribute directly. Perhaps if the corporation were treated as an individual and allowed limited contributions, one could argue that the money involved would not be so large as to have any corrupting effect.

If, however, the prohibition is kept, there should be no restrictions whatsoever on who can be solicited to a PAC. Again, the government does not have any business telling political committees who they can communicate with.

Why should I not be allowed to receive in the mail a solicitation from the AFL-CIO's COPE or from SUN-PAC? If I am not interested, I can simply throw the literature in the waste basket. Indeed, such restrictions seriously infringe on first amendment values.

See Schaumburg v. Citizens for a Better Environment, 444 U.S. 620 (1980); Consolidated Edison Co. v. Public Service Comm'n, 447 U.S. 530 (1980).

Furthermore, corporations should be permitted to make independent expenditures. If they have the right to discuss political issues, which no one doubts, it is an artificial distinction to prohibit the mentioning of a candidate, who, in many cases, is the issue. First National Bank of Boston v. Bellotti, 435 U.S. 765 (1978).

CONCLUSION

The areas of the FEC law covered above was not intended to be an exhaustive review of the law, but are highlights that need to be further explored. The Congress has the responsibility to ensure that the first amendment is not suffocated but is given ample breathing space. Accordingly, minor tinkering is not what is called for. There are fundamental structural defects that need correcting.

Thank you for the invitation to testify before the Senate Rules Committee on this crucial topic.

Federal Regulation of Politics Is Good for the Political Process

PRO

By: Fred Wertheimer

"It is no accident that we have a Congress of the United States increasingly indebted to either big business or big labor," Rep. James Leach (R-Iowa) asserted during debate in the House of Representatives on a bill which would limit the amount of money special interest groups could contribute to candidates. "It is simply a fact of life that when big money in the form of group contributions enters the political arena, big obligations are entertained."

When the framers of our constitution wrote of a government "of the people, by the people, and for the people" they had in mind the notion that all people should have a fair say in the political process that governs them. But today a band of powerful special interest groups are exerting an exaggerated influence on the political process in our Congress through a system of organized campaign giving. Through their political action committees (PACs) corporations, labor unions, trade unions, trade associations and other groups are soliciting funds from employees or members for the purpose of making campaign contributions to candidates for public office.

What is wrong with this kind of "citizen participation" in the political process, as proponents of interest group giving would put it? Essentially one thing. This form of participation has a catch to it that changes the alchemy, so that "participation" comes threateningly close to becoming a way of acquiring undue influence. Contributions by political action committees have a special quality — they are contributions with a legislative purpose. These contributions are generally given by groups which also regularly engage in organized Washington lobbying efforts. This qualitative characteristic of PAC money is recognized in the 1979 report by the Campaign Finance Study Group of Harvard University which found that "...PAC money is *interested* money."

The Washington Bureau Chief of the *Wall Street Journal* put it: *The bulk of special interest contributions represents a sort of investment in the careers of incumbent Congressmen and Senators with the aim of enhancing the influence of the financing groups. Obviously, this money is given to buy influence.*

The investment nature of PAC giving is clearly evident in the PACs' strong backing for incumbents over their challengers — regardless of party. In 1978, for example, PAC's gave $3.3 to House incumbents for every $1 they gave to their challengers.

Justin Dart, Chairman of Dart Industries, which had the third largest corporate PAC in 1978, is unapologetic about his interests. Dialogue with politicians "is a fine thing," he says, "but with a little money they hear you better."

And Senator Russell Long (D-La.), Chairman of the Senate Finance Committee and a thirty-year veteran of Capitol Hill has noticed a miraculous quality to the relationship between campaign contributions and Congressional favors. Campaign contributions, he has said, "can often be viewed as monetary bread cast upon the water to be returned a thousandfold."

Last May, during a meeting of the Senate Judiciary Committee,

CON

By: Paul D. Kamenar

The fundamental presumption underlying the need for regulating the political process seems to be the public's distrust of their elected officials. With the events of Watergate and the recent revelation of the FBI's "Sting" operation in which several congressmen were implicated in taking cash bribes, the public's distrust of politicians no doubt has some basis. The question, however, is whether the Federal Election Campaign Act of 1971, as amended in 1974, 1976 and 1978, has the effect of restoring the public's confidence in the electoral process and whether that law, or any variation thereof, can prevent the scandalous conduct of elected officials. The answer is clearly NO. In the first place, the Watergate figures who went to jail and the current congressmen accused of taking bribes are already covered by federal *criminal* laws such as obstruction of justice and bribery laws. The federal *civil* laws such as the Federal Election Campaign Act has created a new agency, a new bureaucracy, the Federal Election Commission, an institution that has not for the most part fostered any more public confidence in the electoral process; in fact, it has had the opposite effect. One must remember that throughout our country's history, the FEC is the only federal agency whose job is to control and regulate political speech, a sensitive core area for the First Amendment.

Consider the FEC's track record, and decide for yourself whether regulation of political campaigns has rooted out corruption:

— The FEC spent many weeks (and much tax money) debating a major policy question: Can a congressman print up his campaign buttons and have the name of the presidential candidate appear on the button without half the cost of the price of the button being considered an "in-kind" contribution from the congressman's campaign to the presidential campaign.

— The FEC sent one of its top litigators from Washington, D.C. to New Hampshire to prosecute a candidate who failed to file the correct FEC forms for his candidacy. The culprit was an 80-year old war veteran who spent a few dollars in his obviously losing campaign. The judge reportedly chastised the FEC for not having anything better to do. The old man never showed up in court; he was found, sick, in an old age home.

— The FEC sued a college student in Federal Court who volunteered his time as an assistant treasurer for a campaign. His crime? The candidate's father died leaving a small legacy for his family. The candidate's mother gave her son (the candidate) and daughter some of these funds. The candidate used some of this money for his living expenses and transferred some to his campaign. The FEC said the volunteer assistant treasurer illegally reported the money coming from the candidate rather than from the mother.

— The FEC sued Eugene McCarthy's 1976 campaign committee for failing to correctly report certain honoraria his campaign received from various colleges at which Sen. McCarthy spoke. After two years of extensive litigation and investigation (including

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PRO

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Senator Charles Mathias (R-Md.) stirred that water somewhat by telling of a phone call a friend of his received. The caller was voicing his opposition to the Illinois Brick bill which was pending in the Committee. Mathias was considered a key vote on the legislation. "You tell Mathias," the caller said, "if he doesn't vote our way on the Judiciary Committee, he won't get a penny of our PAC money." Undaunted, Mathias cast the deciding vote in favor of the bill.

Articulated *quid pro quos* are rare, however. More often, the interrelationship between organized lobbying and PAC contributions is a subtle one, though eminently clear to the participants.

On November 15, 1979, the House of Representatives passed an amendment which essentially gutted the Administration's hospital cost containment bill — a bill which President Carter estimated would save Americans over $40 billion during the next five years. The American Medical Association (AMA) has been the number one contributor to Congressional races since 1974, and was a principal opponent of the hospital cost containment bill. Since 1974 the AMA's political committees have poured nearly $5 million into Congressional campaigns. That investment paid off. A study released by Common Cause showed that of the 234 Members who voted for the AMA-sponsored amendment, 202 received AMA campaign contributions. These contributions averaged $8,157 per member for the past two election periods. The 50 leading recipients of AMA contributions who voted on the amendment received an average of $17,300 each during the same period, and all but two voted in favor of the AMA position.

While a variety of factors were obviously involved in the House fight over hospital cost containment legislation, the Common Cause study shows a disconcertingly consistent pattern of columns with large dollar signs from the AMA matched by columns of "ayes" for the AMA position.

The White House called the House defeat of the Administration's proposal, "a blow to the fight against inflation," and a "victory for a highly financed special interest lobby and a defeat for the common good."

This "victory for a highly financed special interest lobby" raises the question: would the outcome have been different under another system of financing Congressional campaigns — a system, for example, like that of the Presidential campaigns which relies on small contributions by millions of citizens through the dollar checkoff? As a *New York Times* editorial notes: "How often can even scrupulous legislators be expected to forget their dependence on PACs?"

In 1974 Congress enacted a major campaign finance law in response to the Watergate scandals which instituted a system of public financing for Presidential elections and put limits on the amounts individuals and groups could contribute to candidates for public office. But for the past six years, Congress has repeatedly rebuffed attempts to legislate a system of public financing for itself. The public financing system has made Presidential campaigns infertile grounds for PAC giving. Congress, on the other hand, has become veritable mulch for PAC growth. In 1974 PACs gave $12.5 million to candidates for Congress; in 1978 they nearly tripled that amount with $35.1 million in campaign contributions; and more than $55 million in PAC contributions is expected to pour into 1980 Congressional campaigns. There were 608 PACs registered with the Federal Election Commissions in 1974. Today there are 2010.

The *Wall Street Journal*'s Dennis Farney has predicted a certain rise in PAC power if the present campaign finance system is maintained. "If Congress decides to keep the present system," Farney wrote, "more sophisticated PAC techniques are going to replace today's relatively primitive techniques just as surely as guided missiles followed the manned bomber. For in politics, as in warfare, once an arms race gets rolling, it's hard to stop."

Should the political campaign process be federally regulated? Emphatically, yes, to the extent it is necessary to protect the integrity of our political system. The federally regulated system of public financing for Presidential campaigns has taken the system out of the hands of wealthy contributors and special interest groups and given it back to the American people. The system relies on the voluntary dollar checkoff which appears on federal income tax form 1040. By checking off $1 of taxes already owed the government, in 1976 alone 30 million citizens contributed to a Presidential election fund which financed Presidential campaigns. In contrast, 153 individuals contributed $20 million to Richard Nixon's 1972 campaign.

The difference is revolutionary in the historic sense of the word. Public financing is an extension of the basic principle of equal representation that is at the heart of this nation. Congress should act to free itself of the choke leash of special interest domination by instituting a system of public financing for Congressional races.

Fred Wertheimer, Senior Vice President, COMMON CAUSE, Washington, D.C. 20036

CON

the FEC's obtaining McCarthy's campaign bank records without his knowledge), the Federal judge told the FEC they were wasting valuable resources chasing a "will-o-the-wisp"-type violation and ruled in McCarthy's favor.

— The FEC spotted an outbreak of free speech in New Jersey where a tax reform citizen's group had printed up voting records of various congressmen on public spending. The FEC wanted to expand its juriadiction to regulate this kind of traditional activity of information dissemination. The case is pending, with the assistance of the ACLU on the defense.

These examples are just the beginning. There are many more that could be cited if there were enough space. And yet, the FEC seems to avoid the major issues, especially if they involve incumbents. It has taken them almost three years to audit the Carter campaign, and they failed to prosecute labor unions which unlawfully used member's dues money for political purposes. The fact is, when one advocates the federal regulation of the elective process one also advocates more regulations, more bureaucrats, more paperwork, and more federal regulation of free speech. That is not to say some regulation may be necessary. Our criminal bribery laws and obstruction of justice laws seem to be adequate. The election laws, on the other hand, have been more of a nuisance to the well-intentioned citizen than of any value to the public. Its effect during the last five years in operation have been to discourage grass roots activity and support. Would you volunteer to work on a campaign knowing that through no fault of your own you could wind up as a defendant in Federal Court? The law has placed a premium on well-financed campaigns which can afford the best legal accounting services, shuts down the "Mom and Pop"-type operations and hampers minor party and independent candidates' campaigns.

Mr. Wertheimer of Common Cause, an organization which lobbied for the election law, is deeply alarmed by all the money that is used in political campaigns. Unfortunately we live in a society and an economy where the methods of communicating to

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the electorate are expensive. In 1976 a sixty-second political commercial on prime time television in a major city cost $4,800. Today that same station charges $7,400. The cost of producing that same commercial in 1976, approximately $4,000; today costs close to $7,000.00. (See New York Times Article, February 7, 1980 by Adam Clymer, "Inflation and Limit on Contributions Strain Campaign's Budgets.") Common Cause seems to have no problem with Proctor & Gamble's advertising budget which exceeds all campaign spending by several millions, and yet they want to cut down political spending. What we need is *more* information from our candidates, not less, if we are to choose our leaders wisely.

Mr. Wertheimer seems especially concerned with the source of the political funding: PAC (Political Action Committees). These organizations are affiliated with corporations, unions, or issue-oriented organizations such as Environmental Action's "Dirty Dozen" Committee, or the "Right to Life" Committee. What Mr. Wertheimer forgets to tell his readers and listeners is that the PAC's can get their money from only one source — the people. Corporations and unions are prohibited by law from giving candidates corporate and union treasury money. A PAC essentially functions as a collection point for contributions from employees and stockholders.

In short, the millions of PAC money is actually composed of small contributions. Stripped away of its alarmist rhetoric, the Common Cause crusade against PACs is nothing more than an objection to the fundamental right of freedom of association. Such objections from presumably "liberal" groups such as Common Cause against fundamental First Amendment rights is indeed surprising. The recommendation by Common Cause that *all* campaigns be fully financed by the federal government, not just the presidential campaigns, is a dangerous notion for many reasons. The principle problem is that once federal funds are used in financing a project, there is essentially no limit to the amount of federal intrusion and regulation of the political process. Decisions as to what a campaign should spend its money on would not be made by the campaign, but by the federal government.

If the government is going to take over the financing of political campaigns from the people, the government may as well select the winning candidate. The electorate turn-out at the polls is already at an all-time low, so we might as well eliminate that problem altogether! Political scientists who have studied the use of public financing in other countries have been critical of its operation. They note that the scheme has a stifling effect on the political system and entrenches the same political parties and candidates. What we need is *less* regulation, not more. If you agree that public financing is unwholesome, join me and two-thirds of the American taxpayers and check "NO" on any income tax forms when it asks whether you want your tax dollars to finance someone's campaign.

Paul D. Kamenar, Special Counsel to the Washington Foundation, Washington, D.C., and formerly attorney with the Federal Election Commission

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file FCC - Boards + Commiss.

The Christian Broadcasting Network Inc.

Pat Robertson
PRESIDENT

Sent to Helene Van Dam 11/27/81

November 20, 1981

Martin Blackwell
Office of Public Liaison
Room 191
Old Executive Office Building
The White House
Washington, D.C. 20500

Dear Martin:

I am enclosing the material on Dr. David W. Clark — Re FCC

that I promised I would send to you.

With all good wishes, I am

Sincerely yours,

Pat Robertson
President

PR:bj

Enclosure

VITA

DAVID W. CLARK
5228 Foxboro Landing
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I. ACADEMIC CAREER DATA

A. Academic Preparation

1. Augustana College
2. B.A., Evangel College, 1962, History; Golden Sword Leadership Award, 1961; Dean's List four semesters.
3. The Lutheran School of Theology.
4. M.Div., Northern Baptist Theological Seminary, 1966, Vice-President of Student Body, 1965.
5. M.A., University of Iowa, 1970, Speech (Communication Research).
6. Ph.D., University of Iowa, 1972, Speech (Broadcasting and Communication Research).

B. Experience

1. Academic Appointments (from most recent)
   a. Dean, Graduate School of Communication, CBN University, July, 1977 to June, 1981.
   b. Assistant Professor of Speech, Bowling Green State University, 1972-July, 1977 on leave until April, 1979. Tenured, 1975.
   c. Teaching Assistant, University of Iowa, 1969-72.
   d. Teacher, Willard Public Schools, Willard, Missouri, 1962-63.

2. Non-Academic Positions
   a. Pastor, Bethel Church, Rock Island, Illinois, 1966-69.
   b. Interim-pastor, Downey Baptist Church, Downey, Iowa, 1970.
   c. Senior Analyst, Reymer & Gersin, Associates, July 1981.

3. Professional Meetings Attended
   a. Speech Communication Association, San Francisco, 1971; New York, 1973; Chicago, 1974; Washington, 1977; New York, 1980.
   b. Broadcast Education Association, Chicago, 1971; Washington, 1972; Chicago, 1976; Washington, 1977; Las Vegas, 1978; Dallas, 1979; Las Vegas, 1980.
   c. National Association of Broadcasters, same cities and dates as BEA.
   d. International Institute of Communications, London, 1979.
   e. National Religious Broadcasters, Washington, 1979. Washington, 1980. I am chairman of the TV Committee of NRB. I have been responsible for planning and coordinating all TV workshops (total of 15) the past two years.

4. Courses Attended
   a. Broadcast Education Association, Management Seminar, Washington, 1977.
   b. MARC Time Management Seminar, Detroit, 1975.
   c. Seminar in Higher Education Administration (Ed 610), 1975.
   d. Broadcast Education Association, Research Seminar, Chicago, 1973.

II. TEACHING EXPERIENCE

A. While at Bowling Green State University I initiated the following courses:

R-TV-F 469, Seminar in Audience Research
R-TV-F 601, International Broadcasting
R-TV-F 603, Seminar: Broadcasting Research I
R-TV-F 604, Seminar: Broadcasting Research II
R-TV-F 704, Seminar: Research Design in Broadcasting
R-TV-F 706, Seminar: Radio, Television, Film and Mass Society.

B. Other Teaching Experiences:
   1. Undergraduate courses: Intro. to Speech Communication, Small Group Communication, Intro. to TV, Broadcast Programming Analysis and Criticism.

   2. Graduate Seminars: Cross-Cultural Communication; News and the Fairness Doctrine; Broadcasting & the Political Process; Research Methods; Survey of Broadcasting.

C. Along with three graduate students enrolled in R-TV-F 607 (TV Practicum), a feasibility study was completed in the Fall Quarter, 1974, on the problems and possibilities offered by the initiation of closed-circuit television programming to the campus. Programming on a regular basis was begun in the Winter Quarter, 1975, on BG-TV. I served as executive producer for two years.

D. Supervision of Theses, Dissertations
   1. Ph.D. Dissertations Directed:
      Eastman, Susan, "Television Viewing Patterns and Life Style Variables", 1977.
      Wimmer, Robert, "A Multivariate Analysis of the Use and Effects of the Mass Media in the 1968 Presidential Election", 1976.*
      Waite, Clayland, "The Effects of Pictorial, Audio, and Print Measured by Output, Error, Equivocation and Recalled Information", 1975.
      Philport, Joseph, "A Multivariate Investigation of Machiavellianism Anomia and Self-Esteem; Exposure to the Mass Media; and Patterns of Television Program Exposure", 1975.
      Signitzer, Benno, "The Ordering of the Direct Broadcast Satellite: The International Legislative Process Within the United Nations Committee on the Peaceful Uses of Outer Space", 1975. (Published in book form by Praeger Press, 1976.)
      Haynes, Richard, "An Exploratory Multivariate Field Study: An Investigation of Television Consumption, Overt Behavior, and Demographic Characteristics as Related to the Child Viewer, 1975.*

   2. M.A. Theses Directed:
      Callaway, M. Walli, "The Border Crossing" and "The Man from Zoron", two television scripts, 1980.
      Clement, Joseph, "The Street People", 1980.
      Hartman, John, "Survey of Local News Sources in Pemberville, Ohio", 1977.
      Barkley, Bonnie, "The Family Image During the Family Hour: A Comparative Analysis of the TV Family Programs", 1977.
      Connor, Connie, "A Descriptive Survey of the Bowling Green CATV Viewers of Local News Originating in Toledo or Distant Television Markets", 1976.
      Signitzer, Benno, "Radio Free Europe and Unofficial Instrument of Foreign Policy", 1973.
      Geier, Pattie, "An Analysis of Non-Viewers of WBGU-TV", 1973.

* Co-directed with Professor Raymond K. Tucker.

M.A. Thesis Directed (cont.):
Sambe, John, "A tudy of the News Bias of the American Television Networks in Their Coverage of the Civil War in Nigeria (1967-70), 1975.
Moore, Henry A., "A Minority View of Broadcast Access Advocacy: A Case Study of the National Black Media Coalition", 1975.

3. Dissertation Committee Memberships:
Five between 1975 and 1977 at Bowling Green State University.

4. Thesis Committee Memberships:
Six between 1973 and 1977 at Bowling Green State University.
At CBN University:
Laura E. Carlan, 1980
Glen F. Corillo, 1980
Cynthia Glazer, 1980
Michael Hernandez, 1980
Lynne LaBash, 1980
David Webster, 1980
Gloria Shriver, 1980

III. ADMINISTRATIVE ACTIVITY

I was retained as a dean designate by the Christian Broadcasting Network (CBN) to design a graduate program in communication. I designed the curriculum, recruited eight faculty, developed the budget and assumed various other administrative responsibilities. The graduate program opened in September, 1978 with 77 enrolled in the M.A. degree program. By September, 1980, it had grown to 104. The School of Communication was the first of a series of graduate schools which will become CBN University. Schools of education, fine arts, business, law, and theology will be phased in successively each year. In addition to my administrative responsibilities in the School of Communication, I was responsible for the personnel and budget of the library for two years. I served as a member of the President's Cabinet, The Administrative Council, The Long Range Planning Committee, Spiritual Life Committee, and the Dean's Council.

IV. SCHOLARLY ACTIVITY

A. Publications

1. The Expanded WBGU-TV Audience (Washington: The Corporation for Public Broadcasting, 1974).
2. "A Biblical Communication Model", Focus, Winter, 1978.
3. "Media Professionals Speak Out", Focus, Summer, 1979.
4. "Programmming for Saints and Sinners", Religious Broadcasting, April, 1979.
5. "Technology and Communication Training in the 80's", Interlit, December, 1979.
6. "Broadcasting's Future", Focus, Summer, 1980.
7. "Broadcasting's Future", Religious Broadcasting, November, 1980

8. Several papers have been accepted for publication by ERIC.

B. Studies Conducted

1. "Watergate, As Viewed by Rural and Urban Ohioans" (data collected and analyzed).
2. "The Effects of Interpersonal Influence on Television Advertising"(data collected).
3. "The Effects of Cable Subscription on Local News Consumption" (data collected).
4. "Clozentrophy: A Means of Determining TV News Comprehension"
5. Numerous surveys pursuant to consulting activities.

C. Research Awards

Research Associate, Bowling Green State University, 1973.
Mini-grant, Bowling Green State University, 1975.

D. Papers Read and Programs Chaired at Conventions

1. Address, "The Electric Church Controversy: An Analysis of the Arguments", Speech Communication Association, New York, November, 1980.
2. Panel, "The CBN Programing Research", Faculty Forum, CBN University, November, 1980.
3. Panel, "The Future of Christian Communications", Dedication of the Billy Graham Center, Wheaton College, September, 1980.
4. Address, "Television and the Family", American Family Forum, Washington, July, 1980.
5. Panel, "New Dimensions in Urban Graduate Education", Old Dominion University, March, 1980.
6. Panel, "Curriculum Innovation", Broadcast Education Association, Dallas, 1979.
7. Address, "The State of Christian Television", National Religious Broadcasters, Washington, 1979.
8. Workshop, "Reaching the Secular Audience", Christian Communications Seminar, March, 1979.
9. Chaired, "Life Style and Viewing Patterns in an Ohio Community: Applications of Multivariate Analysis", at the Broadcast Education Association (NAB), Las Vegas, 1978.
10. "Television News Comprehension: A Cross-Cultural Study", at the International Communication Association Convention, Berlin, May, 1977.
11. "Television News Comprehension and Clozentrophy", with Benno Signitzer, at the 5th International Coloquium on Verbal Communication, University of S. Florida, July, 1976.
12. Chaired, "Clozentrophy Research: Its Relevance and Application to Communication Research", SCA, 1973.

13. Chaired, "Focus on the Student", SCA, 1973.
14. "The Fairness Doctrine Since Red Lion", SCA, 1972.

IV. SERVICE

A. Departmental

1. Member, Curriculum Committee, 1972-77.
2. Chairman, Library Committee, 1972-July, 1977 (ordered all library materials for Radio-TV-Film Area).
3. Member, Graduate Screening Committee, Radio-TV-Film, 1972-July, 1977.
4. Chairman, Committee on Teaching Evaluation, 1974-July, 1977. (A new evaluation instrument was developed and was validated.)
5. Member, Committee on School of Speech Communication, 1974.
6. Wrote M.A. Guidelines for Radio-TV-Film, 1974.
7. Member, Advisory Committee, Speech 102, 1974-July, 1977.
8. See ADMINISTRATIVE ACTIVITY III, p.3, since coming to CBN University.

B. College and University

1. Member, Provost's Committee to design a College of Mass Communication, 1974.
2. Member, Frazier Reams Fellowship Committee, 1975.
3. Directed an audience analysis of WBGU-FM funded by the Provost, 1974.
4. Administered the CBNU library 1977 to 1980.
5. Member of the Spiritual Life Committee.

C. Professional Memberships

American Marketing Association
Broadcast Education Association
International Communication Association
International Institute of Communications
National Religious Broadcasters, Board member
Speech Communication Association

D. Consulting Activities

1. Corporation for Public Broadcasting, 1973-74.
2. WTOL-TV, Toledo on three audience studies, 1974-75; staff research consultant, 1976.
3. President, Communication Analysis Associates, 1976-77, a consulting firm doing marketing research for radio and television stations, department stores, and banks.
4. Designed expanded communication program for Kansas Newman College, July, 1980.
5. Designed the research for a CBN pilot in Japanese in November, 1980.
6. Member of the CBN Programing Task Force.
7. President, Communication Analysts, Inc., a consulting firm specializing in media research and analysis.

8. Groups and organizations with whom I have consulted:

WBGU-TV, Bowling Green, Ohio
WBGU-FM, Bowling Green, Ohio
WTOL-TV, Toledo, Ohio
Toledo Trust
Sylvania Savings, Toledo
Ohio Citizens Trust, Toledo
First National Bank, Toledo
Hunsington Bank, Toledo
Southwyck Mall, Toledo
Franklin Park Mall, Toledo
LaSalles Department Store, Toledo
Continental Broadcasting Network, Virginia Beach
Haynes Furniture, Norfolk
Sydnor and Hundley Furniture, Richmond
WXNE-TV, Boston

While with Reymer and Gersin, Southfield, Michigan:

Warner Amex Entertainment Corp., New York
The Entertainment Sports Network (ESPN), New York
WJR-AM, Detroit
KYW-TV, Philadelphia
WAFB-TV, Baton Rouge
Art Van Furniture, Detroit

E. Community Activities

1. Member of Princess Anne Rotary, 1977 to present.
2. Interviewed on numerous radio and TV programs on various issues related to mass media effects.
3. Spoken at numerous civic and religious organizations (Rotary, Kiwanis, FGBFI, etc.) in Ohio and Virginia.
4. Lay leader and adult teacher in my church.

5/3/83

MEMORANDUM

SUMMARY OF PROPOSED CHANGES BY THE FEC

This summary is prepared for the purpose of simplifying previous write-ups on this subject. This summary will be useful in preparing correspondence urging the FEC to completely withdraw the proposed regulations. Please note that this summary is prepared for laymen and not for lawyers. In addition, because of it's simplistic nature, this summary memorandum should not be used, under any circumstances, as a source or as documentation. In addition, this summary will not cite numbered sections nor will it cite specific section titles.

The basic most underlying result from these changes would be to allow unions and corporations to expand their "permissible class" and allow them to solicit funds from a larger group of potential contributors. While the FEC claims that these changes are an attempt to correct minor discrepancies, in effect, the end result will be to give labor unions greater flexibility in their political activities.

For the purpose of understanding some of the FEC's language, a "partisan" communication refers to a communication supporting a certain candidate or political party, i.e. Ted Kennedy or the Democrats. "Nonpartisan" communications refer to something that is not in support of either a particular candidate or a political party.

Previously, the FEC limited labor unions to communicating only with their members. It allowed two communications per year to employees and their families. The changes will allow unions to communicate not only with their members and their families, and retirees, but also with their employees, including executive personnel. What is particularly dangerous about these changes is that the executive personnel are the people who set their own salaries and expense accounts. In addition, this group of individuals is considered more likely to give, and give the maximum amount allowed under law. By expanding the class, unions will be at a definite advantage in their fundraising capabilities. Corporations however, are still limited to communications with their management personnel, stockholders and retirees (only if they are stockholders).

In addition to soliciting and receiving direct contributions from this expanded group, unions will now be able to contact a greater number of people and urge them to participate in a partisan manner.

The FEC has proposed to allow incorporated membership organizations, trade associations, cooperatives and corporationswithout stock to communicate with its members, executive and administrative personnel and their families. Again, this is a major effort to allow communications to a greater number of people while not being restricted as to the content of the communication. This allows unions to send out mailings that are not necessarily partisan in nature, but are definitely slanted towards their political point of view. In addition, the cost for these communications is not considered apolitical contribution and therefore does not have to be reported as such.

Unions will also be allowed to use partisan quotes from a candidate that supposedly represents the union point of view. In effect, this will let the union misquote an individual and make it look like he is supporting or opposing a union position. This is also a subtle way of giving an endorsement to any particular candidate.

The FEC is proposing to allow unions and corporations more flexibility in holding meetings and forums for the sole purpose of having a candidate address the group. The FEC is also permitting persons other than members and their families to be invited, i.e. persons who are necessary or incidental to the operation of the meeting. Basically, anybody can show up. In effect, such appearances will increase name identification of the candidate to not only union members, but to the others that are in attendence as well. Such meetings, set up by the unions, may imply an endorsement. In addition, the FEC will allow that the meeting does not have to be held on the union or corporate grounds, but that for the purpose of convenience, flexibility, etc. the meeting may be held elsewhere.

These changes will give unions greater flexibility in setting up meetings to promote their candidates. Even though corporations are entitled to do the same things, they will not have the base (permissible class) from which to communicate and solicit as the unions will have. More importantly, corporations are not known for their political involvement to the extent that unions are involved. While this is a philisophical point, and a point that cannot necessarily be argued with the FEC, it is probably one of the most underriding factors in the net effect of these changes.

The FEC has proposed to allow certain nonpartisan registration and voting communications with the general public. Obviously, this harmless effort by the FEC to increase voter activity will no doubt increase the strength of the unions at the polls. Again, it is unlikely that corporations will be able to take the same advantage of these changes as will the unions.

Unions and corporations will also be allowed to donate funds to help pay for voter information and registration forms.

Unions and corporations will also be allowed to prepare and distribute "nonpartisan" voter guides by printing the voting records of incumbents. This must be done so as not to influence a federal election. The FEC has given itself a broad range of power in this section by setting itself up as the clearinghouse in determining whether or not certain publications (voting records on certain issues) are in fact partisan in nature. It is unlikely that the FEC will be objective in its review of such publications and will have the authority to stop any communication which they think is partisan. An argument could be made that such rulings could violate the Constitution or at least a ruling by the Supreme Court.

The FEC has proposed to allow unions and corporations the ability to donate funds to non-profit tax-exempt organizations for the purpose of voter registration and get-out-the-vote efforts. Again, this is not a reportable expense and would allow the unions to use dues to support efforts of sympathetic to their causes to register voters supporting their causes. These efforts, combined with candidate meetings, voter guides, "nonpartisan" communications and the ability ot use union employees and facilities to support these efforts, gives the unions enourmous flexibility and power in an election year. There is no way to estimate what the net effect of this will be. Further, by allowing these factions to join forces, there will be no way to control how much money is donated under the clause of voter registration and how much "soft" money is being used by these organizations for other purposes.

As stated earlier, this summary is a an effort to simplify other section-by-section analyses and summaries prepared to review the legal aspects of these proposals. It is advisable to review the legal analyses to fully understand the finer points of these proposals.

COMMENTS ON THE FEC'S PROPOSED REVISIONS OF 11 CFR 114

ISSUE:

The Federal Election Commission has proposed amendments to existing FEC regulations which would allow a labor union to solicit PAC contributions from its executive and administrative personnel and their families.

BACKGROUND:

The FEC submitted its proposed revisions to Congress on March 1, 1983. After Senator Lugar (Republican-Indiana) introduced a Resolution of Disapproval on certain portions, the FEC withdrew the revisions from Congress and reissued them on April 22 for a 30 day period of public comment. The revisions would:

1. Add executive and administrative personnel to the class of persons who may be solicited by labor unions and;

2. add family members of executive and administrative personnel to the class of persons who may be solicited by labor unions.

The FEC's proposed revisions are inconsistent with current campaign finance law:

1. Under current law a labor union may solicit its executive and administrative personnel, but only twice a year and only by mail so that the union cannot determine who has or has not contributed.

2. Under current law, a labor union may not at any time or by any means solicit the families of its executive and administrative personnel.

ANALYSIS:

If enacted, the FEC revisions would allow labor union PACs to solicit funds from a much larger, and undoubtedly wealthier group of individuals than currently allowed:

1. It is unclear at this point how many employees and employee family members would be affected. However, it is not unreasonable to say that if the revisions were allowed, organized labor would have the potential to at least double its receipts which some have estimated to be as high $32 million in the '81-'82 election period.

COMMENTS ON FEC REVISIONS
.....continued

ACTION

Oppose the FEC proposal to allow a labor union to solicit PAC contributions from its executive and administrative personnel and their families, (except as permitted under current law.) Oppose on the grounds that:

1. The FEC revision would destroy the balance between labor and corporate PACs as established by Congress in the 1976 Amendments to the Federal Election Campaign Act of 1971.

2. If enacted, the FEC proposal would open the door to possible coercion by labor union executive toward subordinate executives, administrative personnel, and their families in regard to PAC solicitations. Note, that in 1976, Congress sought to avoid this by requiring that the twice yearly solicitation of labor union executives and administrative personnel must be by mail, and so designed that the union cannot determine who makes a contribution of $50 or less and who does not make such a contribution.

RECOMMENDATION:

Write to the FEC to express your opposition to its proposed revisions of 11 CFR Part 114 which would allow a labor union to solicit PAC contributions from its executive and administrative personnel and their families.

Comments should be directed to:

Ms. Susan E. Propper
Assistant General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Two Groups Ask FEC to Investigate Black Caucus PAC

By George Lardner Jr.
Washington Post Staff Writer

Two conservative organizations asked the Federal Election Commission yesterday to investigate what they described as dozens of apparent election-law violations by the Congressional Black Caucus-Political Action Committee.

Formal complaints were filed by the Washington Legal Foundation and the Fund for a Conservative Majority in connection with alleged shortcomings in the Black Caucus PAC's financial reports and in a controversial fund-raising appeal that the PAC sent out last month.

The April 14 mailing, which went out on stationery bearing a fictitious address, asked for $5,000 contributions from other PACs to help stem "a major push . . . now under way to . . . limit the growth of political action committees as we now know them."

The only major effort under way to control PAC spending is a bill backed by Common Cause, the self-styled citizens' lobby, and introduced on April 12 by Rep. David R. Obey (D-Wis.).

It has more than 100 co-sponsors, including five members of the CBC-PAC, Rep. William L. Clay (D-Mo.), the chairman; Rep. Louis Stokes (D-Ohio), the treasurer, and Reps. Parren J. Mitchell (D-Md.), Ron Dellums (D-Calif.) and John Conyers Jr. (D-Mich.).

The Washington Legal Foundation's director of litigation, Paul D. Kamenar, also named Stokes and Clay, who was the original treasurer of CBC-PAC, in his complaint because "the treasurer of each political committee is responsible for the proper accounting and reporting of receipts and disbursements."

Clay could not be reached for comment.

Stokes, who is chairman of the House Ethics Committee, said through an aide that he would address his response to the FEC "if and when" he receives any official communication from it.

"In essence," Kamenar charged, "the Congressional Black Caucus has apparently formed this political action committee, and is running that PAC out of the Congressional offices of Congressman William Clay . . . ."

The complaint said this was evident from the financial reports of the committee through 1982, which showed nearly $33,000 in income but "NO expenditures for any office rent, office supplies and equipment . . . or telephones."

In addition, the Washington Legal Foundation said, the year-end report for 1982 showed a payment of $250 to Anise Jenkins, a legislative aide to Clay, for bookkeeping and accounting services, and listed as her address Clay's House office.

The chairman of the Fund for a Conservative Majority, Robert Heckman, also named the Black Caucus in his complaint, saying it should have been listed as a "connected" organization when CBC-PAC registered as a political committee.

The Washington Legal Foundation said CBC-PAC's April 14 appeal showed "a particularly egregious violation" in failing to state who paid for the mailing and whether it was authorized by any candidate or candidate's committee.

File
FEC

THE WHITE HOUSE

WASHINGTON

October 29, 1981

TO: Lyn Nofziger

FROM: Morton C. Blackwell

On October 22 the joint Democratic leadership sent a letter to the President with recommendations for the FEC. The list contains the name of Janet Watlington, a career SES employee at ACTION.

I am told that her support comes from Senator Cranston and Ben Hooks of the NAACP. It has also been reported that her husband was John Anderson's campaign manager. Wayne Valis also knows her and has confirmed the fact that she holds every liberal view that ever existed and should be appointed to nothing.

There is a great deal of concern about this FEC appointment. Do you have any idea what is being done or can be done to be sure that this appointment goes to a person who supports the President's position?

ACTION NEWS

PEACE CORPS · VISTA · UNIVERSITY YEAR FOR ACTION · FOSTER GRANDPARENT PROGRAM
RETIRED SENIOR VOLUNTEER PROGRAM · SENIOR COMPANION PROGRAM

Office of Communications, 806 Connecticut Ave., N.W., Washington, D.C. 20525

FOR IMMEDIATE RELEASE

CONTACT: JOAN KELLEY
(202) 254-6480

ACTION - [illegible]

CAREER SES NOW.

JANET WATLINGTON DIRECTS ACTION'S OFFICE
OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS

WASHINGTON, D.C. -- "I hope whatever service I can render always contributes to the good of our people. What exact form this will take in the future, I don't know," says Janet Watlington. For the present, Ms. Watlington is committed to her role as Assistant Director of Legislative and Intergovernmental Affairs for ACTION, the federal agency which administers the volunteer service programs designed to aid those who need and want help at home and abroad.

In this position, Ms. Watlington is primarily responsible for formulating legislative policy and for guiding and directing ACTION's congressional relations. This includes liaison with more than 30 House and Senate committees.

Born into a poor family in the Virgin Islands, Ms. Watlington, 40, says that growing up in poverty, "has helped me understand and appreciate the true value of ACTION programs. When I was asked to join ACTION in January 1979, I was very excited because this was exactly the kind of service to which I have been drawn all my life.

SAM BROWN

-MORE-

11/5

"ACTION is a small agency where each employee can add significantly to the total output. I am enthusiastic about the programs undertaken by ACTION and find it stimulating to work with others who feel the same way. If you really care for people, this is the place to be," Ms. Watlington notes.

ACTION includes the Peace Corps overseas and VISTA (Volunteers in Service to America), the Foster Grandparent, Senior Companion and Retired Senior Volunteer Programs here at home. More than 281,000 full- and part-time volunteers serve those in need through ACTION sponsored projects.

Ms. Watlington began her government service in 1960 as a staff member with the U.S. Department of Housing and Urban Development. Following this, for five years, she was executive secretary for the Legislative Counsel of the Virgin Islands Senate. From 1968 until 1972 she served as the chief administrative officer for Ron deLugo, the Virgin Islands Washington Representative, helping to design and implement the strategy which led finally to Congress' approval of a seat in the U.S. House of Representatives for the Virgin Islands. When deLugo was elected to fill that seat in Congress in 1972, Ms. Watlington continued as his principle political advisor and administrative assistant. In 1978, deLugo sought the Governor's office and Watlington won a hard-fought Democratic Primary battle for this congressional seat. She was narrowly defeated in the general election.

When the National Democract Party undertook a comprehensive reformation in 1974, Ms. Watlington was selected to participate in the process as a member of the Charter Commission, and was one of 12 black members of the 163-member commission. During 1973 and 1974, she assumed a prominent role within the group as one of the 22 members of its executive committee and as a member of the Commission's By-laws Committee.

She also played a key part at the mid-term Democratic Party Convention when she, along with only two other nationally prominent black women, California's Yvonne Burke and Barbara Jordan of Texas, spoke before the meeting's 2,000 Democrats. She served on the steering committee of the Black Caucus and authored language prohibiting discrimination at any level of Democratic Party activity in the Charter.

Ms. Watlington served as co-chairman of the 1976 Democratic National Convention's rules committee and was appointed to the party's 57-member commission on Presidential Nomination and Party Structure to reform the Presidential primary system. She was the only member chosen unanimously.

Since coming to ACTION at the beginning of this year, Ms. Watlington has been involved with the passage of ACTION's domestic authorization bill which failed in the previous Congress.

"I am particularly pleased to have played a part in this successful effort," she stresses. "My satisfaction comes from realizing that these programs make a significant contribution to meeting the most basic needs of the poor, the elderly, the handicapped and the lonely. In so doing, they attain what is probably the highest cost/benefit ratio of any projects funded by the federal government."

SAVED SAM BROWN

She was also instrumental in devising and implementing a successful legislative strategy to prevent an attempt to remove the Peace Corps from ACTION. Ms. Watlington said that the attempt was a very serious threat to the existence of the agency. "But when the Administration, Sam Brown, Dick Celeste, John Lewis, Mary King and all the administrators in ACTION worked together to show Congress that the agency was very much needed and a viable operation, we won the battle."

-MORE-

Because Ms. Watlington had worked on Capitol Hill before coming to ACTION, she is "intimately familiar with the workings of Congress. Fortunately I have many friends among the members and staffs of Congress. To be successful, in this position, one needs Hill experience and an understanding of the issues and politics of the situation. With this background, I feel I was able to put this knowledge and experience to work to help solve some of the agency's problems.

"One of these problems," she continues, "was that Congress was focusing much of its attention on the personalities at ACTION and not on the agency's programs and accomplishments. We had to emphasize the vital services which ACTION projects provide. Once attention was back on the substantive achievements, it was a different story. The programs sell themselves. The testimony of our volunteers during the Congressional hearings was totally persuasive."

In the next several years, Ms. Watlington would like to see ACTION "polish up the edges of our existing programs, and with larger funding by Congress, at least approach the goal of reaching all of those who want and can benefit from ACTION's voluntary efforts. I'd like to see ACTION known everywhere as the true agency of voluntarism."

Ms. Watlington gives full credit to "the volunteers themselves. They're exceptionally committed people. They're helping others live better lives. They practice the highest form of caring and responsible citizenship. The more you know of our programs and the people who make them work, the more you realize the lasting contribution being made toward improving the human community."

-MORE-

Ms. Watlington resides in Washington, D.C. with her eight year old daughter, Kafi. Her 18 year old son Gregory is a sophomore at the University of Michigan. In viewing her dual roles as professional woman and mother, Ms. Watlington observes that "in many ways it's more difficult for a woman than a man. You want to do a really good job and also want to be a great parent. The superwoman image, I've decided, is a myth."

The Virgin Islands are still home to Ms. Watlington and she visits the territory as often as possible. "The Islands are beautiful, but we have our share of problems also. As a community, we must work together to solve them. As a young girl growing up in the Islands, I was taught to respect elders. I grew up thinking about their wisdom and now as an adult I still look to them with great respect and admiration. I look to their faces for strength and character and guidance. I am happy to know that in my present position I can play a small part in assisting the elderly through the Older Americans Volunteer Programs in ACTION."

Ms. Watlington is a charter member of the Administration's Senior Executive Service, a program established to attract and keep highly qualified executive personnel in management positions in government. She is also a member of the American Judicature Society, the National Council of Negro Women, the League of Women Voters, the Business and and Professional Women's League, the Virgin Islands Conservation Society, the American Civil Liberties Union and Common Cause. She has studied at Pace University in New York City and George Washington University in Washington, D.C..

# # #

#9/1179

FEC

FOURTH DRAFT

PROPOSED REVISIONS TO THE FEDERAL ELECTION LAWS

1. PARTY COMMITTEES

A. PRIMARY CHANGES

1. Exempt donations for administrative costs of party committees from definition of contribution.

2. House

   Eliminate limit on spending by party committees on behalf of party candidates or modify House expenditures from $10,000 (indexed) to 2¢ X Voting-Age-Population.

   Senate

   Retain expenditure limit but raise the minimum from $20,000 to $125,000 for the national and state party committees.

3. Permit party committees to engage in business activities in order to pay administrative expenses.

B. SECONDARY CHANGES

1. Include all party committees in the pins and bumper sticker and get-out-the-vote exemptions in all federal elections or remove party transfer restrictions for this provision.

2. Broadcasters must charge lowest unit rate for party committees and permit access in off-election years.

C. TECHNICAL CHANGES

1. Permit party committee expenditures in any election which may result in the election of a Representative or a Senator (i.e. Mississippi and Louisiana situtations).

2. Reinstate actuality broadcasting exemption for non-election year.

2. CONTRIBUTION LIMITS

A. PRIMARY CHANGES

1. Increase party committee contribution limits to House candidates from $5,000 per election to $15,000 per election.

2. Increase party committee contribution limits to Senate candidates from $17,500 per election cycle to $30,000 per election cycle.

3. Increase annual overall limit for individuals from $25,000 to $50,000.

4. Increase annual contribution limit for individuals to the state party committee from $5,000 per year to $10,000 per year.

5. Index annual contribution limit for individuals to the national party committees annually by the consumer price index in units of $1000.

6. Increase limit on individual contributions to candidates from $1,000 to $2,000 per election.

B. SECONDARY CHANGES

1. Increase PAC contribution limits to candidates from $5,000 per election to $10,000 per election.

2. Exempt legal and accounting expenses from definition of contribution.

3. ENFORCEMENT (PLEASE SEE APPENDIX 1)

4. RESTRUCTURING FEC

A. PRIMARY CHANGES

1. Staff Director given duties of chief operating officer.

2. Reduce size and scope of responsibilities of the General Counsel's office.

B. SECONDARY CHANGES

1. Increase disclosure functions/data entry and public information services.

2. Eliminate Clearinghouse.

4. RESTRUCTURING FEC CONT.

B. SECONDARY CHANGES CONT.

3. Eliminate ex-officio representatives.

5. REPORTS

A. PRIMARY CHANGES

1. Eliminate occupation and name of employer reporting requirement.

B. SECONDARY CHANGES

1. Eliminate filing reports with Clerk of House and Secretary of Senate.

2. Raise threshold for non-party committee contribution reporting. Currently all contributions from PACs must be reported regardless of amount.

3. Raise candidate reporting threshold from $5,000 to $10,000.

C. TECHNICAL CHANGES

1. Change reports to eliminate duplicate filing for calculation of interest from more than one institution.

2. Require all multi-candidate committees to file on a monthly basis.

3. Termination of a political committee's reporting requirement two years after the election year it was designated as a principal campaign committee.

6. PACS

A. PRIMARY CHANGES

1. Eliminate yearly corporate authorization for trade association pac solicitation.

2. Define solicitation to permit dissemination of information on PACs at trade association meetings.

6. PACS Cont.

A. PRIMARY CHANGES CONT.

3. Clarify what is a member of a trade association, membership organization, or cooperative PAC.

4. Permit trade association PACs which have individual members to solicit members and their families.

5. Include draft committees within definition of political committee.

B. SECONDARY CHANGES

1. Define stockholder to include any employee who has a vested beneficial right in a stock ownership plan.

2. Amend affiliation section for membership organizations.

3. Permit solicitation of other PACs by a PAC.

7. ADVISORY OPINIONS

A. PRIMARY CHANGES

1. Expedite procedure for party committees.

8. PUBLIC FINANCING OF PRESIDENTIAL ELECTIONS

A. PRIMARY CHANGES

1. Raise the limitations on what the national party committee can spend on behalf of their presidential candidate from 2¢ x voting age population to $10 million.

2. Eliminate state expenditure limits for the primaries.

3. Raise the expenditure limitation base figure for the general election from $20 million to _____.

4. Recordkeeping requirements for the documentation of qualified campaign expenses made subject to a 'best efforts' test.

5. Broaden definiton of qualified campaign expense.

8. PUBLIC FINANCING OF PRESIDENTIAL ELECTIONS CONT.

A. PRIMARY CHANGES CONT.

6. Require FEC to make available to all political campaign committees the reports of the auditors and the general counsel. This requirement must be fulfilled before the FEC votes on the audit. Committee must be provided an opportunity to respond before the vote.

7. Candidate has right to hearing before FEC if demand for repayment is made.

8. Require FEC to publish written audit procedures.

B. SECONDARY CHANGES

1. Raise fundraising exemption.

2. Consider how to deal with independent candidates' right to public funding.

9. MISCELLANEOUS

A. PRIMARY CHANGES

1. Best efforts rule for violation of disclaimer requirement.

2. Violation of disclaimer requirement must be knowing and willful.

B. SECONDARY CHANGES

1. Change availability of party convention funding from July 1 of the calendar year preceding the convention to January 1.

C. TECHNICAL CHANGES

1. Amend the definition of 'contribution' to prohibit a contribution from a State Government. (Wisconsin)

2. Pre-empt state election laws regarding polling for federal candidates.

ENFORCEMENT

A. ALTERNATIVE # 1

1. Move judicial enforcement of violations of the law from the General Counsel's Office to the Department of Justice.

2. Delete FEC's ability to argue cases in court (except for subpoena enforcement actions).

3. No assessment of civil penalties by FEC.

4. Conciliation agreement precludes referral to DOJ.

B. ALTERNATIVE # 2

1. Adoption by FEC of written findings of fact and conclusions of law.

2. No private causes of action permissible under any election law.

3. Require FEC to make available to respondents any information provided to FEC by complainant or third parties. This information includes written documents or testimony given at depositions.

4. Respondents may request hearings before the FEC during enforcement proceedings.

5. No admission of guilt in the conciliation agreement.

6. No assessment of civil penalties by FEC.

C. TECHNICAL CHANGES

1. Delete the requirement of § 437(h) that the Court of Appeals sit en banc when hearing election law cases rather than as a three-judge panel.